

By: Representative Frierson

To: Appropriations

HOUSE BILL NO. 1498
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 25-9-127, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT FOR A PERIOD OF AN ADDITIONAL YEAR, THE PERSONNEL
3 ACTIONS OF THE DEPARTMENT OF CORRECTIONS SHALL BE EXEMPT FROM
4 STATE PERSONNEL BOARD RULES, REGULATIONS AND PROCEDURES, AND ALL
5 EMPLOYEES OF THE AGENCY SHALL BE CLASSIFIED AS NONSTATE SERVICE
6 DURING THAT PERIOD; TO AMEND SECTIONS 47-5-20, 47-5-26 AND
7 47-5-28, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND FOR
8 RELATED PURPOSES.

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

10 **SECTION 1.** Section 25-9-127, Mississippi Code of 1972, is
11 amended as follows:

12 25-9-127. (1) No employee of any department, agency or
13 institution who is included under this chapter or hereafter
14 included under its authority, and who is subject to the rules and
15 regulations prescribed by the state personnel system, may be
16 dismissed or otherwise adversely affected as to compensation or
17 employment status except for inefficiency or other good cause, and
18 after written notice and hearing within the department, agency or
19 institution as shall be specified in the rules and regulations of
20 the State Personnel Board complying with due process of law; and
21 any employee who has by written notice of dismissal or action



22 adversely affecting his compensation or employment status shall,
23 on hearing and on any appeal of any decision made in such action,
24 be required to furnish evidence that the reasons stated in the
25 notice of dismissal or action adversely affecting his compensation
26 or employment status are not true or are not sufficient grounds
27 for the action taken; provided, however, that this provision shall
28 not apply (a) to persons separated from any department, agency or
29 institution due to curtailment of funds or reduction in staff when
30 such separation is in accordance with rules and regulations of the
31 state personnel system; (b) during the probationary period of
32 state service of twelve (12) months; and (c) to an executive
33 officer of any state agency who serves at the will and pleasure of
34 the Governor, board, commission or other appointing authority.

35 (2) The operation of a state-owned motor vehicle without a
36 valid Mississippi driver's license by an employee of any
37 department, agency or institution that is included under this
38 chapter and that is subject to the rules and regulations of the
39 state personnel system shall constitute good cause for dismissal
40 of such person from employment.

41 (3) Beginning July 1, 1999, every male between the ages of
42 eighteen (18) and twenty-six (26) who is required to register
43 under the federal Military Selective Service Act, 50 USCS App.
44 453, and who is an employee of the state shall not be promoted to
45 any higher position of employment with the state until he submits
46 to the person, commission, board or agency by which he is employed



47 satisfactory documentation of his compliance with the draft
48 registration requirements of the Military Selective Service Act.
49 The documentation shall include a signed affirmation under penalty
50 of perjury that the male employee has complied with the
51 requirements of the Military Selective Service Act.

52 (4) For a period of two (2) years beginning July 1, 2014,
53 the provisions of subsection (1) shall not apply to the personnel
54 actions of the State Department of Education that are subject to
55 the rules and regulations of the State Personnel Board, and all
56 employees of the department shall be classified as nonstate
57 service during that period. However, any employee hired after
58 July 1, 2014, by the department shall meet the criteria of the
59 State Personnel Board as it presently exists for employment. The
60 State Superintendent of Public Education and the State Board of
61 Education shall consult with the Office of the Attorney General
62 before taking personnel actions authorized by this section to
63 review those actions for compliance with applicable state and
64 federal law.

65 It is not the intention or effect of this section to include
66 any school attendance officer in any exemption from coverage under
67 the State Personnel Board policy or regulations, including, but
68 not limited to, termination and conditions of employment.

69 (5) (a) For a period of * * * two (2) years beginning July
70 1, 2015, the provisions of subsection (1) shall not apply to the
71 personnel actions of the Department of Corrections, and all



72 employees of the department shall be classified as nonstate
73 service during that period. However, any employee hired after
74 July 1, 2015, by the department shall meet the criteria of the
75 State Personnel Board as it presently exists for employment.

76 (b) Additionally, for a period of one (1) year
77 beginning July 1, 2016, the personnel actions of the Commissioner
78 of the Department of Corrections shall be exempt from State
79 Personnel Board rules, regulations and procedures in order to give
80 the commissioner flexibility in making an orderly, effective and
81 timely reorganization and realignment of the department.

82 (c) The Commissioner of Corrections shall consult with
83 the Office of the Attorney General before personnel actions
84 authorized by this section to review those actions for compliance
85 with applicable state and federal law.

86 (6) Any state agency whose personnel actions are exempted in
87 this section from the rules, regulations and procedures of the
88 State Personnel Board shall file with the Lieutenant Governor, the
89 Speaker of the House of Representatives, and the members of the
90 Senate and House Accountability, Efficiency, Transparency
91 Committees an annual report no later than July 1, 2016, and each
92 year thereafter while under the exemption. Such annual report
93 shall contain the following information:

94 (a) The number of current employees who received an
95 increase in salary during the past fiscal year and the amount of
96 the increase;



97 (b) The number of employees who were dismissed from the
98 agency or otherwise adversely affected as to compensation or
99 employment status during the past fiscal year, including a
100 description of such adverse effects; and

101 (c) The number of new employees hired during the past
102 fiscal year and the starting salaries of each new employee.

103 **SECTION 2.** Section 47-5-20, Mississippi Code of 1972, is
104 amended as follows:

105 47-5-20. The commissioner shall have the following powers
106 and duties:

107 (a) To establish the general policy of the department;

108 (b) To approve proposals for the location of new
109 facilities, for major renovation activities, and for the creation
110 of new programs and divisions within the department as well as for
111 the abolition of the same; provided, however, that the
112 commissioner shall approve the location of no new facility unless
113 the board of supervisors of the county or the governing
114 authorities of the municipality in which the new facility is to be
115 located shall have had the opportunity with at least sixty (60)
116 days' prior notice to disapprove the location of the proposed
117 facility. If either the board of supervisors or the governing
118 authorities shall disapprove the facility, it shall not be located
119 in that county or municipality. Said notice shall be made by
120 certified mail, return receipt requested, to the members of the
121 board or governing authorities and to the clerk thereof;



122 (c) Except as otherwise provided or required by law, to
123 open bids and approve the sale of any products or manufactured
124 goods by the department according to applicable provisions of law
125 regarding bidding and sale of state property, and according to
126 rules and regulations established by the State Fiscal Management
127 Board; and

128 (d) To adopt administrative rules and regulations
129 including, but not limited to, offender transfer procedures, award
130 of administrative earned time, personnel procedures, employment
131 practices.

132 (e) To make personnel actions for a period of one (1)
133 year beginning July 1, 2016, that are exempt from State Personnel
134 Board rules, regulations and procedures in order to give the
135 commissioner flexibility in making an orderly, effective and
136 timely reorganization and realignment of the department.

137 **SECTION 3.** Section 47-5-26, Mississippi Code of 1972, is
138 amended as follows:

139 47-5-26. (1) The commissioner shall employ the following
140 personnel:

141 (a) A Deputy Commissioner for Administration and
142 Finance, who shall supervise and implement all fiscal policies and
143 programs within the department, supervise and implement all hiring
144 and personnel matters within the department, supervise the
145 department's personnel director, supervise and implement all
146 purchasing within the department and supervise and implement all



147 data processing activities within the department, and who shall
148 serve as the Chief Executive Officer of the Division of
149 Administration and Finance. He shall possess either:

150 (i) A master's degree from an accredited four-year
151 college or university in public or business administration,
152 accounting, economics or a directly related field, and four (4)
153 years of experience in work related to the above-described duties,
154 one (1) year of which must have included line or functional
155 supervision; or

156 (ii) A bachelor's degree from an accredited
157 four-year college or university in public or business
158 administration, accounting, economics or a directly related field,
159 and six (6) years of experience in work related to the
160 above-described duties, one (1) year of which must have included
161 line or functional supervision. Certification by the State of
162 Mississippi as a certified public accountant may be substituted
163 for one (1) year of the required experience.

164 (b) A Deputy Commissioner for Community Corrections,
165 who shall initiate and administer programs, including, but not
166 limited to, supervision of probationers, parolees and
167 suspensioners, counseling, community-based treatment, interstate
168 compact administration and enforcement, prevention programs,
169 halfway houses and group homes, technical violation centers,
170 restitution centers, presentence investigations, and work and
171 educational releases, and shall serve as the Chief Executive



172 Officer of the Division of Community Services. The Deputy
173 Commissioner for Community Corrections is charged with full and
174 complete cooperation with the State Parole Board and shall make
175 monthly reports to the Chairman of the Parole Board in the form
176 and type required by the chairman, in his discretion, for the
177 proper performance of the probation and parole functions. After a
178 plea or verdict of guilty to a felony is entered against a person
179 and before he is sentenced, the Deputy Commissioner for Community
180 Corrections shall procure from any available source and shall file
181 in the presentence records any information regarding any criminal
182 history of the person such as fingerprints, dates of arrests,
183 complaints, civil and criminal charges, investigative reports of
184 arresting and prosecuting agencies, reports of the National Crime
185 Information Center, the nature and character of each offense,
186 noting all particular circumstances thereof and any similar data
187 about the person. The Deputy Commissioner for Community
188 Corrections shall keep an accurate and complete duplicate record
189 of this file and shall furnish the duplicate to the department.
190 This file shall be placed in and shall constitute a part of the
191 inmate's master file. The Deputy Commissioner for Community
192 Corrections shall furnish this file to the State Parole Board when
193 the file is needed in the course of its official duties. He shall
194 possess either: (i) a master's degree in counseling, corrections
195 psychology, guidance, social work, criminal justice or some
196 related field and at least four (4) years' full-time experience in



197 such field, including at least one (1) year of supervisory
198 experience; or (ii) a bachelor's degree in a field described in
199 subparagraph (i) of this paragraph and at least six (6) years'
200 full-time work in corrections, one (1) year of which shall have
201 been at the supervisory level.

202 (c) A Deputy Commissioner for Institutions, who shall
203 administer institutions, reception and diagnostic centers,
204 prerelease centers and other facilities and programs provided
205 therein, and shall serve as the Chief Executive Officer of the
206 Division of Institutions. He shall possess either: (i) a
207 master's degree in counseling, criminal justice, psychology,
208 guidance, social work, business or some related field, and at
209 least four (4) years' full-time experience in corrections,
210 including at least one (1) year of correctional management
211 experience; or (ii) a bachelor's degree in a field described in
212 subparagraph (i) of this paragraph and at least six (6) years'
213 full-time work in corrections, four (4) years of which shall have
214 been at the correctional management level.

215 (2) The commissioner shall employ an administrative
216 assistant for parole matters, who shall be an employee of the
217 department assigned to the State Parole Board and who shall work
218 under the guidance and supervision of the board.

219 (3) The administrative assistant for parole matters shall
220 receive an annual salary to be established by the Legislature.
221 The salaries of department employees not established by the



222 Legislature shall receive an annual salary established by the
223 State Personnel Board.

224 (4) The commissioner shall employ a superintendent for the
225 Parchman facility, Central Mississippi Correctional Facility and
226 South Mississippi Correctional Institution of the Department of
227 Corrections. The Superintendent of the Mississippi State
228 Penitentiary shall reside on the grounds of the Parchman facility.
229 Each superintendent shall appoint an officer in charge when he is
230 absent.

231 Each superintendent shall develop and implement a plan for
232 the prevention and control of an inmate riot and shall file a
233 report with the Chairman of the Senate Corrections Committee and
234 the Chairman of the House Penitentiary Committee on the first day
235 of each regular session of the Legislature regarding the status of
236 the plan.

237 In order that the grievances and complaints of inmates,
238 employees and visitors at each facility may be heard in a timely
239 and orderly manner, each superintendent shall appoint or designate
240 an employee at the facility to hear grievances and complaints and
241 to report grievances and complaints to the superintendent. Each
242 superintendent shall institute procedures as are necessary to
243 provide confidentiality to those who file grievances and
244 complaints.

245 (5) For a one-year period beginning July 1, 2016, any person
246 authorized for employment under this section shall not be subject



247 to the rules, regulations and procedures of the State Personnel
248 Board, except as otherwise provided under Section 25-9-127(5).

249 **SECTION 4.** Section 47-5-28, Mississippi Code of 1972, is
250 amended as follows:

251 47-5-28. The commissioner shall have the following powers
252 and duties:

253 (a) To implement and administer laws and policy
254 relating to corrections and coordinate the efforts of the
255 department with those of the federal government and other state
256 departments and agencies, county governments, municipal
257 governments, and private agencies concerned with providing
258 offender services;

259 (b) To establish standards, in cooperation with other
260 state agencies having responsibility as provided by law, provide
261 technical assistance, and exercise the requisite supervision as it
262 relates to correctional programs over all state-supported adult
263 correctional facilities and community-based programs;

264 (c) To promulgate and publish such rules, regulations
265 and policies of the department as are needed for the efficient
266 government and maintenance of all facilities and programs in
267 accord insofar as possible with currently accepted standards of
268 adult offender care and treatment;

269 (d) To provide the Parole Board with suitable and
270 sufficient office space and support resources and staff necessary



271 to conducting Parole Board business under the guidance of the
272 Chairman of the Parole Board;

273 (e) To contract for transitional reentry center beds
274 that will be used as noncorrections housing for offenders released
275 from the department on parole, probation or post-release
276 supervision but do not have appropriate housing available upon
277 release. At least one hundred (100) transitional reentry center
278 beds contracted by the department and chosen by the Parole Board
279 shall be available for the Parole Board to place parolees without
280 appropriate housing;

281 (f) To make an annual report to the Governor and the
282 Legislature reflecting the activities of the department and make
283 recommendations for improvement of the services to be performed by
284 the department;

285 (g) To cooperate fully with periodic independent
286 internal investigations of the department and to file the report
287 with the Governor and the Legislature;

288 (h) To make personnel actions for a period of one (1)
289 year beginning July 1, 2016, that are exempt from State Personnel
290 Board rules, regulations and procedures in order to give the
291 commissioner flexibility in making an orderly, effective and
292 timely reorganization and realignment of the department; and

293 (* * *i) To perform such other duties necessary to
294 effectively and efficiently carry out the purposes of the
295 department as may be directed by the Governor.



296 **SECTION 5.** This act shall take effect and be in force from
297 and after July 1, 2016.

