

By: Representative Dixon

To: Corrections; Judiciary B

HOUSE BILL NO. 664

1 AN ACT TO AMEND SECTION 47-5-1013, MISSISSIPPI CODE OF 1972,
 2 TO PROVIDE THAT IF AN INTENSIVE SUPERVISION PROGRAM PARTICIPANT
 3 IS UNEMPLOYED AND IS UNABLE TO PAY MONTHLY PROGRAM FEES DUE TO
 4 SUCH UNEMPLOYMENT, THEN THE PARTICIPANT SHALL NOT BE REMOVED FROM
 5 THE PROGRAM FOR THE INABILITY TO PAY; TO AMEND SECTION 47-7-27, TO
 6 PROHIBIT THE PAROLE BOARD FROM ISSUING AN ARREST WARRANT FOR A
 7 PAROLED OFFENDER IF THE OFFENDER DOES NOT PAY RESTITUTION OR
 8 PROGRAM FEES DUE TO THE INABILITY OF THE OFFENDER TO OBTAIN
 9 EMPLOYMENT; TO AMEND SECTION 47-7-37, MISSISSIPPI CODE OF 1972,
 10 TO PROHIBIT A COURT FROM ISSUING AN ARREST WARRANT FOR A
 11 PROBATIONER IF THE PROBATIONER DOES NOT PAY RESTITUTION OR PROGRAM
 12 FEES DUE TO THE INABILITY OF THE PROBATIONER TO OBTAIN EMPLOYMENT;
 13 AND FOR RELATED PURPOSES.

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

15 **SECTION 1.** Section 47-5-1013, Mississippi Code of 1972, is
 16 amended as follows:

17 47-5-1013. Participants enrolled in an intensive supervision
 18 program shall be required to:

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



23 (b) Pay restitution and program fees as directed by the
24 department. Program fees shall not be less than Eighty-eight
25 Dollars (\$88.00) per month. The sentencing judge may charge a
26 program fee of less than Eighty-eight Dollars (\$88.00) per month
27 in cases of extreme financial hardship, when such judge determines
28 that the offender's participation in the program would provide a
29 benefit to his community. Juvenile offenders shall not pay a
30 program fee but shall pay a monthly fee as provided in Section
31 47-5-1007. Program fees shall be deposited in the special fund
32 created in Section 47-5-1007.

33 (c) Establish a place of residence at a place approved
34 by the correctional field officer, and not change his residence
35 without the officer's approval. The correctional officer shall be
36 allowed to inspect the place of residence for alcoholic beverages,
37 controlled substances and drug paraphernalia.

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

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

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



46 (g) Meet any other conditions imposed by the court to
47 meet the needs of the offender and limit the risks to the
48 community.

49 (h) A participant's failure to pay monthly fees, due to
50 his or her inability to obtain employment, shall not be deemed a
51 violation of a condition of the program, and the participant
52 shall not be removed from the program for failure to pay such
53 monthly fees in arrearage.

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

56 47-7-27. (1) Except when a paroled offender does not pay
57 restitution or program fees due to the inability to obtain
58 employment, the board may, at any time and upon a showing of
59 probable violation of parole, issue a warrant for the return of
60 any paroled offender to the custody of the department. The
61 warrant shall authorize all persons named therein to return the
62 paroled offender to actual custody of the department from which he
63 was paroled.

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



71 which the offender was released or other place of detention
72 designated by the department shall be sufficient warrant for the
73 detention of the offender.

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

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

91 (5) The right of the State of Mississippi to extradite
92 persons and return fugitives from justice, from other states to
93 this state, shall not be impaired by this chapter and shall remain
94 in full force and effect. An offender convicted of a felony
95 committed while on parole, whether in the State of Mississippi or



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

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



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

139 (c) For a parolee charged with one or more technical
140 violations who has not been detained awaiting the revocation
141 hearing, the board may hold a hearing within a reasonable time.
142 The board may revoke parole or may continue parole and modify the
143 terms and conditions of parole. If the board revokes parole for
144 one or more technical violations the board shall impose a period



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

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

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

166 (9) The board shall provide semiannually to the Oversight
167 Task Force the number of warrants issued for an alleged violation
168 of parole, the average time between detention on a warrant and
169 preliminary hearing, the average time between detention on a



170 warrant and revocation hearing, the number of ninety-day sentences
171 in a technical violation center issued by the board, the number of
172 one-hundred-twenty-day sentences in a technical violation center
173 issued by the board, the number of one-hundred-eighty-day
174 sentences issued by the board, and the number and average length
175 of the suspended sentences imposed by the board in response to a
176 violation.

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

179 47-7-37. (1) The period of probation shall be fixed by the
180 court, and may at any time be extended or terminated by the court,
181 or judge in vacation. Such period with any extension thereof
182 shall not exceed five (5) years, except that in cases of desertion
183 and/or failure to support minor children, the period of probation
184 may be fixed and/or extended by the court for so long as the duty
185 to support such minor children exists. The time served on
186 probation or post-release supervision may be reduced pursuant to
187 Section 47-7-40.

188 (2) Except when a probationer does not pay restitution or
189 program fees due to the inability to obtain employment, at any
190 time during the period of probation, the court, or judge in
191 vacation, may issue a warrant for violating any of the conditions
192 of probation or suspension of sentence and cause the probationer
193 to be arrested. Any probation and parole officer may arrest a
194 probationer without a warrant, or may deputize any other officer



195 with power of arrest to do so by giving him a written statement
196 setting forth that the probationer has, in the judgment of the
197 probation and parole officer, violated the conditions of
198 probation. Such written statement delivered with the probationer
199 by the arresting officer to the official in charge of a county
200 jail or other place of detention shall be sufficient warrant for
201 the detention of the probationer.

202 (3) Whenever an offender is arrested on a warrant for an
203 alleged violation of probation as herein provided, the department
204 shall hold an informal preliminary hearing within seventy-two (72)
205 hours of the arrest to determine whether there is reasonable cause
206 to believe the person has violated a condition of probation. A
207 preliminary hearing shall not be required when the offender is not
208 under arrest on a warrant or the offender signed a waiver of a
209 preliminary hearing. The preliminary hearing may be conducted
210 electronically. If reasonable cause is found, the offender may be
211 confined no more than twenty-one (21) days from the admission to
212 detention until a revocation hearing is held. If the revocation
213 hearing is not held within twenty-one (21) days, the probationer
214 shall be released from custody and returned to probation status.

215 (4) If a probationer or offender is subject to registration
216 as a sex offender, the court must make a finding that the
217 probationer or offender is not a danger to the public prior to
218 release with or without bail. In determining the danger posed by
219 the release of the offender or probationer, the court may consider



220 the nature and circumstances of the violation and any new offenses
221 charged; the offender or probationer's past and present conduct,
222 including convictions of crimes and any record of arrests without
223 conviction for crimes involving violence or sex crimes; any other
224 evidence of allegations of unlawful sexual conduct or the use of
225 violence by the offender or probationer; the offender or
226 probationer's family ties, length of residence in the community,
227 employment history and mental condition; the offender or
228 probationer's history and conduct during the probation or other
229 supervised release and any other previous supervisions, including
230 disciplinary records of previous incarcerations; the likelihood
231 that the offender or probationer will engage again in a criminal
232 course of conduct; the weight of the evidence against the offender
233 or probationer; and any other facts the court considers relevant.

234 (5) (a) The probation and parole officer after making an
235 arrest shall present to the detaining authorities a similar
236 statement of the circumstances of violation. The probation and
237 parole officer shall at once notify the court of the arrest and
238 detention of the probationer and shall submit a report in writing
239 showing in what manner the probationer has violated the conditions
240 of probation. Within twenty-one (21) days of arrest and detention
241 by warrant as herein provided, the court shall cause the
242 probationer to be brought before it and may continue or revoke all
243 or any part of the probation or the suspension of sentence. If
244 the court revokes probation for one or more technical violations,



245 the court shall impose a period of imprisonment to be served in
246 either a technical violation center or a restitution center not to
247 exceed ninety (90) days for the first revocation and not to exceed
248 one hundred twenty (120) days for the second revocation. For the
249 third revocation, the court may impose a period of imprisonment to
250 be served in either a technical violation center or a restitution
251 center for up to one hundred eighty (180) days or the court may
252 impose the remainder of the suspended portion of the sentence.
253 For the fourth and any subsequent revocation, the court may impose
254 up to the remainder of the suspended portion of the sentence. The
255 period of imprisonment in a technical violation center imposed
256 under this section shall not be reduced in any manner.

257 (b) If the offender is not detained as a result of the
258 warrant, the court shall cause the probationer to be brought
259 before it within a reasonable time and may continue or revoke all
260 or any part of the probation or the suspension of sentence, and
261 may cause the sentence imposed to be executed or may impose any
262 part of the sentence which might have been imposed at the time of
263 conviction. If the court revokes probation for one or more
264 technical violations, the court shall impose a period of
265 imprisonment to be served in either a technical violation center
266 or a restitution center not to exceed ninety (90) days for the
267 first revocation and not to exceed one hundred twenty (120) days
268 for the second revocation. For the third revocation, the court
269 may impose a period of imprisonment to be served in either a



270 technical violation center or a restitution center for up to one
271 hundred eighty (180) days or the court may impose the remainder of
272 the suspended portion of the sentence. For the fourth and any
273 subsequent revocation, the court may impose up to the remainder of
274 the suspended portion of the sentence. The period of imprisonment
275 in a technical violation center imposed under this section shall
276 not be reduced in any manner.

277 (c) If the court does not hold a hearing or does not
278 take action on the violation within the twenty-one-day period, the
279 offender shall be released from detention and shall return to
280 probation status. The court may subsequently hold a hearing and
281 may revoke probation or may continue probation and modify the
282 terms and conditions of probation. If the court revokes probation
283 for one or more technical violations, the court shall impose a
284 period of imprisonment to be served in either a technical
285 violation center operated by the department or a restitution
286 center not to exceed ninety (90) days for the first revocation and
287 not to exceed one hundred twenty (120) days for the second
288 revocation. For the third revocation, the court may impose a
289 period of imprisonment to be served in either a technical
290 violation center or a restitution center for up to one hundred
291 eighty (180) days or the court may impose the remainder of the
292 suspended portion of the sentence. For the fourth and any
293 subsequent revocation, the court may impose up to the remainder of
294 the suspended portion of the sentence. The period of imprisonment



295 in a technical violation center imposed under this section shall
296 not be reduced in any manner.

297 (d) For an offender charged with a technical violation
298 who has not been detained awaiting the revocation hearing, the
299 court may hold a hearing within a reasonable time. The court may
300 revoke probation or may continue probation and modify the terms
301 and conditions of probation. If the court revokes probation for
302 one or more technical violations the court shall impose a period
303 of imprisonment to be served in either a technical violation
304 center operated by the department or a restitution center not to
305 exceed ninety (90) days for the first revocation and not to exceed
306 one hundred twenty (120) days for the second revocation. For the
307 third revocation, the court may impose a period of imprisonment to
308 be served in either a technical violation center or a restitution
309 center for up to one hundred eighty (180) days or the court may
310 impose the remainder of the suspended portion of the sentence.
311 For the fourth and any subsequent revocation, the court may impose
312 up to the remainder of the suspended portion of the sentence. The
313 period of imprisonment in a technical violation center imposed
314 under this section shall not be reduced in any manner.

315 (6) If the probationer is arrested in a circuit court
316 district in the State of Mississippi other than that in which he
317 was convicted, the probation and parole officer, upon the written
318 request of the sentencing judge, shall furnish to the circuit
319 court or the county court of the county in which the arrest is



320 made, or to the judge of such court, a report concerning the
321 probationer, and such court or the judge in vacation shall have
322 authority, after a hearing, to continue or revoke all or any part
323 of probation or all or any part of the suspension of sentence, and
324 may in case of revocation proceed to deal with the case as if
325 there had been no probation. In such case, the clerk of the court
326 in which the order of revocation is issued shall forward a
327 transcript of such order to the clerk of the court of original
328 jurisdiction, and the clerk of that court shall proceed as if the
329 order of revocation had been issued by the court of original
330 jurisdiction. Upon the revocation of probation or suspension of
331 sentence of any offender, such offender shall be placed in the
332 legal custody of the State Department of Corrections and shall be
333 subject to the requirements thereof.

334 (7) Any probationer who removes himself from the State of
335 Mississippi without permission of the court placing him on
336 probation, or the court to which jurisdiction has been
337 transferred, shall be deemed and considered a fugitive from
338 justice and shall be subject to extradition as now provided by
339 law. No part of the time that one is on probation shall be
340 considered as any part of the time that he shall be sentenced to
341 serve.

342 (8) The arresting officer, except when a probation and
343 parole officer, shall be allowed the same fees as now provided by



344 law for arrest on warrant, and such fees shall be taxed against
345 the probationer and paid as now provided by law.

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

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

353 (11) The Department of Corrections shall provide
354 semiannually to the Oversight Task Force the number of warrants
355 issued for an alleged violation of probation or post-release
356 supervision, the average time between detention on a warrant and
357 preliminary hearing, the average time between detention on a
358 warrant and revocation hearing, the number of ninety-day sentences
359 in a technical violation center issued by the court, the number of
360 one-hundred-twenty-day sentences in a technical violation center
361 issued by the court, the number of one-hundred-eighty-day
362 sentences issued by the court, and the number and average length
363 of the suspended sentences imposed by the court in response to a
364 violation.

365 **SECTION 4.** This act shall take effect and be in force from
366 and after July 1, 2019.

