

By: Representative Kinkade

To: Corrections

HOUSE BILL NO. 1342

1 AN ACT TO AMEND SECTION 47-7-38.1, MISSISSIPPI CODE OF 1972,
 2 TO AUTHORIZE THE DEPARTMENT OF CORRECTIONS TO AWARD UP TO 10 DAYS
 3 REDUCTION OF SENTENCE FOR EACH 30 DAYS OF PARTICIPATION BY AN
 4 OFFENDER IN A TECHNICAL VIOLATION CENTER; TO FURTHER AUTHORIZE THE
 5 DEPARTMENT TO PLACE AN OFFENDER IN THE GENERAL POPULATION FOR THE
 6 REMAINDER OF THE TERM TO BE SERVED AT A TECHNICAL VIOLATION CENTER
 7 FOR UP TO 180 DAYS IF AN OFFENDER FAILS TO FOLLOW THE RULES OF A
 8 CENTER; TO AMEND SECTIONS 47-7-27 AND 47-7-37, MISSISSIPPI CODE OF
 9 1972, IN CONFORMITY TO THE PRECEDING SECTION; TO AMEND SECTION
 10 47-7-3.1, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE
 11 REQUIREMENT OF THE DEPARTMENT OF CORRECTIONS TO DEVELOP A CASE
 12 PLAN FOR ALL PAROLE ELIGIBLE INMATES SHALL ONLY BE APPLICABLE TO
 13 THOSE CONVICTED AFTER JULY 1, 2014; TO REMOVE CERTAIN TIME FRAMES
 14 CONCERNING THE DEPARTMENT IN THE DEVELOPMENT OF SUCH CASE PLANS;
 15 TO PROVIDE THAT THE DEPARTMENT SHALL, BY RULES AND REGULATIONS,
 16 ESTABLISH A METHOD DETERMINING AN INMATE'S COMPLIANCE WITH HIS OR
 17 HER CASE PLAN; TO PROVIDE THAT THE DEPARTMENT SHALL NOTIFY THE
 18 PAROLE BOARD IF AN INMATE IS FAILING TO MAINTAIN COMPLIANCE WITH
 19 HIS OR HER CASE PLAN; AND FOR RELATED PURPOSES.

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

21 **SECTION 1.** Section 47-7-38.1, Mississippi Code of 1972, is
 22 amended as follows:

23 47-7-38.1. (1) The Department of Corrections shall
 24 establish technical violation centers to detain probation and
 25 parole violators revoked by the court or parole board.



26 (2) The department shall place an offender in a violation
27 center for a technical violation as ordered by the board pursuant
28 to Section 47-7-27 and the sentencing court pursuant to Section
29 47-7-37.

30 (3) The violation centers shall be equipped to address the
31 underlying factors that led to the offender's violation as
32 identified based on the results of a risk and needs assessment.
33 At a minimum each violation center shall include substance abuse
34 services shown to reduce recidivism and a reduction in the use of
35 illicit substances or alcohol, education programs, employment
36 preparation and training programs and behavioral programs.

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

42 (5) The department shall establish rules and regulations for
43 the implementation and operation of the technical violation
44 centers.

45 (6) The department shall have the authority to award
46 participation credits for up to ten (10) days reduction of
47 sentence for each thirty (30) days of participation in the
48 technical violation center. If the offender causes disruptions or
49 refuses to participate he or she shall forfeit any credits earned.
50 The department shall have the authority to transfer any offender



51 out of a technical violation center to the general population for
52 the remainder of the revocation term if the offender is a threat
53 to institution safety.

54 (* * *7) The Department of Corrections shall provide to the
55 Oversight Task Force semiannually the average daily population of
56 the technical violation centers, the number of admissions to the
57 technical violation centers, and the average time served in the
58 technical violation centers.

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

61 47-7-27. (1) The board may, at any time and upon a showing
62 of probable violation of parole, issue a warrant for the return of
63 any paroled offender to the custody of the department. The
64 warrant shall authorize all persons named therein to return the
65 paroled offender to actual custody of the department from which he
66 was paroled.

67 (2) Any field supervisor may arrest an offender without a
68 warrant or may deputize any other person with power of arrest by
69 giving him a written statement setting forth that the offender
70 has, in the judgment of that field supervisor, violated the
71 conditions of his parole or earned-release supervision. The
72 written statement delivered with the offender by the arresting
73 officer to the official in charge of the department facility from
74 which the offender was released or other place of detention



75 designated by the department shall be sufficient warrant for the
76 detention of the offender.

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

86 (4) Whenever an offender is arrested on a warrant for an
87 alleged violation of parole as herein provided, the board shall
88 hold an informal preliminary hearing within seventy-two (72) hours
89 to determine whether there is reasonable cause to believe the
90 person has violated a condition of parole. A preliminary hearing
91 shall not be required when the offender is not under arrest on a
92 warrant or the offender signed a waiver of a preliminary hearing.
93 The preliminary hearing may be conducted electronically.

94 (5) The right of the State of Mississippi to extradite
95 persons and return fugitives from justice, from other states to
96 this state, shall not be impaired by this chapter and shall remain
97 in full force and effect. An offender convicted of a felony
98 committed while on parole, whether in the State of Mississippi or
99 another state, shall immediately have his parole revoked upon



100 presentment of a certified copy of the commitment order to the
101 board. If an offender is on parole and the offender is convicted
102 of a felony for a crime committed prior to the offender being
103 placed on parole, whether in the State of Mississippi or another
104 state, the offender may have his parole revoked upon presentment
105 of a certified copy of the commitment order to the board.

106 (6) (a) The board shall hold a hearing for any parolee who
107 is detained as a result of a warrant or a violation report within
108 twenty-one (21) days of the parolee's admission to detention. The
109 board may, in its discretion, terminate the parole or modify the
110 terms and conditions thereof. If the board revokes parole for a
111 technical violation the board shall impose a period of
112 imprisonment to be served in a technical violation center operated
113 by the department not to exceed ninety (90) days for the first
114 technical violation and not to exceed one hundred twenty (120)
115 days for the second technical violation. For the third technical
116 violation, the board may impose a period of imprisonment to be
117 served in a technical violation center for up to one hundred and
118 eighty (180) days or the board may impose the remainder of the
119 suspended portion of the sentence. For the fourth and any
120 subsequent technical violation, the board may impose up to the
121 remainder of the suspended portion of the sentence. The period of
122 imprisonment in a technical violation center imposed under this
123 section shall not be reduced in any manner.



124 (b) If the board does not hold a hearing or does not
125 take action on the violation within the twenty-one-day time frame
126 in paragraph (a) of this subsection, the parolee shall be released
127 from detention and shall return to parole status. The board may
128 subsequently hold a hearing and may revoke parole or may continue
129 parole and modify the terms and conditions of parole. If the
130 board revokes parole for a technical violation the board shall
131 impose a period of imprisonment to be served in a technical
132 violation center operated by the department not to exceed ninety
133 (90) days for the first technical violation and not to exceed one
134 hundred twenty (120) days for the second technical violation. For
135 the third technical violation, the board may impose a period of
136 imprisonment to be served in a technical violation center for up
137 to one hundred eighty (180) days or the board may impose the
138 remainder of the suspended portion of the sentence. For the
139 fourth and any subsequent technical violation, the board may
140 impose up to the remainder of the suspended portion of the
141 sentence. The period of imprisonment in a technical violation
142 center imposed under this section shall not be reduced in any
143 manner.

144 (c) For a parolee charged with a technical violation
145 who has not been detained awaiting the revocation hearing, the
146 board may hold a hearing within a reasonable time. The board may
147 revoke parole or may continue parole and modify the terms and
148 conditions of parole. If the board revokes parole for a technical



149 violation the board shall impose a period of imprisonment to be
150 served in a technical violation center operated by the department
151 not to exceed ninety (90) days for the first technical violation
152 and not to exceed one hundred twenty (120) days for the second
153 technical violation. For the third technical violation, the board
154 may impose a period of imprisonment to be served in a technical
155 violation center for up to one hundred eighty (180) days or the
156 board may impose the remainder of the suspended portion of the
157 sentence. For the fourth and any subsequent technical violation,
158 the board may impose up to the remainder of the suspended portion
159 of the sentence. The period of imprisonment in a technical
160 violation center imposed under this section shall not be reduced
161 in any manner.

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

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

171 (9) The department shall have the authority to award
172 participation credits for up to ten (10) days reduction of
173 sentence for each thirty (30) days of participation in the



174 technical violation center. If the offender causes disruptions or
175 refuses to participate he or she shall forfeit any credits earned.
176 The department shall have the authority to transfer any offender
177 out of a technical violation center to the general population for
178 the remainder of the revocation term if the offender is a threat
179 to institution safety.

180 (* * *10) The board shall provide semiannually to the
181 Oversight Task Force the number of warrants issued for an alleged
182 violation of parole, the average time between detention on a
183 warrant and preliminary hearing, the average time between
184 detention on a warrant and revocation hearing, the number of
185 ninety-day sentences in a technical violation center issued by the
186 board, the number of one-hundred-twenty-day sentences in a
187 technical violation center issued by the board, the number of
188 one-hundred-eighty-day sentences issued by the board, and the
189 number and average length of the suspended sentences imposed by
190 the board in response to a violation.

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

193 47-7-37. (1) The period of probation shall be fixed by the
194 court, and may at any time be extended or terminated by the court,
195 or judge in vacation. Such period with any extension thereof
196 shall not exceed five (5) years, except that in cases of desertion
197 and/or failure to support minor children, the period of probation
198 may be fixed and/or extended by the court for so long as the duty



199 to support such minor children exists. The time served on
200 probation or post-release supervision may be reduced pursuant to
201 Section 47-7-40.

202 (2) At any time during the period of probation, the court,
203 or judge in vacation, may issue a warrant for violating any of the
204 conditions of probation or suspension of sentence and cause the
205 probationer to be arrested. Any probation and parole officer may
206 arrest a probationer without a warrant, or may deputize any other
207 officer with power of arrest to do so by giving him a written
208 statement setting forth that the probationer has, in the judgment
209 of the probation and parole officer, violated the conditions of
210 probation. Such written statement delivered with the probationer
211 by the arresting officer to the official in charge of a county
212 jail or other place of detention shall be sufficient warrant for
213 the detention of the probationer.

214 (3) Whenever an offender is arrested on a warrant for an
215 alleged violation of probation as herein provided, the department
216 shall hold an informal preliminary hearing within seventy-two (72)
217 hours of the arrest to determine whether there is reasonable cause
218 to believe the person has violated a condition of probation. A
219 preliminary hearing shall not be required when the offender is not
220 under arrest on a warrant or the offender signed a waiver of a
221 preliminary hearing. The preliminary hearing may be conducted
222 electronically. If reasonable cause is found, the offender may be
223 confined no more than twenty-one (21) days from the admission to



224 detention until a revocation hearing is held. If the revocation
225 hearing is not held within twenty-one (21) days, the probationer
226 shall be released from custody and returned to probation status.

227 (4) If a probationer or offender is subject to registration
228 as a sex offender, the court must make a finding that the
229 probationer or offender is not a danger to the public prior to
230 release with or without bail. In determining the danger posed by
231 the release of the offender or probationer, the court may consider
232 the nature and circumstances of the violation and any new offenses
233 charged; the offender or probationer's past and present conduct,
234 including convictions of crimes and any record of arrests without
235 conviction for crimes involving violence or sex crimes; any other
236 evidence of allegations of unlawful sexual conduct or the use of
237 violence by the offender or probationer; the offender or
238 probationer's family ties, length of residence in the community,
239 employment history and mental condition; the offender or
240 probationer's history and conduct during the probation or other
241 supervised release and any other previous supervisions, including
242 disciplinary records of previous incarcerations; the likelihood
243 that the offender or probationer will engage again in a criminal
244 course of conduct; the weight of the evidence against the offender
245 or probationer; and any other facts the court considers relevant.

246 (5) (a) The probation and parole officer after making an
247 arrest shall present to the detaining authorities a similar
248 statement of the circumstances of violation. The probation and



249 parole officer shall at once notify the court of the arrest and
250 detention of the probationer and shall submit a report in writing
251 showing in what manner the probationer has violated the conditions
252 of probation. Within twenty-one (21) days of arrest and detention
253 by warrant as herein provided, the court shall cause the
254 probationer to be brought before it and may continue or revoke all
255 or any part of the probation or the suspension of sentence. If
256 the court revokes probation for a technical violation, the court
257 shall impose a period of imprisonment to be served in either a
258 technical violation center or a restitution center not to exceed
259 ninety (90) days for the first technical violation and not to
260 exceed one hundred twenty (120) days for the second technical
261 violation. For the third technical violation, the court may
262 impose a period of imprisonment to be served in either a technical
263 violation center or a restitution center for up to one hundred
264 eighty (180) days or the court may impose the remainder of the
265 suspended portion of the sentence. For the fourth and any
266 subsequent technical violation, the court may impose up to the
267 remainder of the suspended portion of the sentence. The period of
268 imprisonment in a technical violation center imposed under this
269 section shall not be reduced in any manner.

270 (b) If the offender is not detained as a result of the
271 warrant, the court shall cause the probationer to be brought
272 before it within a reasonable time and may continue or revoke all
273 or any part of the probation or the suspension of sentence, and



274 may cause the sentence imposed to be executed or may impose any
275 part of the sentence which might have been imposed at the time of
276 conviction. If the court revokes probation for a technical
277 violation, the court shall impose a period of imprisonment to be
278 served in either a technical violation center or a restitution
279 center not to exceed ninety (90) days for the first technical
280 violation and not to exceed one hundred twenty (120) days for the
281 second technical violation. For the third technical violation,
282 the court may impose a period of imprisonment to be served in
283 either a technical violation center or a restitution center for up
284 to one hundred eighty (180) days or the court may impose the
285 remainder of the suspended portion of the sentence. For the
286 fourth and any subsequent technical violation, the court may
287 impose up to the remainder of the suspended portion of the
288 sentence. The period of imprisonment in a technical violation
289 center imposed under this section shall not be reduced in any
290 manner.

291 (c) If the court does not hold a hearing or does not
292 take action on the violation within the twenty-one-day period, the
293 offender shall be released from detention and shall return to
294 probation status. The court may subsequently hold a hearing and
295 may revoke probation or may continue probation and modify the
296 terms and conditions of probation. If the court revokes probation
297 for a technical violation, the court shall impose a period of
298 imprisonment to be served in either a technical violation center



299 operated by the department or a restitution center not to exceed
300 ninety (90) days for the first technical violation and not to
301 exceed one hundred twenty (120) days for the second technical
302 violation. For the third technical violation, the court may
303 impose a period of imprisonment to be served in either a technical
304 violation center or a restitution center for up to one
305 hundred * * * eighty (180) days or the court may impose the
306 remainder of the suspended portion of the sentence. For the
307 fourth and any subsequent technical violation, the court may
308 impose up to the remainder of the suspended portion of the
309 sentence. The period of imprisonment in a technical violation
310 center imposed under this section shall not be reduced in any
311 manner.

312 (d) For an offender charged with a technical violation
313 who has not been detained awaiting the revocation hearing, the
314 court may hold a hearing within a reasonable time. The court may
315 revoke probation or may continue probation and modify the terms
316 and conditions of probation. If the court revokes probation for a
317 technical violation the court shall impose a period of
318 imprisonment to be served in either a technical violation center
319 operated by the department or a restitution center not to exceed
320 ninety (90) days for the first technical violation and not to
321 exceed one hundred twenty (120) days for the second technical
322 violation. For the third technical violation, the court may
323 impose a period of imprisonment to be served in either a technical



324 violation center or a restitution center for up to one hundred
325 eighty (180) days or the court may impose the remainder of the
326 suspended portion of the sentence. For the fourth and any
327 subsequent technical violation, the court may impose up to the
328 remainder of the suspended portion of the sentence. The period of
329 imprisonment in a technical violation center imposed under this
330 section shall not be reduced in any manner.

331 (6) If the probationer is arrested in a circuit court
332 district in the State of Mississippi other than that in which he
333 was convicted, the probation and parole officer, upon the written
334 request of the sentencing judge, shall furnish to the circuit
335 court or the county court of the county in which the arrest is
336 made, or to the judge of such court, a report concerning the
337 probationer, and such court or the judge in vacation shall have
338 authority, after a hearing, to continue or revoke all or any part
339 of probation or all or any part of the suspension of sentence, and
340 may in case of revocation proceed to deal with the case as if
341 there had been no probation. In such case, the clerk of the court
342 in which the order of revocation is issued shall forward a
343 transcript of such order to the clerk of the court of original
344 jurisdiction, and the clerk of that court shall proceed as if the
345 order of revocation had been issued by the court of original
346 jurisdiction. Upon the revocation of probation or suspension of
347 sentence of any offender, such offender shall be placed in the



348 legal custody of the State Department of Corrections and shall be
349 subject to the requirements thereof.

350 (7) Any probationer who removes himself from the State of
351 Mississippi without permission of the court placing him on
352 probation, or the court to which jurisdiction has been
353 transferred, shall be deemed and considered a fugitive from
354 justice and shall be subject to extradition as now provided by
355 law. No part of the time that one is on probation shall be
356 considered as any part of the time that he shall be sentenced to
357 serve.

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

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

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

369 (11) The department shall have the authority to award
370 participation credits for up to ten (10) days reduction of
371 sentence for each thirty (30) days of participation in the
372 technical violation center. If the offender causes disruptions or



373 refuses to participate he or she shall forfeit any credits earned.
374 The department shall have the authority to transfer any offender
375 out of a technical violation center to the general population for
376 the remainder of the revocation term if the offender is a threat
377 to institution safety.

378 (* * *12) The Department of Corrections shall provide
379 semiannually to the Oversight Task Force the number of warrants
380 issued for an alleged violation of probation or post-release
381 supervision, the average time between detention on a warrant and
382 preliminary hearing, the average time between detention on a
383 warrant and revocation hearing, the number of ninety-day sentences
384 in a technical violation center issued by the court, the number of
385 one-hundred-twenty-day sentences in a technical violation center
386 issued by the court, the number of one-hundred-eighty-day
387 sentences issued by the court, and the number and average length
388 of the suspended sentences imposed by the court in response to a
389 violation.

390 **SECTION 4.** Section 47-7-3.1, Mississippi Code of 1972, is
391 amended as follows:

392 47-7-3.1. (1) In consultation with the Parole Board, the
393 department shall develop a case plan for all parole eligible
394 inmates, who are incarcerated after July 1, 2014, to guide an
395 inmate's rehabilitation while in the department's custody and to
396 reduce the likelihood of recidivism after release.



397 (2) * * * The department shall complete a case plan on all
398 inmates who are incarcerated after July 1, 2014, which shall
399 include, but not limited to:

400 (a) Programming and treatment requirements based on the
401 results of a risk and needs assessment;

402 (b) Any programming or treatment requirements contained
403 in the sentencing order; and

404 (c) General behavior requirements in accordance with
405 the rules and policies of the department.

406 (3) The department shall provide the inmate with a written
407 copy of the case plan and the inmate's caseworker shall explain
408 the conditions set forth in the case plan.

409 (a) * * * The caseworker shall notify the inmate of
410 their parole eligibility date as calculated in accordance with
411 Section 47-7-3(3);

412 (b) At the time a parole-eligible inmate receives the
413 case plan, the department shall send the case plan to the Parole
414 Board for approval.

415 (4) The department shall ensure that the case plan is
416 achievable prior to inmate's parole eligibility date.

417 (5) The caseworker shall meet with the inmate * * * to
418 review the inmate's case plan progress. The department shall, by
419 rules and regulations, establish a method for determining an
420 inmate's compliance with the case plan.



421 (6) * * * The Parole Board shall be notified if the inmate
422 is failing to maintain compliance with the approved case plan, and
423 the department shall electronically submit a progress report on
424 each parole-eligible inmate's case plan to the Parole Board. The
425 board may meet to review an inmate's case plan and may provide
426 written input to the caseworker on the inmate's progress toward
427 completion of the case plan.

428 (7) The Parole Board shall provide semiannually to the
429 Oversight Task Force the number of parole hearings held, the
430 number of prisoners released to parole without a hearing and the
431 number of parolees released after a hearing.

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

