

By: Representative Bomgar

To: Corrections

HOUSE BILL NO. 1093

1 AN ACT TO AMEND SECTION 47-7-49, MISSISSIPPI CODE OF 1972, TO  
2 PROVIDE CERTAIN CRITERIA FOR THE DEPARTMENT OF CORRECTIONS OR THE  
3 SENTENCING COURT WHEN MAKING A DETERMINATION OF INDIGENCE FOR AN  
4 OFFENDER WHO IS UNABLE TO PAY HIS OR HER FIELD SUPERVISION FEES;  
5 TO EXTEND THE DATE OF REPEAL ON THIS SECTION; AND FOR RELATED  
6 PURPOSES.

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

8 **SECTION 1.** Section 47-7-49, Mississippi Code of 1972, is  
9 amended as follows:

10 47-7-49. (1) Any offender on probation, parole,  
11 earned-release supervision, post-release supervision, earned  
12 probation or any other offender under the field supervision of the  
13 Community Services Division of the department shall pay to the  
14 department the sum of Fifty-five Dollars (\$55.00) per month by  
15 certified check or money order unless a \* \* \* determination of  
16 indigence is made. An offender shall make the initial payment  
17 within thirty (30) days after being released from imprisonment  
18 unless a \* \* \* determination of indigence is made. A \* \* \*  
19 determination of indigence shall be granted by the sentencing  
20 court or the Department of Corrections to any individual meeting



21 the requirements in subsection (3) of this section. \* \* \* The  
22 commissioner or his designee shall deposit Fifty Dollars (\$50.00)  
23 of each payment received into a special fund in the State  
24 Treasury, which is hereby created, to be known as the Community  
25 Service Revolving Fund. Expenditures from this fund shall be made  
26 for: (a) the establishment of restitution and satellite centers;  
27 and (b) the establishment, administration and operation of the  
28 department's Drug Identification Program and the intensive and  
29 field supervision program. The Fifty Dollars (\$50.00) may be used  
30 for salaries and to purchase equipment, supplies and vehicles to  
31 be used by the Community Services Division in the performance of  
32 its duties. Expenditures for the purposes established in this  
33 section may be made from the fund upon requisition by the  
34 commissioner, or his designee.

35 Of the remaining amount, Three Dollars (\$3.00) of each  
36 payment shall be deposited into the Crime Victims' Compensation  
37 Fund created in Section 99-41-29, and Two Dollars (\$2.00) shall be  
38 deposited into the Training Revolving Fund created pursuant to  
39 Section 47-7-51. When a person is convicted of a felony in this  
40 state, in addition to any other sentence it may impose, the court  
41 may, in its discretion, order the offender to pay a state  
42 assessment not to exceed the greater of One Thousand Dollars  
43 (\$1,000.00) or the maximum fine that may be imposed for the  
44 offense, into the Crime Victims' Compensation Fund created  
45 pursuant to Section 99-41-29.



46 Any federal funds made available to the department for  
47 training or for training facilities, equipment or services shall  
48 be deposited into the Correctional Training Revolving Fund created  
49 in Section 47-7-51. The funds deposited in this account shall be  
50 used to support an expansion of the department's training program  
51 to include the renovation of facilities for training purposes,  
52 purchase of equipment and contracting of training services with  
53 community colleges in the state.

54 No offender shall be required to make this payment for a  
55 period of time longer than ten (10) years.

56 (2) The offender may be imprisoned until the payments are  
57 made if the offender is financially able to make the payments and  
58 the court in the county where the offender resides so finds,  
59 subject to the limitations hereinafter set out. The offender  
60 shall not be imprisoned if the offender is financially unable to  
61 make the payments \* \* \* and a finding of indigence is made by the  
62 court in writing, under oath, and the court so finds.

63 (3) When determining whether a person is indigent, the  
64 Department of Corrections' Community Corrections Division or the  
65 court shall use the current Federal Poverty Guidelines and there  
66 shall be a presumption of indigence when a defendant's income is  
67 at or below one hundred twenty-five percent (125%) of the Federal  
68 Poverty Guidelines, subject to a review of his or her assets. An  
69 offender at or below one hundred twenty-five percent (125%) of the  
70 Federal Poverty Guidelines without substantial liquid assets



71 available to pay fines, fees, and costs shall be deemed indigent.  
72 In determining whether an offender has substantial liquid assets,  
73 up to Ten Thousand Dollars (\$10,000.00) in tangible personal  
74 property, including motor vehicles, household goods, or any other  
75 assets exempted from seizure under execution or attachment shall  
76 not be considered, as provided under Section 85-3-1. If the  
77 offender is above one hundred twenty-five percent (125%) of the  
78 Federal Poverty Guidelines, an individualized assessment of his or  
79 her ability to pay based on the totality of the circumstances  
80 shall be made, including, but not limited to, the offender's  
81 disposable income, financial obligations and liquid assets. If a  
82 determination of indigence is not made, and it is determined that  
83 the defendant could have made payment but refused to do so, the  
84 case file shall include a written explanation of the basis for the  
85 determination. In court, such finding shall be included in the  
86 court's order.

87 (4) Absent a finding of willful nonpayment using a  
88 determination of indigence, a probationer or parolee's failure to  
89 pay the monthly fees in arrearage shall not be deemed a violation  
90 of a condition of parole or probation, and the participant shall  
91 not be revoked for failure to pay the monthly fees in arrearage.

92 ( \* \* \*5) This section shall stand repealed from and after  
93 June 30, \* \* \* 2022.

94 **SECTION 2.** This act shall take effect and be in force from  
95 and after July 1, 2018.

