

By: Representatives White, Sykes

To: Corrections

HOUSE BILL NO. 879
(As Sent to Governor)

1 AN ACT TO REENACT SECTIONS 47-5-1001 THROUGH 47-5-1014,
2 MISSISSIPPI CODE OF 1972, WHICH PROVIDE FOR AN INTENSIVE
3 SUPERVISION PROGRAM AND ELECTRONIC HOME DETENTION UNDER THE
4 MISSISSIPPI DEPARTMENT OF CORRECTIONS; TO AMEND SECTION 47-5-1015,
5 MISSISSIPPI CODE OF 1972, TO EXTEND THE DATE OF THE REPEALER ON
6 THE INTENSIVE SUPERVISION PROGRAM AND ELECTRONIC HOME DETENTION;
7 AND FOR RELATED PURPOSES.

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

9 **SECTION 1.** Section 47-5-1001, Mississippi Code of 1972, is
10 reenacted as follows:

11 47-5-1001. For purposes of Sections 47-5-1001 through
12 47-5-1015, the following words shall have the meaning ascribed
13 herein unless the context shall otherwise require:

14 (a) "Approved electronic monitoring device" means a
15 device approved by the department which is primarily intended to
16 record and transmit information regarding the offender's presence
17 or nonpresence in the home.

18 (b) "Correctional field officer" means the supervising
19 probation and parole officer in charge of supervising the
20 offender.



21 (c) "Court" means a circuit court having jurisdiction
22 to place an offender into the intensive supervision program.

23 (d) "Department" means the Department of Corrections.

24 (e) "House arrest" means the confinement of a person
25 convicted or charged with a crime to his place of residence under
26 the terms and conditions established by the department or court.

27 (f) "Operating capacity" means the total number of
28 state offenders which can be safely and reasonably housed in
29 facilities operated by the department and in local or county jails
30 or other facilities authorized to house state offenders as
31 certified by the department, subject to applicable federal and
32 state laws and rules and regulations.

33 (g) "Participant" means an offender placed into an
34 intensive supervision program.

35 **SECTION 2.** Section 47-5-1003, Mississippi Code of 1972, is
36 reenacted as follows:

37 47-5-1003. (1) An intensive supervision program may be used
38 as an alternative to incarceration for offenders who are not
39 convicted of a crime of violence pursuant to Section 97-3-2 as
40 selected by the court and for juvenile offenders as provided in
41 Section 43-21-605. Any offender convicted of a sex crime shall
42 not be placed in the program.

43 (2) The court may place the defendant on intensive
44 supervision, except when a death sentence or life imprisonment is
45 the maximum penalty which may be imposed by a court or judge.



46 (3) To protect and to ensure the safety of the state's
47 citizens, any offender who violates an order or condition of the
48 intensive supervision program may be arrested by the correctional
49 field officer and placed in the actual custody of the Department
50 of Corrections. Such offender is under the full and complete
51 jurisdiction of the department and subject to removal from the
52 program by the classification hearing officer.

53 (4) When any circuit or county court places an offender in
54 an intensive supervision program, the court shall give notice to
55 the Mississippi Department of Corrections within fifteen (15) days
56 of the court's decision to place the offender in an intensive
57 supervision program. Notice shall be delivered to the central
58 office of the Mississippi Department of Corrections and to the
59 regional office of the department which will be providing
60 supervision to the offender in an intensive supervision program.

61 The courts may not require an offender to participate in the
62 intensive supervision program during a term of probation or
63 post-release supervision.

64 (5) The Department of Corrections shall provide to the
65 Oversight Task Force all relevant data regarding the offenders
66 participating in the intensive supervision program including the
67 number of offenders admitted to the program annually, the number
68 of offenders who leave the program annually and why they leave,
69 the number of offenders who are arrested or convicted annually and



70 the circumstances of the arrest and any other information
71 requested.

72 **SECTION 3.** Section 47-5-1005, Mississippi Code of 1972, is
73 reenacted as follows:

74 47-5-1005. (1) The department shall promulgate rules that
75 prescribe reasonable guidelines under which an intensive
76 supervision program shall operate. These rules shall include, but
77 not be limited to, the following:

78 (a) The participant shall remain within the interior
79 premises or within the property boundaries of his or her residence
80 at all times during the hours designated by the correctional field
81 officer.

82 (b) Approved absences from the home may include, but
83 are not limited to, the following:

84 (i) Working or employment approved by the court or
85 department and traveling to or from approved employment;

86 (ii) Unemployed and seeking employment approved
87 for the participant by the court or department;

88 (iii) Undergoing medical, psychiatric, mental
89 health treatment, counseling or other treatment programs approved
90 for the participant by the court or department;

91 (iv) Attending an educational institution or a
92 program approved for the participant by the court or department;



93 (v) Participating in community work release or a
94 community service program approved for the participant by the
95 court or department; or

96 (vi) For another compelling reason consistent with
97 the public interest, as approved by the court or department.

98 (c) Except in case of a medical emergency and approval
99 by the Commissioner of the Department of Corrections, or his
100 designee, or by circuit court order for medical purposes, no
101 participant in the intensive supervision program may leave the
102 jurisdiction of the State of Mississippi.

103 (2) The department shall select and approve all electronic
104 monitoring devices used under Sections 47-5-1001 through
105 47-5-1015.

106 (3) The department may lease the equipment necessary to
107 implement the intensive supervision program and to contract for
108 the monitoring of such devices. The department is authorized to
109 select the lowest price and best source in contracting for these
110 services.

111 **SECTION 4.** Section 47-5-1007, Mississippi Code of 1972, is
112 reenacted as follows:

113 47-5-1007. (1) Any participant in the intensive supervision
114 program who engages in employment shall pay a monthly fee to the
115 department for each month such person is enrolled in the program.
116 The department may waive the monthly fee if the offender is a
117 full-time student or is engaged in vocational training. Juvenile



118 offenders shall pay a monthly fee of not less than Ten Dollars
119 (\$10.00) but not more than Fifty Dollars (\$50.00) based on a
120 sliding scale using the standard of need for each family that is
121 used to calculate TANF benefits. Money received by the department
122 from participants in the program shall be deposited into a special
123 fund which is hereby created in the State Treasury. It shall be
124 used, upon appropriation by the Legislature, for the purpose of
125 helping to defray the costs involved in administering and
126 supervising such program. Unexpended amounts remaining in such
127 special fund at the end of a fiscal year shall not lapse into the
128 State General Fund, and any interest earned on amounts in such
129 special fund shall be deposited to the credit of the special fund.

130 (2) The participant shall admit any correctional officer
131 into his residence at any time for purposes of verifying the
132 participant's compliance with the conditions of his detention.

133 (3) The participant shall make the necessary arrangements to
134 allow for correctional officers to visit the participant's place
135 of education or employment at any time, based upon the approval of
136 the educational institution or employer, for the purpose of
137 verifying the participant's compliance with the conditions of his
138 detention.

139 (4) The participant shall acknowledge and participate with
140 the approved electronic monitoring device as designated by the
141 department at any time for the purpose of verifying the
142 participant's compliance with the conditions of his detention.



143 (5) The participant shall be responsible for and shall
144 maintain the following:

145 (a) A working telephone line in the participant's home;

146 (b) A monitoring device in the participant's home, or
147 on the participant's person, or both; and

148 (c) A monitoring device in the participant's home and
149 on the participant's person in the absence of a telephone.

150 (6) The participant shall obtain approval from the
151 correctional field officer before the participant changes
152 residence.

153 (7) The participant shall not commit another crime during
154 the period of home detention ordered by the court or department.

155 (8) Notice shall be given to the participant that violation
156 of the order of home detention shall subject the participant to
157 prosecution for the crime of escape as a felony.

158 (9) The participant shall abide by other conditions as set
159 by the court or the department.

160 **SECTION 5.** Section 47-5-1009, Mississippi Code of 1972, is
161 reenacted as follows:

162 47-5-1009. (1) The department shall have absolute immunity
163 from liability for any injury resulting from a determination by a
164 judge or correctional officer that an offender shall be allowed to
165 participate in the electronic home detention program.



166 (2) The Department of Audit shall annually audit the records
167 of the department to ensure compliance with Sections 47-5-1001
168 through 47-5-1015.

169 **SECTION 6.** Section 47-5-1011, Mississippi Code of 1972, is
170 reenacted as follows:

171 47-5-1011. (1) Before entering an order for commitment for
172 electronic house arrest, the department shall inform the
173 participant and other persons residing in the home of the nature
174 and extent of the approved electronic monitoring devices by doing
175 the following:

176 (a) Securing the written consent of the participant in
177 the program to comply with the rules and regulations of the
178 program.

179 (b) Advising adult persons residing in the home of the
180 participant at the time an order or commitment for electronic
181 house arrest is entered and asking such persons to acknowledge the
182 nature and extent of approved electronic monitoring devices.

183 (c) Insuring that the approved electronic devices are
184 minimally intrusive upon the privacy of other persons residing in
185 the home while remaining in compliance with Sections 47-5-1001
186 through 47-5-1015.

187 (2) The participant shall be responsible for the cost of
188 equipment and any damage to such equipment. Any intentional
189 damage, any attempt to defeat monitoring, any committing of a



190 criminal offense or any associating with felons or known
191 criminals, shall constitute a violation of the program.

192 (3) Any person whose residence is utilized in the program
193 shall agree to keep the home drug and alcohol free and to exclude
194 known felons and criminals in order to provide a noncriminal
195 environment.

196 **SECTION 7.** Section 47-5-1013, Mississippi Code of 1972, is
197 reenacted as follows:

198 47-5-1013. Participants enrolled in an intensive supervision
199 program shall be required to:

200 (a) Maintain employment if physically able, or
201 full-time student status at an approved school or vocational
202 trade, and make progress deemed satisfactory to the correctional
203 field officer, or both, or be involved in supervised job searches.

204 (b) Pay restitution and program fees as directed by the
205 department. Program fees shall not be less than Eighty-eight
206 Dollars (\$88.00) per month. The sentencing judge may charge a
207 program fee of less than Eighty-eight Dollars (\$88.00) per month
208 in cases of extreme financial hardship, when such judge determines
209 that the offender's participation in the program would provide a
210 benefit to his community. Juvenile offenders shall not pay a
211 program fee but shall pay a monthly fee as provided in Section
212 47-5-1007. Program fees shall be deposited in the special fund
213 created in Section 47-5-1007.



214 (c) Establish a place of residence at a place approved
215 by the correctional field officer, and not change his residence
216 without the officer's approval. The correctional officer shall be
217 allowed to inspect the place of residence for alcoholic beverages,
218 controlled substances and drug paraphernalia.

219 (d) Remain at his place of residence at all times
220 except to go to work, to attend school, to perform community
221 service and as specifically allowed in each instance by the
222 correctional field officer.

223 (e) Allow administration of drug and alcohol tests as
224 requested by the field officer.

225 (f) Perform not less than ten (10) hours of community
226 service each month.

227 (g) Meet any other conditions imposed by the court to
228 meet the needs of the offender and limit the risks to the
229 community.

230 **SECTION 8.** Section 47-5-1014, Mississippi Code of 1972, is
231 reenacted as follows:

232 47-5-1014. (1) Participants who have been in the intensive
233 supervision program since July 1, 2004, whether placed into the
234 program before or after July 1, 2004, shall pay a Fifty Dollar
235 (\$50.00) monthly supervision fee to the Mississippi Department of
236 Corrections for their supervision from July 1, 2004, or from the
237 date the participant entered the program after July 1, 2004, until
238 completion of the program, or April 6, 2005, or whichever occurs



239 first. From and after April 6, 2005, all participants of the
240 intensive supervision program shall pay the fee as established in
241 Section 47-5-1013.

242 (2) The Department of Corrections shall use its best effort
243 to collect the monthly supervision fees in arrearage under this
244 section.

245 (3) A participant's failure to pay the monthly fees in
246 arrearage shall not be deemed a violation of a condition of the
247 program, and the participant shall not be removed from the program
248 for failure to pay the monthly fees in arrearage.

249 (4) This section shall not apply to any fees incurred after
250 April 6, 2005.

251 (5) Any arrearage remaining under this section at the end of
252 the offender's participation in the program shall automatically be
253 reduced to a civil judgment and upon notice by the Department of
254 Corrections shall be recorded with the circuit court clerk in the
255 county wherein the participant resides. The Department of
256 Corrections and/or the district attorney shall use best efforts to
257 collect the judgment.

258 **SECTION 9.** Section 47-5-1015, Mississippi Code of 1972, is
259 amended as follows:

260 47-5-1015. Sections 47-5-1001 through 47-5-1015 shall stand
261 repealed after June 30, * * * 2022.

262 **SECTION 10.** This act shall take effect and be in force from
263 and after June 30, 2018.

