

By: Representative Kinkade

To: Corrections

HOUSE BILL NO. 1141

1 AN ACT TO AMEND SECTIONS 47-7-38, 47-7-27, 47-7-37 AND  
 2 47-7-38.1, MISSISSIPPI CODE OF 1972, WHICH PERTAIN TO TECHNICAL  
 3 VIOLATION CENTERS AND CERTAIN REVOCATION, TO PROVIDE THAT THE  
 4 NUMBER OF PRIOR REVOCATIONS, RATHER THAN THE NUMBER OF ALLEGED  
 5 TECHNICAL VIOLATIONS, SHALL BE CONSIDERED FOR PURPOSES OF  
 6 REVOCATION SENTENCING; TO AUTHORIZE THE DEPARTMENT OF CORRECTIONS  
 7 TO EXPAND THE REVOCATION PERIOD UP TO 180 DAYS FOR RULE VIOLATIONS  
 8 BY OFFENDERS OR NONCOMPLETION OF A REQUIRED PROGRAM; TO PROVIDE  
 9 THAT SUCH OFFENDERS MAY BE TRANSFERRED TO THE GENERAL POPULATION  
 10 BY THE DEPARTMENT FOR RULE VIOLATIONS AND NONCOMPLETION OF  
 11 PROGRAMS; AND FOR RELATED PURPOSES.

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

13 **SECTION 1.** Section 47-7-38, Mississippi Code of 1972, is  
 14 amended as follows:

15 47-7-38. (1) The department shall have the authority to  
 16 impose graduated sanctions as an alternative to judicial  
 17 modification or revocation, as provided in Sections 47-7-27 and  
 18 47-7-37, for offenders on probation, parole, or post-release  
 19 supervision who commit technical violations \* \* \* as defined by  
 20 Section 47-7-2.

21 (2) The commissioner shall develop a standardized graduated  
 22 sanctions system, which shall include a grid to guide field



23 officers in determining the suitable response to a technical  
24 violation. The commissioner shall promulgate rules and  
25 regulations for the development and application of the system of  
26 sanctions. Field officers shall be required to conform to the  
27 sanction grid developed.

28 (3) The system of sanctions shall include a list of  
29 sanctions for the most common types of violations. When  
30 determining the sanction to impose, the field officer shall take  
31 into account the offender's assessed risk level, previous  
32 violations and sanctions, and severity of the current and prior  
33 violations.

34 (4) Field officers shall notify the sentencing court or  
35 Parole Board, whichever is applicable, when a probationer \* \* \* or  
36 a parolee has committed a technical violation \* \* \*, the type of  
37 violation and the sanction imposed. When the \* \* \* offender is  
38 arrested for a new criminal offense, the field officer shall  
39 notify the court within forty-eight (48) hours of becoming aware  
40 of the arrest.

41 (5) The graduated sanctions that the department may impose  
42 include, but shall not be limited to:

- 43 (a) Verbal warnings;
- 44 (b) Increased reporting;
- 45 (c) Increased drug and alcohol testing;
- 46 (d) Mandatory substance abuse treatment;
- 47 (e) Loss of earned-discharge credits; and



48 (f) Incarceration in a county jail for no more than two  
49 (2) days. Incarceration as a sanction shall not be used more than  
50 two (2) times per month for a total period incarcerated of no more  
51 than four (4) days.

52 (6) The system shall also define positive reinforcements  
53 that offenders will receive for compliance with conditions of  
54 supervision. These positive reinforcements shall include, but not  
55 limited to:

56 (a) Verbal recognition;

57 (b) Reduced reporting; and

58 (c) Credits for earned discharge which shall be awarded  
59 pursuant to Section 47-7-40.

60 (7) The Department of Corrections shall provide semiannually  
61 to the Oversight Task Force the number and percentage of offenders  
62 who have one or more violations during the year, the average  
63 number of violations per offender during the year and the total  
64 and average number of incarceration sanctions as defined in  
65 subsection (5) of this section imposed during the year.

66 **SECTION 2.** Section 47-7-27, Mississippi Code of 1972, is  
67 amended as follows:

68 47-7-27. (1) The board may, at any time and upon a showing  
69 of probable violation of parole, issue a warrant for the return of  
70 any paroled offender to the custody of the department. The  
71 warrant shall authorize all persons named therein to return the



72 paroled offender to actual custody of the department from which he  
73 was paroled.

74 (2) Any field supervisor may arrest an offender without a  
75 warrant or may deputize any other person with power of arrest by  
76 giving him a written statement setting forth that the offender  
77 has, in the judgment of that field supervisor, violated the  
78 conditions of his parole or earned-release supervision. The  
79 written statement delivered with the offender by the arresting  
80 officer to the official in charge of the department facility from  
81 which the offender was released or other place of detention  
82 designated by the department shall be sufficient warrant for the  
83 detention of the offender.

84 (3) The field supervisor, after making an arrest, shall  
85 present to the detaining authorities a similar statement of the  
86 circumstances of violation. The field supervisor shall at once  
87 notify the board or department of the arrest and detention of the  
88 offender and shall submit a written report showing in what manner  
89 the offender has violated the conditions of parole or  
90 earned-release supervision. An offender for whose return a  
91 warrant has been issued by the board shall, after the issuance of  
92 the warrant, be deemed a fugitive from justice.

93 (4) Whenever an offender is arrested on a warrant for an  
94 alleged violation of parole as herein provided, the board shall  
95 hold an informal preliminary hearing within seventy-two (72) hours  
96 to determine whether there is reasonable cause to believe the



97 person has violated a condition of parole. A preliminary hearing  
98 shall not be required when the offender is not under arrest on a  
99 warrant or the offender signed a waiver of a preliminary hearing.  
100 The preliminary hearing may be conducted electronically.

101 (5) The right of the State of Mississippi to extradite  
102 persons and return fugitives from justice, from other states to  
103 this state, shall not be impaired by this chapter and shall remain  
104 in full force and effect. An offender convicted of a felony  
105 committed while on parole, whether in the State of Mississippi or  
106 another state, shall immediately have his parole revoked upon  
107 presentment of a certified copy of the commitment order to the  
108 board. If an offender is on parole and the offender is convicted  
109 of a felony for a crime committed prior to the offender being  
110 placed on parole, whether in the State of Mississippi or another  
111 state, the offender may have his parole revoked upon presentment  
112 of a certified copy of the commitment order to the board.

113 (6) (a) The board shall hold a hearing for any parolee who  
114 is detained as a result of a warrant or a violation report within  
115 twenty-one (21) days of the parolee's admission to detention. The  
116 board may, in its discretion, terminate the parole or modify the  
117 terms and conditions thereof. If the board revokes parole  
118 for \* \* \* one or more technical violations, the board shall impose  
119 a period of imprisonment to be served in a technical violation  
120 center operated by the department not to exceed ninety (90) days  
121 for the first \* \* \* revocation and not to exceed one hundred



122 twenty (120) days for the second \* \* \* revocation. For the  
123 third \* \* \* revocation, the board may impose a period of  
124 imprisonment to be served in a technical violation center for up  
125 to one hundred and eighty (180) days or the board may impose the  
126 remainder of the suspended portion of the sentence. For the  
127 fourth and any subsequent \* \* \* revocation, the board may impose  
128 up to the remainder of the suspended portion of the sentence. The  
129 period of imprisonment in a technical violation center imposed  
130 under this section shall not be reduced in any manner. The  
131 Department of Corrections shall have the authority to expand the  
132 revocation period up to one hundred and eighty (180) days for a  
133 rule violation or noncompletion of a required program and transfer  
134 the offender to general population.

135 (b) If the board does not hold a hearing or does not  
136 take action on the violation within the twenty-one-day time frame  
137 in paragraph (a) of this subsection, the parolee shall be released  
138 from detention and shall return to parole status. The board may  
139 subsequently hold a hearing and may revoke parole or may continue  
140 parole and modify the terms and conditions of parole. If the  
141 board revokes parole for \* \* \* one or more technical violations,  
142 the board shall impose a period of imprisonment to be served in a  
143 technical violation center operated by the department not to  
144 exceed ninety (90) days for the first \* \* \* revocation and not to  
145 exceed one hundred twenty (120) days for the second \* \* \*  
146 revocation. For the third \* \* \* revocation, the board may impose



147 a period of imprisonment to be served in a technical violation  
148 center for up to one hundred eighty (180) days or the board may  
149 impose the remainder of the suspended portion of the sentence.  
150 For the fourth and any subsequent \* \* \* revocation, the board may  
151 impose up to the remainder of the suspended portion of the  
152 sentence. The period of imprisonment in a technical violation  
153 center imposed under this section shall not be reduced in any  
154 manner. The Department of Corrections shall have the authority to  
155 expand the revocation period up to one hundred and eighty (180)  
156 days for a rule violation or noncompletion of a required program  
157 and transfer the offender to general population.

158 (c) For a parolee charged with \* \* \* one or more technical  
159 violations who has not been detained awaiting the revocation  
160 hearing, the board may hold a hearing within a reasonable time.  
161 The board may revoke parole or may continue parole and modify the  
162 terms and conditions of parole. If the board revokes parole  
163 for \* \* \* one or more technical violations, the board shall impose  
164 a period of imprisonment to be served in a technical violation  
165 center operated by the department not to exceed ninety (90) days  
166 for the first \* \* \* revocation and not to exceed one hundred  
167 twenty (120) days for the second \* \* \* revocation. For the third  
168 technical \* \* \* revocation, the board may impose a period of  
169 imprisonment to be served in a technical violation center for up  
170 to one hundred eighty (180) days or the board may impose the  
171 remainder of the suspended portion of the sentence. For the



172 fourth and any subsequent \* \* \* revocation, the board may impose  
173 up to the remainder of the suspended portion of the sentence. The  
174 period of imprisonment in a technical violation center imposed  
175 under this section shall not be reduced in any manner. The  
176 Department of Corrections shall have the authority to expand the  
177 revocation period up to one hundred and eighty (180) days for a  
178 rule violation or noncompletion of a required program and transfer  
179 the offender to general population.

180 (7) Unless good cause for the delay is established in the  
181 record of the proceeding, the parole revocation charge shall be  
182 dismissed if the revocation hearing is not held within the thirty  
183 (30) days of the issuance of the warrant.

184 (8) The chairman and each member of the board and the  
185 designated parole revocation hearing officer may, in the discharge  
186 of their duties, administer oaths, summon and examine witnesses,  
187 and take other steps as may be necessary to ascertain the truth of  
188 any matter about which they have the right to inquire.

189 (9) The board shall provide semiannually to the Oversight  
190 Task Force the number of warrants issued for an alleged violation  
191 of parole, the average time between detention on a warrant and  
192 preliminary hearing, the average time between detention on a  
193 warrant and revocation hearing, the number of ninety-day sentences  
194 in a technical violation center issued by the board, the number of  
195 one-hundred-twenty-day sentences in a technical violation center  
196 issued by the board, the number of one-hundred-eighty-day





197 sentences issued by the board, and the number and average length  
198 of the suspended sentences imposed by the board in response to a  
199 violation.

200           **SECTION 3.** Section 47-7-37, Mississippi Code of 1972, is  
201 amended as follows:

202           47-7-37. (1) The period of probation shall be fixed by the  
203 court, and may at any time be extended or terminated by the court,  
204 or judge in vacation. Such period with any extension thereof  
205 shall not exceed five (5) years, except that in cases of desertion  
206 and/or failure to support minor children, the period of probation  
207 may be fixed and/or extended by the court for so long as the duty  
208 to support such minor children exists. The time served on  
209 probation or post-release supervision may be reduced pursuant to  
210 Section 47-7-40.

211           (2) At any time during the period of probation, the court,  
212 or judge in vacation, may issue a warrant for violating any of the  
213 conditions of probation or suspension of sentence and cause the  
214 probationer to be arrested. Any probation and parole officer may  
215 arrest a probationer without a warrant, or may deputize any other  
216 officer with power of arrest to do so by giving him a written  
217 statement setting forth that the probationer has, in the judgment  
218 of the probation and parole officer, violated the conditions of  
219 probation. Such written statement delivered with the probationer  
220 by the arresting officer to the official in charge of a county



221 jail or other place of detention shall be sufficient warrant for  
222 the detention of the probationer.

223 (3) Whenever an offender is arrested on a warrant for an  
224 alleged violation of probation as herein provided, the department  
225 shall hold an informal preliminary hearing within seventy-two (72)  
226 hours of the arrest to determine whether there is reasonable cause  
227 to believe the person has violated a condition of probation. A  
228 preliminary hearing shall not be required when the offender is not  
229 under arrest on a warrant or the offender signed a waiver of a  
230 preliminary hearing. The preliminary hearing may be conducted  
231 electronically. If reasonable cause is found, the offender may be  
232 confined no more than twenty-one (21) days from the admission to  
233 detention until a revocation hearing is held. If the revocation  
234 hearing is not held within twenty-one (21) days, the probationer  
235 shall be released from custody and returned to probation status.

236 (4) If a probationer or offender is subject to registration  
237 as a sex offender, the court must make a finding that the  
238 probationer or offender is not a danger to the public prior to  
239 release with or without bail. In determining the danger posed by  
240 the release of the offender or probationer, the court may consider  
241 the nature and circumstances of the violation and any new offenses  
242 charged; the offender or probationer's past and present conduct,  
243 including convictions of crimes and any record of arrests without  
244 conviction for crimes involving violence or sex crimes; any other  
245 evidence of allegations of unlawful sexual conduct or the use of



246 violence by the offender or probationer; the offender or  
247 probationer's family ties, length of residence in the community,  
248 employment history and mental condition; the offender or  
249 probationer's history and conduct during the probation or other  
250 supervised release and any other previous supervisions, including  
251 disciplinary records of previous incarcerations; the likelihood  
252 that the offender or probationer will engage again in a criminal  
253 course of conduct; the weight of the evidence against the offender  
254 or probationer; and any other facts the court considers relevant.

255 (5) (a) The probation and parole officer after making an  
256 arrest shall present to the detaining authorities a similar  
257 statement of the circumstances of violation. The probation and  
258 parole officer shall at once notify the court of the arrest and  
259 detention of the probationer and shall submit a report in writing  
260 showing in what manner the probationer has violated the conditions  
261 of probation. Within twenty-one (21) days of arrest and detention  
262 by warrant as herein provided, the court shall cause the  
263 probationer to be brought before it and may continue or revoke all  
264 or any part of the probation or the suspension of sentence. If  
265 the court revokes probation for \* \* \* one or more technical  
266 violations, the court shall impose a period of imprisonment to be  
267 served in either a technical violation center or a restitution  
268 center not to exceed ninety (90) days for the first \* \* \*  
269 revocation and not to exceed one hundred twenty (120) days for the  
270 second \* \* \* revocation. For the third \* \* \* revocation, the



271 court may impose a period of imprisonment to be served in either a  
272 technical violation center or a restitution center for up to one  
273 hundred eighty (180) days or the court may impose the remainder of  
274 the suspended portion of the sentence. For the fourth and any  
275 subsequent \* \* \* revocation, the court may impose up to the  
276 remainder of the suspended portion of the sentence. The period of  
277 imprisonment in a technical violation center imposed under this  
278 section shall not be reduced in any manner. The Department of  
279 Corrections shall have the authority to expand the revocation  
280 period up to one hundred and eighty (180) days for a rule  
281 violation or noncompletion of a required program and transfer the  
282 offender to general population.

283 (b) If the offender is not detained as a result of the  
284 warrant, the court shall cause the probationer to be brought  
285 before it within a reasonable time and may continue or revoke all  
286 or any part of the probation or the suspension of sentence, and  
287 may cause the sentence imposed to be executed or may impose any  
288 part of the sentence which might have been imposed at the time of  
289 conviction. If the court revokes probation for \* \* \* one or more  
290 technical violations, the court shall impose a period of  
291 imprisonment to be served in either a technical violation center  
292 or a restitution center not to exceed ninety (90) days for the  
293 first \* \* \* revocation and not to exceed one hundred twenty (120)  
294 days for the second \* \* \* revocation. For the third \* \* \*  
295 revocation, the court may impose a period of imprisonment to be



296 served in either a technical violation center or a restitution  
297 center for up to one hundred eighty (180) days or the court may  
298 impose the remainder of the suspended portion of the sentence.  
299 For the fourth and any subsequent \* \* \* revocation, the court may  
300 impose up to the remainder of the suspended portion of the  
301 sentence. The period of imprisonment in a technical violation  
302 center imposed under this section shall not be reduced in any  
303 manner. The Department of Corrections shall have the authority to  
304 expand the revocation period up to one hundred and eighty (180)  
305 days for a rule violation or noncompletion of a required program  
306 and transfer the offender to general population.

307 (c) If the court does not hold a hearing or does not  
308 take action on the violation within the twenty-one-day period, the  
309 offender shall be released from detention and shall return to  
310 probation status. The court may subsequently hold a hearing and  
311 may revoke probation or may continue probation and modify the  
312 terms and conditions of probation. If the court revokes probation  
313 for \* \* \* one or more technical violations, the court shall impose  
314 a period of imprisonment to be served in either a technical  
315 violation center operated by the department or a restitution  
316 center not to exceed ninety (90) days for the first \* \* \*  
317 revocation and not to exceed one hundred twenty (120) days for the  
318 second \* \* \* revocation. For the third \* \* \* revocation, the  
319 court may impose a period of imprisonment to be served in either a  
320 technical violation center or a restitution center for up to one



321 hundred \* \* \* eighty (180) days or the court may impose the  
322 remainder of the suspended portion of the sentence. For the  
323 fourth and any subsequent \* \* \* revocation, the court may impose  
324 up to the remainder of the suspended portion of the sentence. The  
325 period of imprisonment in a technical violation center imposed  
326 under this section shall not be reduced in any manner. The  
327 Department of Corrections shall have the authority to expand the  
328 revocation period up to one hundred and eighty (180) days for a  
329 rule violation or noncompletion of a required program and transfer  
330 the offender to general population.

331 (d) For an offender charged with a technical violation  
332 who has not been detained awaiting the revocation hearing, the  
333 court may hold a hearing within a reasonable time. The court may  
334 revoke probation or may continue probation and modify the terms  
335 and conditions of probation. If the court revokes probation  
336 for \* \* \* one or more technical violations, the court shall impose  
337 a period of imprisonment to be served in either a technical  
338 violation center operated by the department or a restitution  
339 center not to exceed ninety (90) days for the first \* \* \*  
340 revocation and not to exceed one hundred twenty (120) days for the  
341 second \* \* \* revocation. For the \* \* \* revocation, the court may  
342 impose a period of imprisonment to be served in either a technical  
343 violation center or a restitution center for up to one hundred  
344 eighty (180) days or the court may impose the remainder of the  
345 suspended portion of the sentence. For the fourth and any



346 subsequent \* \* \* revocation, the court may impose up to the  
347 remainder of the suspended portion of the sentence. The period of  
348 imprisonment in a technical violation center imposed under this  
349 section shall not be reduced in any manner. The Department of  
350 Corrections shall have the authority to expand the revocation  
351 period up to one hundred and eighty (180) days for a rule  
352 violation or noncompletion of a required program and transfer the  
353 offender to general population.

354 (6) If the probationer is arrested in a circuit court  
355 district in the State of Mississippi other than that in which he  
356 was convicted, the probation and parole officer, upon the written  
357 request of the sentencing judge, shall furnish to the circuit  
358 court or the county court of the county in which the arrest is  
359 made, or to the judge of such court, a report concerning the  
360 probationer, and such court or the judge in vacation shall have  
361 authority, after a hearing, to continue or revoke all or any part  
362 of probation or all or any part of the suspension of sentence, and  
363 may in case of revocation proceed to deal with the case as if  
364 there had been no probation. In such case, the clerk of the court  
365 in which the order of revocation is issued shall forward a  
366 transcript of such order to the clerk of the court of original  
367 jurisdiction, and the clerk of that court shall proceed as if the  
368 order of revocation had been issued by the court of original  
369 jurisdiction. Upon the revocation of probation or suspension of  
370 sentence of any offender, such offender shall be placed in the



371 legal custody of the State Department of Corrections and shall be  
372 subject to the requirements thereof.

373 (7) Any probationer who removes himself from the State of  
374 Mississippi without permission of the court placing him on  
375 probation, or the court to which jurisdiction has been  
376 transferred, shall be deemed and considered a fugitive from  
377 justice and shall be subject to extradition as now provided by  
378 law. No part of the time that one is on probation shall be  
379 considered as any part of the time that he shall be sentenced to  
380 serve.

381 (8) The arresting officer, except when a probation and  
382 parole officer, shall be allowed the same fees as now provided by  
383 law for arrest on warrant, and such fees shall be taxed against  
384 the probationer and paid as now provided by law.

385 (9) The arrest, revocation and recommitment procedures of  
386 this section also apply to persons who are serving a period of  
387 post-release supervision imposed by the court.

388 (10) Unless good cause for the delay is established in the  
389 record of the proceeding, the probation revocation charge shall be  
390 dismissed if the revocation hearing is not held within thirty (30)  
391 days of the warrant being issued.

392 (11) The Department of Corrections shall provide  
393 semiannually to the Oversight Task Force the number of warrants  
394 issued for an alleged violation of probation or post-release  
395 supervision, the average time between detention on a warrant and





396 preliminary hearing, the average time between detention on a  
397 warrant and revocation hearing, the number of ninety-day sentences  
398 in a technical violation center issued by the court, the number of  
399 one-hundred-twenty-day sentences in a technical violation center  
400 issued by the court, the number of one-hundred-eighty-day  
401 sentences issued by the court, and the number and average length  
402 of the suspended sentences imposed by the court in response to a  
403 violation.

404       **SECTION 4.** Section 47-7-38.1, Mississippi Code of 1972, is  
405 amended as follows:

406       47-7-38.1. (1) The Department of Corrections shall  
407 establish technical violation centers to detain probation and  
408 parole violators revoked by the court or parole board.

409       (2) The department shall place an offender in a violation  
410 center for a technical violation as ordered by the board pursuant  
411 to Section 47-7-27 and the sentencing court pursuant to Section  
412 47-7-37. If the offender fails to follow the rules of the  
413 department, the department may place the offender into the general  
414 population for the remainder of the term to be served.

415       (3) The violation centers shall be equipped to address the  
416 underlying factors that led to the offender's violation as  
417 identified based on the results of a risk and needs assessment.  
418 At a minimum each violation center shall include substance abuse  
419 services shown to reduce recidivism and a reduction in the use of



420 illicit substances or alcohol, education programs, employment  
421 preparation and training programs and behavioral programs.

422 (4) As required by Section 47-5-20(b), the department shall  
423 notify, by certified mail, each member of the board of supervisors  
424 of the county in which the violation center shall be located of  
425 the department's intent to convert an existing department facility  
426 to a technical violation center.

427 (5) The department shall establish rules and regulations for  
428 the implementation and operation of the technical violation  
429 centers.

430 (6) The Department of Corrections shall provide to the  
431 Oversight Task Force semiannually the average daily population of  
432 the technical violation centers, the number of admissions to the  
433 technical violation centers, and the average time served in the  
434 technical violation centers.

435 **SECTION 5.** This act shall take effect and be in force from  
436 and after July 1, 2018.

