

By: Representative Baker

To: Corrections

HOUSE BILL NO. 871

1 AN ACT TO AMEND SECTION 47-7-2, MISSISSIPPI CODE OF 1972, TO
 2 CLARIFY THE DEFINITION OF A "TECHNICAL VIOLATION" BY PROVIDING
 3 THAT A VIOLATION SHALL NOT INCLUDE THE COMMISSION OF ANY FELONY OR
 4 CRIME OF VIOLENCE AGAINST PERSONS OR PROPERTY UNDER THE PROBATION
 5 AND PAROLE LAW; TO DEFINE THE TERM "PAROLE TO A DETAINER" UNDER
 6 SUCH LAW; TO AMEND SECTION 47-7-27, MISSISSIPPI CODE OF 1972, TO
 7 PROVIDE THE ACTIONS THAT MUST BE TAKEN WHENEVER A PAROLED
 8 OFFENDER'S PAROLE TO A DETAINER IS CLEARED OR SATISFIED BY THE
 9 JURISDICTION THAT LODGED THE DETAINER; TO AMEND SECTION 47-7-37,
 10 MISSISSIPPI CODE OF 1972, TO PROVIDE THE ACTIONS THAT MUST BE
 11 TAKEN WHENEVER A PROBATIONER'S PAROLE TO A DETAINER IS CLEARED OR
 12 SATISFIED BY THE JURISDICTION THAT LODGED THE DETAINER; AND FOR
 13 RELATED PURPOSES.

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

15 **SECTION 1.** Section 47-7-2, Mississippi Code of 1972, is
 16 amended as follows:

17 47-7-2. For purposes of this chapter, the following words
 18 shall have the meaning ascribed herein unless the context shall
 19 otherwise require:

20 (a) "Adult" means a person who is seventeen (17) years
 21 of age or older, or any person convicted of any crime not subject
 22 to the provisions of the youth court law, or any person



23 "certified" to be tried as an adult by any youth court in the
24 state.

25 (b) "Board" means the State Parole Board.

26 (c) "Parole case plan" means an individualized, written
27 accountability and behavior change strategy developed by the
28 department in collaboration with the parole board to prepare
29 offenders for release on parole at the parole eligibility date.
30 The case plan shall focus on the offender's criminal risk factors
31 that, if addressed, reduce the likelihood of reoffending.

32 (d) "Commissioner" means the Commissioner of
33 Corrections.

34 (e) "Correctional system" means the facilities,
35 institutions, programs and personnel of the department utilized
36 for adult offenders who are committed to the custody of the
37 department.

38 (f) "Criminal risk factors" means characteristics that
39 increase a person's likelihood of reoffending. These
40 characteristics include: antisocial behavior; antisocial
41 personality; criminal thinking; criminal associates; dysfunctional
42 family; low levels of employment or education; poor use of leisure
43 and recreation; and substance abuse.

44 (g) "Department" means the Mississippi Department of
45 Corrections.

46 (h) "Detention" means the temporary care of juveniles
47 and adults who require secure custody for their own or the



48 community's protection in a physically restricting facility prior
49 to adjudication, or retention in a physically restricting facility
50 upon being taken into custody after an alleged parole or probation
51 violation.

52 (i) "Discharge plan" means an individualized written
53 document that provides information to support the offender in
54 meeting the basic needs identified in the pre-release assessment.
55 This information shall include, but is not limited to: contact
56 names, phone numbers, and addresses of referrals and resources.

57 (j) "Evidence-based practices" means supervision
58 policies, procedures, and practices that scientific research
59 demonstrates reduce recidivism.

60 (k) "Facility" or "institution" means any facility for
61 the custody, care, treatment and study of offenders which is under
62 the supervision and control of the department.

63 (l) "Juvenile," "minor" or "youthful" means a person
64 less than seventeen (17) years of age.

65 (m) "Offender" means any person convicted of a crime or
66 offense under the laws and ordinances of the state and its
67 political subdivisions.

68 (n) "Pre-release assessment" means a determination of
69 an offender's ability to attend to basic needs, including, but not
70 limited to, transportation, clothing and food, financial
71 resources, personal identification documents, housing, employment,
72 education, and health care, following release.



73 (o) "Special meetings" means those meetings called by
74 the chairman with at least twenty-four (24) hours' notice or a
75 unanimous waiver of notice.

76 (p) "Supervision plan" means a plan developed by the
77 community corrections department to manage offenders on probation
78 and parole in a way that reduces the likelihood they will commit a
79 new criminal offense or violate the terms of supervision and that
80 increases the likelihood of obtaining stable housing, employment
81 and skills necessary to sustain positive conduct.

82 (q) "Technical violation" means an act or omission by
83 the probationer that violates a condition or conditions of
84 probation placed on the probationer by the court or the probation
85 officer; but shall not include the commission of any felony or
86 crime of violence against persons or property.

87 (r) "Transitional reentry center" means a
88 state-operated or state-contracted facility used to house
89 offenders leaving the physical custody of the Department of
90 Corrections on parole, probation or post-release supervision who
91 are in need of temporary housing and services that reduce their
92 risk to reoffend.

93 (s) "Unit of local government" means a county, city,
94 town, village or other general purpose political subdivision of
95 the state.

96 (t) "Risk and needs assessment" means the determination
97 of a person's risk to reoffend using an actuarial assessment tool



98 validated on Mississippi corrections populations and the needs
99 that, when addressed, reduce the risk to reoffend.

100 (u) "Parole to a detainer" means the release of an
101 offender to the physical custody of the authorities who have
102 lodged the detainer.

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

105 47-7-27. (1) The board may, at any time and upon a showing
106 of probable violation of parole, issue a warrant for the return of
107 any paroled offender to the custody of the department. The
108 warrant shall authorize all persons named therein to return the
109 paroled offender to actual custody of the department from which he
110 was paroled.

111 (2) Any field supervisor may arrest an offender without a
112 warrant or may deputize any other person with power of arrest by
113 giving him a written statement setting forth that the offender
114 has, in the judgment of that field supervisor, violated the
115 conditions of his parole or earned-release supervision. The
116 written statement delivered with the offender by the arresting
117 officer to the official in charge of the department facility from
118 which the offender was released or other place of detention
119 designated by the department shall be sufficient warrant for the
120 detention of the offender.

121 (3) The field supervisor, after making an arrest, shall
122 present to the detaining authorities a similar statement of the



123 circumstances of violation. The field supervisor shall at once
124 notify the board or department of the arrest and detention of the
125 offender and shall submit a written report showing in what manner
126 the offender has violated the conditions of parole or
127 earned-release supervision. An offender for whose return a
128 warrant has been issued by the board shall, after the issuance of
129 the warrant, be deemed a fugitive from justice.

130 (4) Whenever an offender is arrested on a warrant for an
131 alleged violation of parole as herein provided, the board shall
132 hold an informal preliminary hearing within seventy-two (72) hours
133 to determine whether there is reasonable cause to believe the
134 person has violated a condition of parole. A preliminary hearing
135 shall not be required when the offender is not under arrest on a
136 warrant or the offender signed a waiver of a preliminary hearing.
137 The preliminary hearing may be conducted electronically.

138 (5) The right of the State of Mississippi to extradite
139 persons and return fugitives from justice, from other states to
140 this state, shall not be impaired by this chapter and shall remain
141 in full force and effect. An offender convicted of a felony
142 committed while on parole, whether in the State of Mississippi or
143 another state, shall immediately have his parole revoked upon
144 presentment of a certified copy of the commitment order to the
145 board. If an offender is on parole and the offender is convicted
146 of a felony for a crime committed prior to the offender being
147 placed on parole, whether in the State of Mississippi or another



148 state, the offender may have his parole revoked upon presentment
149 of a certified copy of the commitment order to the board.

150 (6) (a) The board shall hold a hearing for any parolee who
151 is detained as a result of a warrant or a violation report within
152 twenty-one (21) days of the parolee's admission to detention. The
153 board may, in its discretion, terminate the parole or modify the
154 terms and conditions thereof. If the board revokes parole for one
155 or more technical violations the board shall impose a period of
156 imprisonment to be served in a technical violation center operated
157 by the department not to exceed ninety (90) days for the first
158 revocation and not to exceed one hundred twenty (120) days for the
159 second revocation. For the third revocation, the board may impose
160 a period of imprisonment to be served in a technical violation
161 center for up to one hundred * * * eighty (180) days or the board
162 may impose the remainder of the suspended portion of the sentence.
163 For the fourth and any subsequent revocation, the board may impose
164 up to the remainder of the suspended portion of the sentence. The
165 period of imprisonment in a technical violation center imposed
166 under this section shall not be reduced in any manner.

167 (b) If the board does not hold a hearing or does not
168 take action on the violation within the twenty-one-day time frame
169 in paragraph (a) of this subsection, the parolee shall be released
170 from detention and shall return to parole status. The board may
171 subsequently hold a hearing and may revoke parole or may continue
172 parole and modify the terms and conditions of parole. If the



173 board revokes parole for one or more technical violations the
174 board shall impose a period of imprisonment to be served in a
175 technical violation center operated by the department not to
176 exceed ninety (90) days for the first revocation and not to exceed
177 one hundred twenty (120) days for the second revocation. For the
178 third revocation, the board may impose a period of imprisonment to
179 be served in a technical violation center for up to one hundred
180 eighty (180) days or the board may impose the remainder of the
181 suspended portion of the sentence. For the fourth and any
182 subsequent revocation, the board may impose up to the remainder of
183 the suspended portion of the sentence. The period of imprisonment
184 in a technical violation center imposed under this section shall
185 not be reduced in any manner.

186 (c) For a parolee charged with one or more technical
187 violations who has not been detained awaiting the revocation
188 hearing, the board may hold a hearing within a reasonable time.
189 The board may revoke parole or may continue parole and modify the
190 terms and conditions of parole. If the board revokes parole for
191 one or more technical violations the board shall impose a period
192 of imprisonment to be served in a technical violation center
193 operated by the department not to exceed ninety (90) days for the
194 first revocation and not to exceed one hundred twenty (120) days
195 for the second revocation. For the third revocation, the board
196 may impose a period of imprisonment to be served in a technical
197 violation center for up to one hundred eighty (180) days or the



198 board may impose the remainder of the suspended portion of the
199 sentence. For the fourth and any subsequent revocation, the board
200 may impose up to the remainder of the suspended portion of the
201 sentence. The period of imprisonment in a technical violation
202 center imposed under this section shall not be reduced in any
203 manner.

204 (d) If the board utilizes the parole to a detainer
205 process, as defined under Section 47-7-2, the following actions
206 shall be taken if an offender's detainer is cleared or satisfied
207 by the jurisdiction that lodged the detainer:

208 (i) The booking clerk at the county jail to which
209 the offender was paroled to a detainer shall notify the sheriff's
210 department in the paroling jurisdiction as well as the offender's
211 parole officer of the court's decision. If the offender is able
212 to bond out or the detainer is cleared, the offender shall not be
213 released from custody until the notification is received and
214 acknowledged by the sheriff's department and the parole officer.

215 (ii) The sheriff's department in the jurisdiction
216 which paroled the offender shall temporarily retake physical
217 custody of the offender to ensure the following:

218 1. That all other conditions of the
219 offender's parole are satisfied before release;

220 2. That an initial meeting has been scheduled
221 between the offender and his or her assigned parole officer; and



222 3. That the offender is provided
223 transportation to the offender's determined place of residence as
224 prescribed by the offender's case plan and in compliance with
225 Section 47-7-25.

226 (iii) Upon the release of the offender from
227 custody, a document shall be added to the offender's file
228 indicating the following:

229 1. That the offender is currently in
230 compliance with all conditions of parole;

231 2. That the offender has been transported to
232 the offender's designated place of residence; and

233 3. That the offender has a confirmed official
234 date and time for the offender's initial meeting with an assigned
235 parole officer.

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

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

245 (9) The board shall provide semiannually to the Oversight
246 Task Force the number of warrants issued for an alleged violation



247 of parole, the average time between detention on a warrant and
248 preliminary hearing, the average time between detention on a
249 warrant and revocation hearing, the number of ninety-day sentences
250 in a technical violation center issued by the board, the number of
251 one-hundred-twenty-day sentences in a technical violation center
252 issued by the board, the number of one-hundred-eighty-day
253 sentences issued by the board, and the number and average length
254 of the suspended sentences imposed by the board in response to a
255 violation.

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

258 47-7-37. (1) The period of probation shall be fixed by the
259 court, and may at any time be extended or terminated by the court,
260 or judge in vacation. Such period with any extension thereof
261 shall not exceed five (5) years, except that in cases of desertion
262 and/or failure to support minor children, the period of probation
263 may be fixed and/or extended by the court for so long as the duty
264 to support such minor children exists. The time served on
265 probation or post-release supervision may be reduced pursuant to
266 Section 47-7-40.

267 (2) At any time during the period of probation, the court,
268 or judge in vacation, may issue a warrant for violating any of the
269 conditions of probation or suspension of sentence and cause the
270 probationer to be arrested. Any probation and parole officer may
271 arrest a probationer without a warrant, or may deputize any other



272 officer with power of arrest to do so by giving him a written
273 statement setting forth that the probationer has, in the judgment
274 of the probation and parole officer, violated the conditions of
275 probation. Such written statement delivered with the probationer
276 by the arresting officer to the official in charge of a county
277 jail or other place of detention shall be sufficient warrant for
278 the detention of the probationer.

279 (3) Whenever an offender is arrested on a warrant for an
280 alleged violation of probation as herein provided, the department
281 shall hold an informal preliminary hearing within seventy-two (72)
282 hours of the arrest to determine whether there is reasonable cause
283 to believe the person has violated a condition of probation. A
284 preliminary hearing shall not be required when the offender is not
285 under arrest on a warrant or the offender signed a waiver of a
286 preliminary hearing. The preliminary hearing may be conducted
287 electronically. If reasonable cause is found, the offender may be
288 confined no more than twenty-one (21) days from the admission to
289 detention until a revocation hearing is held. If the revocation
290 hearing is not held within twenty-one (21) days, the probationer
291 shall be released from custody and returned to probation status.

292 (4) If a probationer or offender is subject to registration
293 as a sex offender, the court must make a finding that the
294 probationer or offender is not a danger to the public prior to
295 release with or without bail. In determining the danger posed by
296 the release of the offender or probationer, the court may consider



297 the nature and circumstances of the violation and any new offenses
298 charged; the offender or probationer's past and present conduct,
299 including convictions of crimes and any record of arrests without
300 conviction for crimes involving violence or sex crimes; any other
301 evidence of allegations of unlawful sexual conduct or the use of
302 violence by the offender or probationer; the offender or
303 probationer's family ties, length of residence in the community,
304 employment history and mental condition; the offender or
305 probationer's history and conduct during the probation or other
306 supervised release and any other previous supervisions, including
307 disciplinary records of previous incarcerations; the likelihood
308 that the offender or probationer will engage again in a criminal
309 course of conduct; the weight of the evidence against the offender
310 or probationer; and any other facts the court considers relevant.

311 (5) (a) The probation and parole officer after making an
312 arrest shall present to the detaining authorities a similar
313 statement of the circumstances of violation. The probation and
314 parole officer shall at once notify the court of the arrest and
315 detention of the probationer and shall submit a report in writing
316 showing in what manner the probationer has violated the conditions
317 of probation. Within twenty-one (21) days of arrest and detention
318 by warrant as herein provided, the court shall cause the
319 probationer to be brought before it and may continue or revoke all
320 or any part of the probation or the suspension of sentence. If
321 the court revokes probation for one or more technical violations,



322 the court shall impose a period of imprisonment to be served in
323 either a technical violation center or a restitution center not to
324 exceed ninety (90) days for the first revocation and not to exceed
325 one hundred twenty (120) days for the second revocation. For the
326 third revocation, the court may impose a period of imprisonment to
327 be served in either a technical violation center or a restitution
328 center for up to one hundred eighty (180) days or the court may
329 impose the remainder of the suspended portion of the sentence.
330 For the fourth and any subsequent revocation, the court may impose
331 up to the remainder of the suspended portion of the sentence. The
332 period of imprisonment in a technical violation center imposed
333 under this section shall not be reduced in any manner.

334 (b) If the offender is not detained as a result of the
335 warrant, the court shall cause the probationer to be brought
336 before it within a reasonable time and may continue or revoke all
337 or any part of the probation or the suspension of sentence, and
338 may cause the sentence imposed to be executed or may impose any
339 part of the sentence which might have been imposed at the time of
340 conviction. If the court revokes probation for one or more
341 technical violations, the court shall impose a period of
342 imprisonment to be served in either a technical violation center
343 or a restitution center not to exceed ninety (90) days for the
344 first revocation and not to exceed one hundred twenty (120) days
345 for the second revocation. For the third revocation, the court
346 may impose a period of imprisonment to be served in either a



347 technical violation center or a restitution center for up to one
348 hundred eighty (180) days or the court may impose the remainder of
349 the suspended portion of the sentence. For the fourth and any
350 subsequent revocation, the court may impose up to the remainder of
351 the suspended portion of the sentence. The period of imprisonment
352 in a technical violation center imposed under this section shall
353 not be reduced in any manner.

354 (c) If the court does not hold a hearing or does not
355 take action on the violation within the twenty-one-day period, the
356 offender shall be released from detention and shall return to
357 probation status. The court may subsequently hold a hearing and
358 may revoke probation or may continue probation and modify the
359 terms and conditions of probation. If the court revokes probation
360 for one or more technical violations, the court shall impose a
361 period of imprisonment to be served in either a technical
362 violation center operated by the department or a restitution
363 center not to exceed ninety (90) days for the first revocation and
364 not to exceed one hundred twenty (120) days for the second
365 revocation. For the third revocation, the court may impose a
366 period of imprisonment to be served in either a technical
367 violation center or a restitution center for up to one hundred
368 eighty (180) days or the court may impose the remainder of the
369 suspended portion of the sentence. For the fourth and any
370 subsequent revocation, the court may impose up to the remainder of
371 the suspended portion of the sentence. The period of imprisonment



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

374 (d) For an offender charged with a technical violation
375 who has not been detained awaiting the revocation hearing, the
376 court may hold a hearing within a reasonable time. The court may
377 revoke probation or may continue probation and modify the terms
378 and conditions of probation. If the court revokes probation for
379 one or more technical violations the court shall impose a period
380 of imprisonment to be served in either a technical violation
381 center operated by the department or a restitution center not to
382 exceed ninety (90) days for the first revocation and not to exceed
383 one hundred twenty (120) days for the second revocation. For the
384 third revocation, the court may impose a period of imprisonment to
385 be served in either a technical violation center or a restitution
386 center for up to one hundred eighty (180) days or the court may
387 impose the remainder of the suspended portion of the sentence.
388 For the fourth and any subsequent revocation, the court may impose
389 up to the remainder of the suspended portion of the sentence. The
390 period of imprisonment in a technical violation center imposed
391 under this section shall not be reduced in any manner.

392 (e) If a parole to a detainer, as defined under Section
393 47-7-2, is issued under any circumstances prescribed under this
394 section, the following actions shall be taken if an offender's
395 detainer is cleared or satisfied by the jurisdiction that lodged
396 the detainer:



397 (i) The booking clerk at the county jail to which
398 the offender was paroled to a detainer shall notify the sheriff's
399 department in the paroling jurisdiction as well as the offender's
400 probation and parole officer of the court's decision. If the
401 offender is able to bond out or the detainer is cleared, the
402 offender shall not be released from custody until the notification
403 is received and acknowledged by the sheriff's department and the
404 probation and parole officer; and

405 (ii) The sheriff's department in the jurisdiction
406 which placed the offender on probation shall temporarily retake
407 physical custody of the offender to ensure the following:

408 1. That all other conditions of the
409 offender's probation are satisfied before release;

410 2. That an initial meeting has been scheduled
411 between the offender and his or her assigned probation and parole
412 officer; and

413 3. That the offender is provided
414 transportation to the offender's determined place of residence as
415 prescribed by the offender's written discharge plan in compliance
416 with Section 47-7-33.1.

417 (iii) Upon the release of the offender from
418 custody, a document shall be added to the offender's file
419 indicating the following:

420 1. That the offender is currently in
421 compliance with all conditions of probation;



422 2. That the offender has been transported to
423 the offender's designated place of residence; and

424 3. That the offender has confirmed the
425 official date and time for the offender's initial meeting with an
426 assigned probation and parole officer.

427 (6) If the probationer is arrested in a circuit court
428 district in the State of Mississippi other than that in which he
429 was convicted, the probation and parole officer, upon the written
430 request of the sentencing judge, shall furnish to the circuit
431 court or the county court of the county in which the arrest is
432 made, or to the judge of such court, a report concerning the
433 probationer, and such court or the judge in vacation shall have
434 authority, after a hearing, to continue or revoke all or any part
435 of probation or all or any part of the suspension of sentence, and
436 may in case of revocation proceed to deal with the case as if
437 there had been no probation. In such case, the clerk of the court
438 in which the order of revocation is issued shall forward a
439 transcript of such order to the clerk of the court of original
440 jurisdiction, and the clerk of that court shall proceed as if the
441 order of revocation had been issued by the court of original
442 jurisdiction. Upon the revocation of probation or suspension of
443 sentence of any offender, such offender shall be placed in the
444 legal custody of the State Department of Corrections and shall be
445 subject to the requirements thereof.



446 (7) Any probationer who removes himself from the State of
447 Mississippi without permission of the court placing him on
448 probation, or the court to which jurisdiction has been
449 transferred, shall be deemed and considered a fugitive from
450 justice and shall be subject to extradition as now provided by
451 law. No part of the time that one is on probation shall be
452 considered as any part of the time that he shall be sentenced to
453 serve.

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

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

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

465 (11) The Department of Corrections shall provide
466 semiannually to the Oversight Task Force the number of warrants
467 issued for an alleged violation of probation or post-release
468 supervision, the average time between detention on a warrant and
469 preliminary hearing, the average time between detention on a
470 warrant and revocation hearing, the number of ninety-day sentences



471 in a technical violation center issued by the court, the number of
472 one-hundred-twenty-day sentences in a technical violation center
473 issued by the court, the number of one-hundred-eighty-day
474 sentences issued by the court, and the number and average length
475 of the suspended sentences imposed by the court in response to a
476 violation.

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

