MISSISSIPPI LEGISLATURE REGULAR SESSION 2021

By: Representatives Horan, Hudson, Brown (70th)

To: Corrections

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 525

AN ACT TO BRING FORWARD SECTION 47-7-3, MISSISSIPPI CODE OF 1972, WHICH RELATES TO PAROLE ELIGIBILITY FOR INMATES, FOR PURPOSES OF POSSIBLE AMENDMENT; TO BRING FORWARD SECTION 47-7-3.1, MISSISSIPPI CODE OF 1972, WHICH RELATES TO CASE PLANS FOR INMATES, FOR PURPOSES OF POSSIBLE AMENDMENT; TO BRING FORWARD SECTION 47-7-5, MISSISSIPPI CODE OF 1972, WHICH RELATES TO THE CREATION OF THE STATE PAROLE BOARD, FOR PURPOSES OF POSSIBLE AMENDMENT; TO BRING FORWARD SECTION 47-7-13, MISSISSIPPI CODE OF 1972, WHICH RELATES TO THE VOTING REQUIREMENTS OF THE PAROLE BOARD, FOR PURPOSES OF POSSIBLE AMENDMENT; TO BRING FORWARD SECTION 47-7-15, MISSISSIPPI CODE OF 1972, WHICH RELATES TO THE OFFICIAL SEAL OF THE PAROLE BOARD; TO BRING FORWARD SECTION 47-7-17, MISSISSIPPI CODE OF 1972, WHICH RELATES TO THE EXAMINATION OF INMATES RECORDS BY THE PAROLE BOARD, FOR PURPOSES OF POSSIBLE AMENDMENT; TO BRING FORWARD SECTION 47-7-18, MISSISSIPPI CODE OF 1972, WHICH RELATES TO CONDITIONS FOR PAROLE-ELIGIBLE INMATES WITHOUT A HEARING, FOR PURPOSES OF POSSIBLE AMENDMENT; TO BRING FORWARD SECTION 47-7-33.1, MISSISSIPPI CODE OF 1972, REGARDING DEPARTMENT DISCHARGE PLANS FOR RELEASED INMATES; TO BRING FORWARD SECTION 47-7-3.2, MISSISSIPPI CODE OF 1972, WHICH RELATES TO THE MINIMUM TIME INMATES CONVICTED OF A CRIME OF VIOLENCE MUST SERVE BEFORE RELEASE AS WELL AS A MINIMUM PERCENTAGE OF OTHER SENTENCES OTHER INMATES MUST SERVE BEFORE RELEASE, FOR PURPOSES OF POSSIBLE AMENDMENT; TO BRING FORWARD SECTION 47-5-28, MISSISSIPPI CODE OF 1972, WHICH RELATES TO THE ADDITIONAL POWERS AND DUTIES OF THE COMMISSIONER OF CORRECTIONS, FOR PURPOSES OF POSSIBLE AMENDMENT; TO BRING FORWARD SECTIONS 47-5-931, 47-5-933 AND 47-5-938, MISSISSIPPI CODE OF 1972, WHICH RELATE TO THE INCARCERATION OF STATE INMATES IN CERTAIN FACILITIES, FOR PURPOSES OF POSSIBLE AMENDMENT; TO BRING FORWARD SECTION 47-7-4, MISSISSIPPI CODE OF 1972, WHICH RELATES TO CONDITIONAL MEDICAL RELEASE, FOR PURPOSES OF POSSIBLE AMENDMENT; TO BRING FORWARD SECTION 47-7-27, MISSISSIPPI CODE OF 1972, WHICH RELATES TO THE RETURN OF A VIOLATOR OF PAROLE OR EARNED RELEASE SUPERVISION, FOR PURPOSES OF

POSSIBLE AMENDMENT; TO BRING FORWARD SECTION 47-7-33, MISSISSIPPI CODE OF 1972, WHICH RELATES TO THE POWER OF THE COURT TO PLACE DEFENDANTS ON PROBATION, FOR PURPOSES OF POSSIBLE AMENDMENT; TO BRING FORWARD SECTION 47-7-34, MISSISSIPPI CODE OF 1972, WHICH RELATES TO THE POST-RELEASE SUPERVISION PROGRAM, FOR PURPOSES OF POSSIBLE AMENDMENT; TO BRING FORWARD SECTION 47-7-35, MISSISSIPPI CODE OF 1972, WHICH RELATES TO THE TERMS AND CONDITIONS OF PROBATION, FOR PURPOSES OF POSSIBLE AMENDMENT; TO BRING FORWARD SECTION 47-7-36, MISSISSIPPI CODE OF 1972, WHICH RELATES TO PERSONS WHO SUPERVISE THOSE ON PROBATION OR PAROLE, FOR PURPOSES OF POSSIBLE AMENDMENT; TO BRING FORWARD SECTION 47-7-37, MISSISSIPPI CODE OF 1972, WHICH RELATES TO THE PERIOD OF PROBATION THAT IS SET BY A COURT, FOR PURPOSES OF POSSIBLE AMENDMENT; TO BRING FORWARD SECTION 47-7-37.1, MISSISSIPPI CODE OF 1972, WHICH RELATES TO THE REVOCATION OF PROBATION OR POST-RELEASE SUPERVISION, FOR PURPOSES OF POSSIBLE AMENDMENT; TO BRING FORWARD SECTION 47-7-49, MISSISSIPPI CODE OF 1972, WHICH RELATES TO THE COMMUNITY SERVICE REVOLVING FUND, FOR PURPOSES OF POSSIBLE AMENDMENT; TO BRING FORWARD SECTION 45-1-3, MISSISSIPPI CODE OF 1972, WHICH RELATES TO THE RULE MAKING POWER OF THE COMMISSIONER OF PUBLIC SAFETY, FOR PURPOSES OF POSSIBLE AMENDMENT; TO BRING FORWARD SECTION 9-23-11, MISSISSIPPI CODE OF 1972, WHICH RELATES TO THE UNIFORM CERTIFICATION PROCESS FOR INTERVENTION AND CERTAIN OTHER COURTS, FOR PURPOSES OF POSSIBLE AMENDMENT; TO BRING FORWARD SECTIONS 99-39-5 AND 99-39-27, MISSISSIPPI CODE OF 1972, WHICH RELATE TO CERTAIN POST-CONVICTION PROCEEDINGS, FOR PURPOSES OF POSSIBLE AMENDMENT; TO BRING FORWARD SECTIONS 41-29-153 THROUGH 41-29-157, MISSISSIPPI CODE OF 1972, WHICH RELATE TO CERTAIN FORFEITURE, FOR PURPOSES OF POSSIBLE AMENDMENT; TO BRING FORWARD SECTIONS 99-15-105 THROUGH 99-15-127, MISSISSIPPI CODE OF 1972, WHICH RELATE TO PRETRIAL-INTERVENTION, FOR PURPOSES OF POSSIBLE AMENDMENT; TO BRING FORWARD SECTIONS 9-23-5 THROUGH 9-23-23, MISSISSIPPI CODE OF 1972, WHICH RELATE TO INTERVENTION COURTS, FOR PURPOSES OF POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 47-7-3, Mississippi Code of 1972, is brought forward as follows:

47-7-3. (1) Every prisoner who has been convicted of any offense against the State of Mississippi, and is confined in the execution of a judgment of such conviction in the Mississippi Department of Corrections for a definite term or terms of one (1) year or over, or for the term of his or her natural life, whose

record of conduct shows that such prisoner has observed the rules of the department, and who has served not less than one-fourth (1/4) of the total of such term or terms for which such prisoner was sentenced, or, if sentenced to serve a term or terms of thirty (30) years or more, or, if sentenced for the term of the natural life of such prisoner, has served not less than ten (10) years of such life sentence, may be released on parole as hereinafter provided, except that:

(a) No prisoner convicted as a confirmed and habitual criminal under the provisions of Sections 99-19-81 through 99-19-87 shall be eligible for parole;

(b) Any person who shall have been convicted of a sex crime shall not be released on parole except for a person under the age of nineteen (19) who has been convicted under Section 97-3-67;

(c) (i) No person shall be eligible for parole who shall, on or after January 1, 1977, be convicted of robbery or attempted robbery through the display of a firearm until he shall have served ten (10) years if sentenced to a term or terms of more than ten (10) years or if sentenced for the term of the natural life of such person. If such person is sentenced to a term or terms of ten (10) years or less, then such person shall not be eligible for parole. The provisions of this paragraph (c)(i) shall also apply to any person who shall commit robbery or attempted robbery on or after July 1, 1982, through the display of

a deadly weapon. This paragraph (c)(i) shall not apply to persons convicted after September 30, 1994;

(ii) No person shall be eligible for parole who shall, on or after October 1, 1994, be convicted of robbery, attempted robbery or carjacking as provided in Section 97-3-115 et seq., through the display of a firearm or drive-by shooting as provided in Section 97-3-109. The provisions of this paragraph (c)(ii) shall also apply to any person who shall commit robbery, attempted robbery, carjacking or a drive-by shooting on or after October 1, 1994, through the display of a deadly weapon. This paragraph (c)(ii) shall not apply to persons convicted after July 1, 2014;

(d) No person shall be eligible for parole who, on or after July 1, 1994, is charged, tried, convicted and sentenced to life imprisonment without eligibility for parole under the provisions of Section 99-19-101;

(e) No person shall be eligible for parole who is charged, tried, convicted and sentenced to life imprisonment under the provisions of Section 99-19-101;

(f) No person shall be eligible for parole who is convicted or whose suspended sentence is revoked after June 30, 1995, except that an offender convicted of only nonviolent crimes after June 30, 1995, may be eligible for parole if the offender meets the requirements in this subsection (1) and this paragraph. In addition to other requirements, if an offender is convicted of

a drug or driving under the influence felony, the offender must complete a drug and alcohol rehabilitation program prior to parole or the offender may be required to complete a post-release drug and alcohol program as a condition of parole. For purposes of this paragraph, "nonviolent crime" means a felony other than homicide, robbery, manslaughter, sex crimes, arson, burglary of an occupied dwelling, aggravated assault, kidnapping, felonious abuse of vulnerable adults, felonies with enhanced penalties, except enhanced penalties for the crime of possession of a controlled substance under Section 41-29-147, the sale or manufacture of a controlled substance under the Uniform Controlled Substances Law, felony child abuse, or exploitation or any crime under Section 97-5-33 or Section 97-5-39(2) or 97-5-39(1)(b), 97-5-39(1)(c) or a violation of Section 63-11-30(5). In addition, an offender incarcerated for committing the crime of possession of a controlled substance under the Uniform Controlled Substances Law after July 1, 1995, including an offender who receives an enhanced penalty under the provisions of Section 41-29-147 for such possession, shall be eligible for parole. An offender incarcerated for committing the crime of sale or manufacture of a controlled substance shall be eligible for parole after serving one-fourth (1/4) of the sentence imposed by the trial court. This paragraph (f) shall not apply to persons convicted on or after July 1, 2014;

(g) (i) No person who, on or after July 1, 2014, is convicted of a crime of violence pursuant to Section 97-3-2, a sex crime or an offense that specifically prohibits parole release shall be eligible for parole. All persons convicted of any other offense on or after July 1, 2014, are eligible for parole after they have served one-fourth (1/4) of the sentence or sentences imposed by the trial court.

(ii) Notwithstanding the provisions in subparagraph (i) of this paragraph (g), a person serving a sentence who has reached the age of sixty (60) or older and who has served no less than ten (10) years of the sentence or sentences imposed by the trial court shall be eligible for parole. Any person eligible for parole under this subsection shall be required to have a parole hearing before the board prior to parole release. No inmate shall be eligible for parole under this subparagraph (ii) of this paragraph (g) if:

1. The inmate is sentenced as a habitual offender under Sections 99-19-81 through 99-19-87;

2. The inmate is sentenced for a crime of violence under Section 97-3-2;

3. The inmate is sentenced for an offense that specifically prohibits parole release;

4. The inmate is sentenced for trafficking in controlled substances under Section 41-29-139(f);

5. The inmate is sentenced for a sex crime; or

6. The inmate has not served one-fourth (1/4) of the sentence imposed by the court.

(iii) Notwithstanding the provisions of paragraph (a) of this subsection, any offender who has not committed a crime of violence under Section 97-3-2 and has served twenty-five percent (25%) or more of his sentence may be paroled by the parole board if, after the sentencing judge or if the sentencing judge is retired, disabled or incapacitated, the senior circuit judge authorizes the offender to be eligible for parole consideration; or if that senior circuit judge must be recused, another circuit judge of the same district or a senior status judge may hear and decide the matter;

(h) Notwithstanding any other provision of law, an inmate who has not been convicted as a habitual offender under Sections 99-19-81 through 99-19-87, has not been convicted of committing a crime of violence, as defined under Section 97-3-2, has not been convicted of a sex crime or any other crime that specifically prohibits parole release, and has not been convicted of drug trafficking under Section 41-29-139 is eligible for parole if the inmate has served twenty-five percent (25%) or more of his or her sentence, but is otherwise ineligible for parole.

(2) Notwithstanding any other provision of law, an inmate shall not be eligible to receive earned time, good time or any

other administrative reduction of time which shall reduce the time necessary to be served for parole eligibility as provided in subsection (1) of this section.

(3) The State Parole Board shall, by rules and regulations, establish a method of determining a tentative parole hearing date for each eligible offender taken into the custody of the Department of Corrections. The tentative parole hearing date shall be determined within ninety (90) days after the department has assumed custody of the offender. The parole hearing date shall occur when the offender is within thirty (30) days of the month of his parole eligibility date. The parole eligibility date shall not be earlier than one-fourth (1/4) of the prison sentence or sentences imposed by the court.

(4) Any inmate within twenty-four (24) months of his parole eligibility date and who meets the criteria established by the classification board shall receive priority for placement in any educational development and job training programs that are part of his or her parole case plan. Any inmate refusing to participate in an educational development or job training program that is part of the case plan may be in jeopardy of noncompliance with the case plan and may be denied parole.

SECTION 2. Section 47-7-3.1, Mississippi Code of 1972, is brought forward as follows:

47-7-3.1. (1) In consultation with the Parole Board, the department shall develop a case plan for all parole eligible

inmates to guide an inmate's rehabilitation while in the department's custody and to reduce the likelihood of recidivism after release.

(2) Within ninety (90) days of admission, the department shall complete a case plan on all inmates which shall include, but not limited to:

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

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

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

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

(a) Within ninety (90) days of admission, the caseworker shall notify the inmate of their parole eligibility date as calculated in accordance with Section 47-7-3(3);

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

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

(5) The caseworker shall meet with the inmate every eight (8) weeks from the date the offender received the case plan to review the inmate's case plan progress.

(6) Every four (4) months the department shall electronically submit a progress report on each parole-eligible inmate's case plan to the Parole Board. The board may meet to review an inmate's case plan and may provide written input to the caseworker on the inmate's progress toward completion of the case plan.

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

SECTION 3. Section 47-7-5, Mississippi Code of 1972, is brought forward as follows:

47-7-5. (1) The State Parole Board, created under former Section 47-7-5, is hereby created, continued and reconstituted and shall be composed of five (5) members. The Governor shall appoint the members with the advice and consent of the Senate. All terms shall be at the will and pleasure of the Governor. Any vacancy shall be filled by the Governor, with the advice and consent of the Senate. The Governor shall appoint a chairman of the board.

(2) Any person who is appointed to serve on the board shall possess at least a bachelor's degree or a high school diploma and four (4) years' work experience. Each member shall devote his

full time to the duties of his office and shall not engage in any other business or profession or hold any other public office. A member shall not receive compensation or per diem in addition to his salary as prohibited under Section 25-3-38. Each member shall keep such hours and workdays as required of full-time state employees under Section 25-1-98. Individuals shall be appointed to serve on the board without reference to their political affiliations. Each board member, including the chairman, may be reimbursed for actual and necessary expenses as authorized by Section 25-3-41. Each member of the board shall complete annual training developed based on guidance from the National Institute of Corrections, the Association of Paroling Authorities International, or the American Probation and Parole Association. Each first-time appointee of the board shall, within sixty (60) days of appointment, or as soon as practical, complete training for first-time Parole Board members developed in consideration of information from the National Institute of Corrections, the Association of Paroling Authorities International, or the American Probation and Parole Association.

(3) The board shall have exclusive responsibility for the granting of parole as provided by Sections 47-7-3 and 47-7-17 and shall have exclusive authority for revocation of the same. The board shall have exclusive responsibility for investigating clemency recommendations upon request of the Governor.

(4) The board, its members and staff, shall be immune from civil liability for any official acts taken in good faith and in exercise of the board's legitimate governmental authority.

(5) The budget of the board shall be funded through a separate line item within the general appropriation bill for the support and maintenance of the department. Employees of the department which are employed by or assigned to the board shall work under the guidance and supervision of the board. There shall be an executive secretary to the board who shall be responsible for all administrative and general accounting duties related to the board. The executive secretary shall keep and preserve all records and papers pertaining to the board.

(6) The board shall have no authority or responsibility for supervision of offenders granted a release for any reason, including, but not limited to, probation, parole or executive clemency or other offenders requiring the same through interstate compact agreements. The supervision shall be provided exclusively by the staff of the Division of Community Corrections of the department.

(7) (a) The Parole Board is authorized to select and place offenders in an electronic monitoring program under the conditions and criteria imposed by the Parole Board. The conditions, restrictions and requirements of Section 47-7-17 and Sections 47-5-1001 through 47-5-1015 shall apply to the Parole Board and

any offender placed in an electronic monitoring program by the Parole Board.

(b) Any offender placed in an electronic monitoring program under this subsection shall pay the program fee provided in Section 47-5-1013. The program fees shall be deposited in the special fund created in Section 47-5-1007.

(c) The department shall have absolute immunity from liability for any injury resulting from a determination by the Parole Board that an offender be placed in an electronic monitoring program.

(8) (a) The Parole Board shall maintain a central registry of paroled inmates. The Parole Board shall place the following information on the registry: name, address, photograph, crime for which paroled, the date of the end of parole or flat-time date and other information deemed necessary. The Parole Board shall immediately remove information on a parolee at the end of his parole or flat-time date.

(b) When a person is placed on parole, the Parole Board shall inform the parolee of the duty to report to the parole officer any change in address ten (10) days before changing address.

(c) The Parole Board shall utilize an Internet website or other electronic means to release or publish the information.

(d) Records maintained on the registry shall be open to law enforcement agencies and the public and shall be available no later than July 1, 2003.

(9) An affirmative vote of at least four (4) members of the Parole Board shall be required to grant parole to an inmate convicted of capital murder or a sex crime.

(10) This section shall stand repealed on July 1, 2022.

SECTION 4. Section 47-7-13, Mississippi Code of 1972, is brought forward as follows:

47-7-13. A majority of the board shall constitute a quorum for the transaction of all business. A decision to parole an offender convicted of murder or a sex-related crime shall require the affirmative vote of three (3) members. The board shall maintain, in minute book form, a copy of each of its official actions with the reasons therefor. Suitable and sufficient office space and support resources and staff necessary to conducting Parole Board business shall be provided by the Department of Corrections. However, the principal place for conducting parole hearings shall be the State Penitentiary at Parchman.

SECTION 5. Section 47-7-15, Mississippi Code of 1972, is brought forward as follows:

47-7-15. The board shall adopt an official seal of which the courts shall take judicial notice. Decisions of the board shall be made by majority vote.

The board shall keep a record of its acts and shall notify each institution of its decisions relating to the persons who are or have been confined therein. At the close of each fiscal year the board shall submit to the Governor and to the Legislature a report with statistical and other data of its work.

SECTION 6. Section 47-7-17, Mississippi Code of 1972, is brought forward as follows:

47-7-17. Within one (1) year after his admission and at such intervals thereafter as it may determine, the board shall secure and consider all pertinent information regarding each offender, except any under sentence of death or otherwise ineligible for parole, including the circumstances of his offense, his previous social history, his previous criminal record, including any records of law enforcement agencies or of a youth court regarding that offender's juvenile criminal history, his conduct, employment and attitude while in the custody of the department, the case plan created to prepare the offender for parole, and the reports of such physical and mental examinations as have been made. The board shall furnish at least three (3) months' written notice to each such offender of the date on which he is eligible for parole.

Before ruling on the application for parole of any offender, the board may require a parole-eligible offender to have a hearing as required in this chapter before the board and to be interviewed. The hearing shall be held no later than thirty (30) days prior to the month of eligibility. No application for parole

of a person convicted of a capital offense shall be considered by the board unless and until notice of the filing of such application shall have been published at least once a week for two (2) weeks in a newspaper published in or having general circulation in the county in which the crime was committed. The board shall, within thirty (30) days prior to the scheduled hearing, also give notice of the filing of the application for parole to the victim of the offense for which the prisoner is incarcerated and being considered for parole or, in case the offense be homicide, a designee of the immediate family of the victim, provided the victim or designated family member has furnished in writing a current address to the board for such purpose. Parole release shall, at the hearing, be ordered only for the best interest of society, not as an award of clemency; it shall not be considered to be a reduction of sentence or pardon. An offender shall be placed on parole only when arrangements have been made for his proper employment or for his maintenance and care, and when the board believes that he is able and willing to fulfill the obligations of a law-abiding citizen. When the board determines that the offender will need transitional housing upon release in order to improve the likelihood of him or her becoming a law-abiding citizen, the board may parole the offender with the condition that the inmate spends no more than six (6) months in a transitional reentry center. At least fifteen (15) days prior to the release of an offender on parole, the director of records of

the department shall give the written notice which is required pursuant to Section 47-5-177. Every offender while on parole shall remain in the legal custody of the department from which he was released and shall be amenable to the orders of the board. Upon determination by the board that an offender is eligible for release by parole, notice shall also be given within at least fifteen (15) days before release, by the board to the victim of the offense or the victim's family member, as indicated above, regarding the date when the offender's release shall occur, provided a current address of the victim or the victim's family member has been furnished in writing to the board for such purpose.

Failure to provide notice to the victim or the victim's family member of the filing of the application for parole or of any decision made by the board regarding parole shall not constitute grounds for vacating an otherwise lawful parole determination nor shall it create any right or liability, civilly or criminally, against the board or any member thereof.

A letter of protest against granting an offender parole shall not be treated as the conclusive and only reason for not granting parole.

The board may adopt such other rules not inconsistent with law as it may deem proper or necessary with respect to the eligibility of offenders for parole, the conduct of parole hearings, or conditions to be imposed upon parolees, including a

condition that the parolee submit, as provided in Section 47-5-601 to any type of breath, saliva or urine chemical analysis test, the purpose of which is to detect the possible presence of alcohol or a substance prohibited or controlled by any law of the State of Mississippi or the United States. The board shall have the authority to adopt rules related to the placement of certain offenders on unsupervised parole and for the operation of transitional reentry centers. However, in no case shall an offender be placed on unsupervised parole before he has served a minimum of fifty percent (50%) of the period of supervised parole.

SECTION 7. Section 47-7-18, Mississippi Code of 1972, is brought forward as follows:

47-7-18 (1) Each inmate eligible for parole pursuant to Section 47-7-3, shall be released from incarceration to parole supervision on the inmate's parole eligibility date, without a hearing before the board, if:

(a) The inmate has met the requirements of the parole case plan established pursuant to Section 47-7-3.1;

(b) A victim of the offense has not requested the board conduct a hearing;

(c) The inmate has not received a serious or major violation report within the past six (6) months;

(d) The inmate has agreed to the conditions of supervision; and

(e) The inmate has a discharge plan approved by the board.

(2) At least thirty (30) days prior to an inmate's parole eligibility date, the department shall notify the board in writing of the inmate's compliance or noncompliance with the case plan. If an inmate fails to meet a requirement of the case plan, prior to the parole eligibility date, he or she shall have a hearing before the board to determine if completion of the case plan can occur while in the community.

(3) Any inmate for whom there is insufficient information for the department to determine compliance with the case plan shall have a hearing with the board.

(4) A hearing shall be held with the board if requested by the victim following notification of the inmate's parole release date pursuant to Section 47-7-17.

(5) A hearing shall be held by the board if a law enforcement official from the community to which the inmate will return contacts the board or the department and requests a hearing to consider information relevant to public safety risks posed by the inmate if paroled at the initial parole eligibility date. The law enforcement official shall submit an explanation documenting these concerns for the board to consider.

(6) If a parole hearing is held, the board may determine the inmate has sufficiently complied with the case plan or that the incomplete case plan is not the fault of the inmate and that

granting parole is not incompatible with public safety, the board may then parole the inmate with appropriate conditions. If the board determines that the inmate has sufficiently complied with the case plan but the discharge plan indicates that the inmate does not have appropriate housing immediately upon release, the board may parole the inmate to a transitional reentry center with the condition that the inmate spends no more than six (6) months in the center. If the board determines that the inmate has not substantively complied with the requirement(s) of the case plan it may deny parole. If the board denies parole, the board may schedule a subsequent parole hearing and, if a new date is scheduled, the board shall identify the corrective action the inmate will need to take in order to be granted parole. Any inmate not released at the time of the inmate's initial parole date shall have a parole hearing at least every year.

SECTION 8. Section 47-7-33.1, Mississippi Code of 1972, is brought forward as follows:

47-7-33.1. (1) The department shall create a discharge plan for any offender returning to the community, regardless of whether the person will discharge from the custody of the department, or is released on parole, pardon, or otherwise. At least ninety (90) days prior to an offender's earliest release date, the commissioner shall conduct a pre-release assessment and complete a written discharge plan based on the assessment results. The discharge plan for parole eligible offenders shall be sent to the

Parole Board at least thirty (30) days prior to the offender's parole eligibility date for approval. The board may suggest changes to the plan that it deems necessary to ensure a successful transition.

(2) The pre-release assessment shall identify whether an inmate requires assistance obtaining the following basic needs upon release: transportation, clothing and food, financial resources, identification documents, housing, employment, education, health care and support systems. The discharge plan shall include information necessary to address these needs and the steps being taken by the department to assist in this process. Based on the findings of the assessment, the commissioner shall:

(a) Arrange transportation for inmates from the correctional facility to their release destination;

(b) Ensure inmates have clean, seasonally appropriate clothing, and provide inmates with a list of food providers and other basic resources immediately accessible upon release;

(c) Ensure inmates have a driver's license or a state-issued identification card that is not a Department of Corrections identification card;

(d) Assist inmates in identifying safe, affordable housing upon release. If accommodations are not available, determine whether temporary housing is available for at least ten (10) days after release. If temporary housing is not available, the discharge plan shall reflect that satisfactory housing has not

been established and the person may be a candidate for transitional reentry center placement;

(e) Refer inmates without secured employment to employment opportunities;

(f) Provide inmates with contact information of a health care facility/provider in the community in which they plan to reside;

(g) Notify family members of the release date and release plan, if inmate agrees; and

(h) Refer inmates to a community or a faith-based organization that can offer support within the first twenty-four (24) hours of release;

(3) A written discharge plan shall be provided to the offender and supervising probation officer or parole officer, if applicable.

(4) A discharge plan created for a parole-eligible offender shall also include supervision conditions and the intensity of supervision based on the assessed risk to recidivate and whether there is a need for transitional housing. The board shall approve discharge plans before an offender is released on parole pursuant to this chapter.

SECTION 9. Section 47-7-3.2, Mississippi Code of 1972, is brought forward as follows:

47-7-3.2. (1) Notwithstanding Sections 47-5-138, 47-5-139, 47-5-138.1 or 47-5-142, no person convicted of a criminal offense

on or after July 1, 2014, shall be released by the department until he or she has served no less than fifty percent (50%) of a sentence for a crime of violence pursuant to Section 97-3-2 or twenty-five percent (25%) of any other sentence imposed by the court.

(2) This section shall not apply to:

(a) Offenders sentenced to life imprisonment;

(b) Offenders convicted as habitual offenders pursuant to Sections 99-19-81 through 99-19-87;

(c) Offenders serving a sentence for a sex offense; or

(d) Offenders serving a sentence for trafficking pursuant to Section 41-29-139(f).

SECTION 10. Section 47-5-28, Mississippi Code of 1972, is brought forward as follows:

47-5-28. The commissioner shall have the following powers and duties:

(a) To implement and administer laws and policy relating to corrections and coordinate the efforts of the department with those of the federal government and other state departments and agencies, county governments, municipal governments, and private agencies concerned with providing offender services;

(b) To establish standards, in cooperation with other state agencies having responsibility as provided by law, provide technical assistance, and exercise the requisite supervision as it

relates to correctional programs over all state-supported adult correctional facilities and community-based programs;

(c) To promulgate and publish such rules, regulations and policies of the department as are needed for the efficient government and maintenance of all facilities and programs in accord insofar as possible with currently accepted standards of adult offender care and treatment;

(d) To provide the Parole Board with suitable and sufficient office space and support resources and staff necessary to conducting Parole Board business under the guidance of the Chairman of the Parole Board;

(e) To contract for transitional reentry center beds that will be used as noncorrections housing for offenders released from the department on parole, probation or post-release supervision but do not have appropriate housing available upon release. At least one hundred (100) but no more than eight hundred (800) transitional reentry center beds contracted by the department and chosen by the Parole Board shall be available for the Parole Board to place parolees without appropriate housing;

(f) To designate deputy commissioners while performing their officially assigned duties relating to the custody, control, transportation, recapture or arrest of any offender within the jurisdiction of the department or any offender of any jail, penitentiary, public workhouse or overnight lockup of the state or any political subdivision thereof not within the jurisdiction of

the department, to the status of peace officers anywhere in the state in any matter relating to the custody, control, transportation or recapture of such offender, and shall have the status of law enforcement officers and peace officers as contemplated by Sections 45-6-3, 97-3-7 and 97-3-19.

For the purpose of administration and enforcement of this chapter, deputy commissioners of the Mississippi Department of Corrections, who are certified by the Mississippi Board on Law Enforcement Officer Standards and Training, have the powers of a law enforcement officer of this state. Such powers shall include to make arrests and to serve and execute search warrants and other valid legal process anywhere within the State of Mississippi while performing their officially assigned duties relating to the custody, control, transportation, recapture or arrest of any offender within the jurisdiction of the department or any offender of any jail, penitentiary, public workhouse or overnight lockup of the state or any political subdivision thereof not within the jurisdiction of the department in any matter relating to the custody, control, transportation or recapture of such offender.

(g) To make an annual report to the Governor and the Legislature reflecting the activities of the department and make recommendations for improvement of the services to be performed by the department;

(h) To cooperate fully with periodic independent internal investigations of the department and to file the report with the Governor and the Legislature;

(i) To make personnel actions for a period of one (1) year beginning July 1, 2016, that are exempt from State Personnel Board rules, regulations and procedures in order to give the commissioner flexibility in making an orderly, effective and timely reorganization and realignment of the department; and

(j) To perform such other duties necessary to effectively and efficiently carry out the purposes of the department as may be directed by the Governor.

SECTION 11. Section 47-5-931, Mississippi Code of 1972, is brought forward as follows:

47-5-931. (1) The Department of Corrections, in its discretion, may contract with the board of supervisors of one or more counties or with a regional facility operated by one or more counties, to provide for housing, care and control of offenders who are in the custody of the State of Mississippi. Any facility owned or leased by a county or counties for this purpose shall be designed, constructed, operated and maintained in accordance with American Correctional Association standards, and shall comply with all constitutional standards of the United States and the State of Mississippi, and with all court orders that may now or hereinafter be applicable to the facility. If the Department of Corrections contracts with more than one (1) county to house state offenders

in county correctional facilities, excluding a regional facility, then the first of such facilities shall be constructed in Sharkey County and the second of such facilities shall be constructed in Jefferson County.

(2) The Department of Corrections shall contract with the board of supervisors of the following counties to house state inmates in regional facilities: (a) Marion and Walthall Counties; (b) Carroll and Montgomery Counties; (c) Stone and Pearl River Counties; (d) Winston and Choctaw Counties; (e) Kemper and Neshoba Counties; (f) Alcorn County and any contiguous county in which there is located an unapproved jail; (g) Yazoo County and any contiguous county in which there is located an unapproved jail; (h) Chickasaw County and any contiguous county in which there is located an unapproved jail; (i) George and Greene Counties and any contiguous county in which there is located an unapproved jail; (j) Washington County and any contiguous county in which there is located an unapproved jail; (k) Hinds County and any contiguous county in which there is located an unapproved jail; (l) Leake County and any contiguous county in which there is located an unapproved jail; (m) Issaquena County and any contiguous county in which there is located an unapproved jail; (n) Jefferson County and any contiguous county in which there is located an unapproved jail; (o) Franklin County and any contiguous county in which there is located an unapproved jail; (p) Holmes County and any contiguous county in which there is located an unapproved jail;

and (q) Bolivar County and any contiguous county in which there is located an unapproved jail. The Department of Corrections shall decide the order of priority of the counties listed in this subsection with which it will contract for the housing of state inmates. For the purposes of this subsection, the term "unapproved jail" means any jail that the local grand jury determines should be condemned or has found to be of substandard condition or in need of substantial repair or reconstruction.

(3) In addition to the offenders authorized to be housed under subsection (1) of this section, the Department of Corrections may contract with any regional facility to provide for housing, care and control of not more than seventy-five (75) additional offenders who are in the custody of the State of Mississippi.

(4) The Governor and the Commissioner of Corrections are authorized to increase administratively the number of offenders who are in the custody of the State of Mississippi that can be placed in regional correctional facilities.

SECTION 12. Section 47-5-933, Mississippi Code of 1972, is brought forward as follows:

47-5-933. The Department of Corrections may contract for the purposes set out in Section 47-5-931 for a period of not more than twenty (20) years. The contract may provide that the Department of Corrections pay a fee of no more than Thirty-one Dollars ($31.00) per day for each offender that is housed in the facility.

The Department of Corrections may include in the contract, as an inflation factor, a three percent (3%) annual increase in the contract price. The state shall retain responsibility for medical care for state offenders to the extent that is required by law; provided, however, the department may reimburse each facility for contract medical services as provided by law in an amount not to exceed Six Dollars and Twenty-five Cents ($6.25) per day per offender.

SECTION 13. Section 47-5-938, Mississippi Code of 1972, is brought forward as follows:

47-5-938. (1) Offenders are encouraged to participate in work programs. The chief corrections officer as created in Section 47-5-935, with ratification of the board of supervisors of the county in which a correctional facility established pursuant to Sections 47-5-931 through 47-5-941, is located, may enter into agreements to provide work for any state offender housed in the facility, with the approval of the Commissioner of Corrections, to perform any work:

(a) Authorized in the Mississippi Prison Industries Act of 1990 as provided in Sections 47-5-531 through 47-5-575;

(b) Authorized in the Prison Agricultural Enterprises Act as provided in Sections 47-5-351 through 47-5-357;

(c) Authorized in the Penitentiary-Made Goods Law of 1978 as provided in Sections 47-5-301 through 47-5-331;

(d) Authorized in the Public Service Work Programs Act as provided in Sections 47-5-401 through 47-5-421;

(e) Authorized in Section 47-5-431, which authorizes the sheriff to use county or state offenders to pick up trash along public roads and state highways.

(2) The chief corrections officer shall promulgate rules and regulations as may be necessary to govern the work performance of the offenders for the parties to the agreements. Political subdivisions of the State of Mississippi including but not limited to counties, municipalities, school districts, drainage districts, water management districts and joint county-municipal endeavors are to have free use of the offender's labor but are responsible for reimbursing the facility for costs of transportation, guards, meals and other necessary costs when the inmates are providing work for that political body. Offenders may be compensated for work performed if the agreement so provides.

(3) There is created a special fund in the county treasury to be known as the "offender's compensation fund." All compensation paid to offenders shall be placed in the special fund for use by the offenders to purchase certain goods and other items of value as authorized in Section 47-5-109, for offenders housed in state correctional facilities. As provided in Section 47-5-194, no cash is to be paid to offenders. The agreement shall provide that a certain portion of the compensation shall be used for the welfare of the offenders. All money collected from the

regional jail canteen operations shall be placed in a county special fund. Expenditures from that fund can be made by the chief corrections officer for any lawful purpose that is in the best interest and welfare of the offenders. The chief corrections officer, his employees and the county or counties owning the facility are given the authority necessary to carry out the provisions of this section.

(4) The provisions of this section shall be supplemental to any other provisions of law regarding offender labor and work programs.

SECTION 14. Section 47-7-4, Mississippi Code of 1972, is brought forward as follows:

47-7-4. The commissioner and the medical director of the department may place an offender who has served not less than one (1) year of his or her sentence, except an offender convicted of a sex crime, on conditional medical release. However, a nonviolent offender who is bedridden may be placed on conditional medical release regardless of the time served on his or her sentence. Upon the release of a nonviolent offender who is bedridden, the state shall not be responsible or liable for any medical costs that may be incurred if such costs are acquired after the offender is no longer incarcerated due to his or her placement on conditional medical release. The commissioner shall not place an offender on conditional medical release unless the medical director of the department certifies to the commissioner that (a)

the offender is suffering from a significant permanent physical medical condition with no possibility of recovery; (b) that his or her further incarceration will serve no rehabilitative purposes; and (c) that the state would incur unreasonable expenses as a result of his or her continued incarceration. Any offender placed on conditional medical release shall be supervised by the Division of Community Corrections of the department for the remainder of his or her sentence. An offender's conditional medical release may be revoked and the offender returned and placed in actual custody of the department if the offender violates an order or condition of his or her conditional medical release. An offender who is no longer bedridden shall be returned and placed in the actual custody of the department.

SECTION 15. Section 47-7-27, Mississippi Code of 1972, is brought forward as follows:

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

(2) Any field supervisor may arrest an offender without a warrant or may deputize any other person with power of arrest by giving him a written statement setting forth that the offender has, in the judgment of that field supervisor, violated the

conditions of his parole or earned-release supervision. The written statement delivered with the offender by the arresting officer to the official in charge of the department facility from which the offender was released or other place of detention designated by the department shall be sufficient warrant for the detention of the offender.

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

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

(5) The right of the State of Mississippi to extradite persons and return fugitives from justice, from other states to

this state, shall not be impaired by this chapter and shall remain in full force and effect. An offender convicted of a felony committed while on parole, whether in the State of Mississippi or another state, shall immediately have his parole revoked upon presentment of a certified copy of the commitment order to the board. If an offender is on parole and the offender is convicted of a felony for a crime committed prior to the offender being placed on parole, whether in the State of Mississippi or another state, the offender may have his parole revoked upon presentment of a certified copy of the commitment order to the board.

(6) (a) The board shall hold a hearing for any parolee who is detained as a result of a warrant or a violation report within twenty-one (21) days of the parolee's admission to detention. The board may, in its discretion, terminate the parole or modify the terms and conditions thereof. If the board revokes parole for one or more technical violations the board shall impose a period of imprisonment to be served in a technical violation center operated by the department not to exceed ninety (90) days for the first revocation and not to exceed one hundred twenty (120) days for the second revocation. For the third revocation, the board may impose a period of imprisonment to be served in a technical violation center for up to one hundred and eighty (180) days or the board may impose the remainder of the suspended portion of the sentence. For the fourth and any subsequent revocation, the board may impose up to the remainder of the suspended portion of the sentence. The

period of imprisonment in a technical violation center imposed under this section shall not be reduced in any manner.

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

(c) For a parolee charged with one or more technical violations who has not been detained awaiting the revocation hearing, the board may hold a hearing within a reasonable time. The board may revoke parole or may continue parole and modify the

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

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

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

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

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

SECTION 16. Section 47-7-33, Mississippi Code of 1972, is brought forward as follows:

47-7-33. (1) When it appears to the satisfaction of any circuit court or county court in the State of Mississippi having original jurisdiction over criminal actions, or to the judge thereof, that the ends of justice and the best interest of the public, as well as the defendant, will be served thereby, such court, in termtime or in vacation, shall have the power, after conviction or a plea of guilty, except in a case where a death sentence or life imprisonment is the maximum penalty which may be imposed, to suspend the imposition or execution of sentence, and place the defendant on probation as herein provided, except that the court shall not suspend the execution of a sentence of imprisonment after the defendant shall have begun to serve such sentence. In placing any defendant on probation, the court, or

judge, shall direct that such defendant be under the supervision of the Department of Corrections.

(2) When any circuit or county court places an offender on probation, the court shall give notice to the Mississippi Department of Corrections within fifteen (15) days of the court's decision to place the offender on probation. Notice shall be delivered to the central office of the Mississippi Department of Corrections and to the regional office of the department which will be providing supervision to the offender on probation.

(3) When any circuit court or county court places a person on probation in accordance with the provisions of this section and that person is ordered to make any payments to his family, if any member of his family whom he is ordered to support is receiving public assistance through the State Department of Human Services, the court shall order him to make such payments to the county welfare officer of the county rendering public assistance to his family, for the sole use and benefit of said family.

SECTION 17. Section 47-7-34, Mississippi Code of 1972, is brought forward as follows:

47-7-34. (1) When a court imposes a sentence upon a conviction for any felony committed after June 30, 1995, the court, in addition to any other punishment imposed if the other punishment includes a term of incarceration in a state or local correctional facility, may impose a term of post-release supervision. However, the total number of years of incarceration

plus the total number of years of post-release supervision shall not exceed the maximum sentence authorized to be imposed by law for the felony committed. The defendant shall be placed under post-release supervision upon release from the term of incarceration. The period of supervision shall be established by the court.

(2) The period of post-release supervision shall be conducted in the same manner as a like period of supervised probation, including a requirement that the defendant shall abide by any terms and conditions as the court may establish. Failure to successfully abide by the terms and conditions shall be grounds to terminate the period of post-release supervision and to recommit the defendant to the correctional facility from which he was previously released. Procedures for termination and recommitment shall be conducted in the same manner as procedures for the revocation of probation and imposition of a suspended sentence as required pursuant to Section 47-7-37.

(3) Post-release supervision programs shall be operated through the probation and parole unit of the Division of Community Corrections of the department. The maximum amount of time that the Mississippi Department of Corrections may supervise an offender on the post-release supervision program is five (5) years.

SECTION 18. Section 47-7-35, Mississippi Code of 1972, is brought forward as follows:

47-7-35. (1) The courts referred to in Section 47-7-33 or 47-7-34 shall determine the terms and conditions of probation or post-release supervision and may alter or modify, at any time during the period of probation or post-release supervision, the conditions and may include among them the following or any other:

That the offender shall:

(a) Commit no offense against the laws of this or any other state of the United States, or of any federal, territorial or tribal jurisdiction of the United States;

(b) Avoid injurious or vicious habits;

(c) Avoid persons or places of disreputable or harmful character;

(d) Report to the probation and parole officer as directed;

(e) Permit the probation and parole officer to visit him at home or elsewhere;

(f) Work faithfully at suitable employment so far as possible;

(g) Remain within a specified area;

(h) Pay his fine in one (1) or several sums;

(i) Support his dependents;

(j) Submit, as provided in Section 47-5-601, to any type of breath, saliva or urine chemical analysis test, the purpose of which is to detect the possible presence of alcohol or

a substance prohibited or controlled by any law of the State of Mississippi or the United States;

(k) Register as a sex offender if so required under Title 45, Chapter 33.

(2) When any court places a defendant on misdemeanor probation, the court must cause to be conducted a search of the probationer's name or other identifying information against the registration information regarding sex offenders maintained under Title 45, Chapter 33. The search may be conducted using the Internet site maintained by the Department of Public Safety Sex Offender Registry.

SECTION 19. Section 47-7-36, Mississippi Code of 1972, is brought forward as follows:

47-7-36. Any person who supervises an individual placed on parole by the Parole Board or placed on probation by the court shall set the times and locations for meetings that are required for parole or probation at such times and locations that are reasonably designed to accommodate the work schedule of an individual on parole or probation who is employed by another person or entity. To effectuate the provisions of this section, the parole officer or probation officer may utilize technology portals such as Skype, FaceTime or Google video chat, or any other technology portal that allows communication between the individual on parole or probation and the parole or probation officer, as applicable, to occur simultaneously in real time by voice and

video in lieu of requiring a face-to-face in person meeting of such individual and the parole or probation officer, as applicable. For individuals who are self-employed, the provisions of this section shall only apply with the agreement of their supervising parole or probation officer.

SECTION 20. Section 47-7-37, Mississippi Code of 1972, is brought forward as follows:

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

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

by the arresting officer to the official in charge of a county jail or other place of detention shall be sufficient warrant for the detention of the probationer.

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

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

evidence of allegations of unlawful sexual conduct or the use of violence by the offender or probationer; the offender or probationer's family ties, length of residence in the community, employment history and mental condition; the offender or probationer's history and conduct during the probation or other supervised release and any other previous supervisions, including disciplinary records of previous incarcerations; the likelihood that the offender or probationer will engage again in a criminal course of conduct; the weight of the evidence against the offender or probationer; and any other facts the court considers relevant.

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

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

(b) If the offender is not detained as a result of the warrant, the court shall cause the probationer to be brought before it within a reasonable time and may continue or revoke all or any part of the probation or the suspension of sentence, and may cause the sentence imposed to be executed or may impose any part of the sentence which might have been imposed at the time of conviction. If the court revokes probation for one or more technical violations, the court shall impose a period of imprisonment to be served in either a technical violation center or a restitution center not to exceed ninety (90) days for the first revocation and not to exceed one hundred twenty (120) days for the second revocation. For the third revocation, the court may impose a period of imprisonment to be served in either a technical violation center or a restitution center for up to one hundred eighty (180) days or the court may impose the remainder of the suspended portion of the sentence. For the fourth and any subsequent revocation, the court may impose up to the remainder of

the suspended portion of the sentence. The period of imprisonment in a technical violation center imposed under this section shall not be reduced in any manner.

(c) If the court does not hold a hearing or does not take action on the violation within the twenty-one-day period, the offender shall be released from detention and shall return to probation status. The court may subsequently hold a hearing and may revoke probation or may continue probation and modify the terms and conditions of probation. If the court revokes probation for one or more technical violations, the court shall impose a period of imprisonment to be served in either a technical violation center operated by the department or a restitution center not to exceed ninety (90) days for the first revocation and not to exceed one hundred twenty (120) days for the second revocation. For the third revocation, the court may impose a period of imprisonment to be served in either a technical violation center or a restitution center for up to one hundred eighty (180) days or the court may impose the remainder of the suspended portion of the sentence. For the fourth and any subsequent revocation, the court may impose up to the remainder of the suspended portion of the sentence. The period of imprisonment in a technical violation center imposed under this section shall not be reduced in any manner.

(d) For an offender charged with a technical violation who has not been detained awaiting the revocation hearing, the

court may hold a hearing within a reasonable time. The court may revoke probation or may continue probation and modify the terms and conditions of probation. If the court revokes probation for one or more technical violations the court shall impose a period of imprisonment to be served in either a technical violation center operated by the department or a restitution center not to exceed ninety (90) days for the first revocation and not to exceed one hundred twenty (120) days for the second revocation. For the third revocation, the court may impose a period of imprisonment to be served in either a technical violation center or a restitution center for up to one hundred eighty (180) days or the court may impose the remainder of the suspended portion of the sentence. For the fourth and any subsequent revocation, the court may impose up to the remainder of the suspended portion of the sentence. The period of imprisonment in a technical violation center imposed under this section shall not be reduced in any manner.

(6) If the probationer is arrested in a circuit court district in the State of Mississippi other than that in which he was convicted, the probation and parole officer, upon the written request of the sentencing judge, shall furnish to the circuit court or the county court of the county in which the arrest is made, or to the judge of such court, a report concerning the probationer, and such court or the judge in vacation shall have authority, after a hearing, to continue or revoke all or any part of probation or all or any part of the suspension of sentence, and

may in case of revocation proceed to deal with the case as if there had been no probation. In such case, the clerk of the court in which the order of revocation is issued shall forward a transcript of such order to the clerk of the court of original jurisdiction, and the clerk of that court shall proceed as if the order of revocation had been issued by the court of original jurisdiction. Upon the revocation of probation or suspension of sentence of any offender, such offender shall be placed in the legal custody of the State Department of Corrections and shall be subject to the requirements thereof.

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

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

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

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

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

SECTION 21. Section 47-7-37.1, Mississippi Code of 1972, is brought forward as follows:

47-7-37.1. Notwithstanding any other provision of law to the contrary, if a court finds by a preponderance of the evidence, that a probationer or a person under post-release supervision has committed a felony or absconded, the court may revoke his probation and impose any or all of the sentence. For purposes of this section, "absconding from supervision" means the failure of a

probationer to report to his supervising officer for six (6) or more consecutive months.

SECTION 22. Section 47-7-49, Mississippi Code of 1972, is brought forward as follows:

47-7-49. (1) Any offender on probation, parole, earned-release supervision, post-release supervision, earned probation or any other offender under the field supervision of the Community Services Division of the department shall pay to the department the sum of Fifty-five Dollars ($55.00) per month by certified check or money order unless a hardship waiver is granted. An offender shall make the initial payment within sixty (60) days after being released from imprisonment unless a hardship waiver is granted. A hardship waiver may be granted by the sentencing court or the Department of Corrections. A hardship waiver may not be granted for a period of time exceeding ninety (90) days. The commissioner or his designee shall deposit Fifty Dollars ($50.00) of each payment received into a special fund in the State Treasury, which is hereby created, to be known as the Community Service Revolving Fund. Expenditures from this fund shall be made for: (a) the establishment of restitution and satellite centers; and (b) the establishment, administration and operation of the department's Drug Identification Program and the intensive and field supervision program. The Fifty Dollars ($50.00) may be used for salaries and to purchase equipment, supplies and vehicles to be used by the Community Services

Division in the performance of its duties. Expenditures for the purposes established in this section may be made from the fund upon requisition by the commissioner, or his designee.

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

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

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

(2) The offender may be imprisoned until the payments are made if the offender is financially able to make the payments and the court in the county where the offender resides so finds, subject to the limitations hereinafter set out. The offender shall not be imprisoned if the offender is financially unable to make the payments and so states to the court in writing, under oath, and the court so finds.

(3) This section shall stand repealed from and after June 30, 2022.

SECTION 23. Section 45-1-3, Mississippi Code of 1972, is brought forward as follows:

45-1-3. When not otherwise specifically provided, the commissioner is authorized to make and promulgate reasonable rules and regulations to be coordinated, and carry out the general provisions of the Highway Safety Patrol and Driver's License Law of 1938.

SECTION 24. Section 9-23-11, Mississippi Code of 1972, is brought forward as follows:

9-23-11. (1) The Administrative Office of Courts shall establish, implement and operate a uniform certification process for all intervention courts and other problem-solving courts including juvenile courts, veterans courts or any other court designed to adjudicate criminal actions involving an identified classification of criminal defendant to ensure funding for intervention courts supports effective and proven practices that

reduce recidivism and substance dependency among their participants.

(2) The Administrative Office of Courts shall establish a certification process that ensures any new or existing intervention court meets minimum standards for intervention court operation.

(a) These standards shall include, but are not limited to:

(i) The use of evidence-based practices including, but not limited to, the use of a valid and reliable risk and needs assessment tool to identify participants and deliver appropriate interventions;

(ii) Targeting medium to high-risk offenders for participation;

(iii) The use of current, evidence-based interventions proven to reduce dependency on drugs or alcohol, or both;

(iv) Frequent testing for alcohol or drugs;

(v) Coordinated strategy between all intervention court program personnel involving the use of graduated clinical interventions;

(vi) Ongoing judicial interaction with each participant; and

(vii) Monitoring and evaluation of intervention court program implementation and outcomes through data collection and reporting.

(b) Intervention court certification applications shall include:

(i) A description of the need for the intervention court;

(ii) The targeted population for the intervention court;

(iii) The eligibility criteria for intervention court participants;

(iv) A description of the process for identifying appropriate participants including the use of a risk and needs assessment and a clinical assessment;

(v) A description of the intervention court intervention components, including anticipated budget and implementation plan;

(vi) The data collection plan which shall include collecting the following data:

1. Total number of participants;

2. Total number of successful participants;

3. Total number of unsuccessful participants and the reason why each participant did not complete the program;

4. Total number of participants who were arrested for a new criminal offense while in the intervention court program;

5. Total number of participants who were convicted of a new felony or misdemeanor offense while in the intervention court program;

6. Total number of participants who committed at least one (1) violation while in the intervention court program and the resulting sanction(s);

7. Results of the initial risk and needs assessment or other clinical assessment conducted on each participant; and

8. Total number of applications for screening by race, gender, offenses charged, indigence and, if not accepted, the reason for nonacceptance; and

9. Any other data or information as required by the Administrative Office of Courts.

(c) Every intervention court shall be certified under the following schedule:

(i) An intervention court application submitted after July 1, 2014, shall require certification of the intervention court based on the proposed drug court plan.

(ii) An intervention court initially established and certified after July 1, 2014, shall be recertified after its

second year of funded operation on a time frame consistent with the other certified courts of its type.

(iii) A certified adult felony intervention court in existence on December 31, 2018, must submit a recertification petition by July 1, 2019, and be recertified under the requirements of this section on or before December 31, 2019; after the recertification, all certified adult felony intervention courts must submit a recertification petition every two (2) years to the Administrative Office of Courts. The recertification process must be completed by December 31st of every odd calendar year.

(iv) A certified youth, family, misdemeanor or chancery intervention court in existence on December 31, 2018, must submit a recertification petition by July 31, 2020, and be recertified under the requirements of this section by December 31, 2020. After the recertification, all certified youth, family, misdemeanor and chancery intervention courts must submit a recertification petition every two (2) years to the Administrative Office of Courts. The recertification process must be completed by December 31st of every even calendar year.

(3) All certified intervention courts shall measure successful completion of the drug court based on those participants who complete the program without a new criminal conviction.

(4) (a) All certified drug courts must collect and submit to the Administrative Office of Courts each month, the following data:

(i) Total number of participants at the beginning of the month;

(ii) Total number of participants at the end of the month;

(iii) Total number of participants who began the program in the month;

(iv) Total number of participants who successfully completed the intervention court in the month;

(v) Total number of participants who left the program in the month;

(vi) Total number of participants who were arrested for a new criminal offense while in the intervention court program in the month;

(vii) Total number of participants who were convicted for a new criminal arrest while in the intervention court program in the month; and

(viii) Total number of participants who committed at least one (1) violation while in the intervention court program and any resulting sanction(s).

(b) By August 1, 2015, and each year thereafter, the Administrative Office of Courts shall report to the PEER Committee

the information in subsection (4)(a) of this section in a sortable, electronic format.

(5) All certified intervention courts may individually establish rules and may make special orders and rules as necessary that do not conflict with the rules promulgated by the Supreme Court or the Administrative Office of Courts.

(6) A certified intervention court may appoint the full- or part-time employees it deems necessary for the work of the intervention court and shall fix the compensation of those employees. Such employees shall serve at the will and pleasure of the judge or the judge's designee.

(7) The Administrative Office of Courts shall promulgate rules and regulations to carry out the certification and re-certification process and make any other policies not inconsistent with this section to carry out this process.

(8) A certified intervention court established under this chapter is subject to the regulatory powers of the Administrative Office of Courts as set forth in Section 9-23-17.

SECTION 25. Section 99-39-5, Mississippi Code of 1972, is brought forward as follows:

99-39-5. (1) Any person sentenced by a court of record of the State of Mississippi, including a person currently incarcerated, civilly committed, on parole or probation or subject to sex offender registration for the period of the registration or for the first five (5) years of the registration, whichever is the

shorter period, may file a motion to vacate, set aside or correct the judgment or sentence, a motion to request forensic DNA testing of biological evidence, or a motion for an out-of-time appeal if the person claims:

(a) That the conviction or the sentence was imposed in violation of the Constitution of the United States or the Constitution or laws of Mississippi;

(b) That the trial court was without jurisdiction to impose sentence;

(c) That the statute under which the conviction and/or sentence was obtained is unconstitutional;

(d) That the sentence exceeds the maximum authorized by law;

(e) That there exists evidence of material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice;

(f) That there exists biological evidence secured in relation to the investigation or prosecution attendant to the petitioner's conviction not tested, or, if previously tested, that can be subjected to additional DNA testing, that would provide a reasonable likelihood of more probative results, and that testing would demonstrate by reasonable probability that the petitioner would not have been convicted or would have received a lesser sentence if favorable results had been obtained through such forensic DNA testing at the time of the original prosecution.

(g) That his plea was made involuntarily;

(h) That his sentence has expired; his probation, parole or conditional release unlawfully revoked; or he is otherwise unlawfully held in custody;

(i) That he is entitled to an out-of-time appeal; or

(j) That the conviction or sentence is otherwise subject to collateral attack upon any grounds of alleged error heretofore available under any common law, statutory or other writ, motion, petition, proceeding or remedy.

(2) A motion for relief under this article shall be made within three (3) years after the time in which the petitioner's direct appeal is ruled upon by the Supreme Court of Mississippi or, in case no appeal is taken, within three (3) years after the time for taking an appeal from the judgment of conviction or sentence has expired, or in case of a guilty plea, within three (3) years after entry of the judgment of conviction. Excepted from this three-year statute of limitations are those cases in which the petitioner can demonstrate either:

(a) (i) That there has been an intervening decision of the Supreme Court of either the State of Mississippi or the United States which would have actually adversely affected the outcome of his conviction or sentence or that he has evidence, not reasonably discoverable at the time of trial, which is of such nature that it would be practically conclusive that had such been introduced at

trial it would have caused a different result in the conviction or sentence; or

(ii) That, even if the petitioner pled guilty or nolo contendere, or confessed or admitted to a crime, there exists biological evidence not tested, or, if previously tested, that can be subjected to additional DNA testing that would provide a reasonable likelihood of more probative results, and that testing would demonstrate by reasonable probability that the petitioner would not have been convicted or would have received a lesser sentence if favorable results had been obtained through such forensic DNA testing at the time of the original prosecution.

(b) Likewise excepted are those cases in which the petitioner claims that his sentence has expired or his probation, parole or conditional release has been unlawfully revoked. Likewise excepted are filings for post-conviction relief in capital cases which shall be made within one (1) year after conviction.

(3) This motion is not a substitute for, nor does it affect, any remedy incident to the proceeding in the trial court, or direct review of the conviction or sentence.

(4) Proceedings under this article shall be subject to the provisions of Section 99-19-42.

(5) For the purposes of this article:

(a) "Biological evidence" means the contents of a sexual assault examination kit and any item that contains blood,

semen, hair, saliva, skin tissue, fingernail scrapings, bone, bodily fluids or other identifiable biological material that was collected as part of the criminal investigation or may reasonably be used to incriminate or exculpate any person for the offense. This definition applies whether that material is catalogued separately, such as on a slide, swab or in a test tube, or is present on other evidence, including, but not limited to, clothing, ligatures, bedding or other household material, drinking cups, cigarettes or other items;

(b) "DNA" means deoxyribonucleic acid.

SECTION 26. Section 99-39-27, Mississippi Code of 1972, is brought forward as follows:

99-39-27. (1) The application for leave to proceed in the trial court filed with the Supreme Court under Section 99-39-7 shall name the State of Mississippi as the respondent.

(2) The application shall contain the original and two (2) executed copies of the motion proposed to be filed in the trial court together with such other supporting pleadings and documentation as the Supreme Court by rule may require.

(3) The prisoner shall serve an executed copy of the application upon the Attorney General simultaneously with the filing of the application with the court.

(4) The original motion, together with all files, records, transcripts and correspondence relating to the judgment under attack, shall promptly be examined by the court.

(5) Unless it appears from the face of the application, motion, exhibits and the prior record that the claims presented by those documents are not procedurally barred under Section 99-39-21 and that they further present a substantial showing of the denial of a state or federal right, the court shall by appropriate order deny the application. The court may, in its discretion, require the Attorney General upon sufficient notice to respond to the application.

(6) The court, upon satisfaction of the standards set forth in this article, is empowered to grant the application.

(7) In granting the application the court, in its discretion, may:

(a) Where sufficient facts exist from the face of the application, motion, exhibits, the prior record and the state's response, together with any exhibits submitted with those documents, or upon stipulation of the parties, grant or deny any or all relief requested in the attached motion.

(b) Allow the filing of the motion in the trial court for further proceedings under Sections 99-39-13 through 99-39-23.

(8) No application or relief shall be granted without the Attorney General being given at least five (5) days to respond.

(9) The dismissal or denial of an application under this section is a final judgment and shall be a bar to a second or successive application under this article. Excepted from this prohibition is an application filed under Section 99-19-57(2),

raising the issue of the offender's supervening mental illness before the execution of a sentence of death. A dismissal or denial of an application relating to mental illness under Section 99-19-57(2) shall be res judicata on the issue and shall likewise bar any second or successive applications on the issue. Likewise excepted from this prohibition are those cases in which the prisoner can demonstrate either that there has been an intervening decision of the Supreme Court of either the State of Mississippi or the United States that would have actually adversely affected the outcome of his conviction or sentence or that he has evidence, not reasonably discoverable at the time of trial, that is of such nature that it would be practically conclusive that, if it had been introduced at trial, it would have caused a different result in the conviction or sentence. Likewise exempted are those cases in which the prisoner claims that his sentence has expired or his probation, parole or conditional release has been unlawfully revoked.

(10) Proceedings under this section shall be subject to the provisions of Section 99-19-42.

(11) Post-conviction proceedings in which the defendant is under sentence of death shall be governed by rules established by the Supreme Court as well as the provisions of this section.

SECTION 27. Section 41-29-153, Mississippi Code of 1972, is brought forward as follows:

41-29-153. (a) The following are subject to forfeiture:

(1) All controlled substances which have been manufactured, distributed, dispensed or acquired in violation of this article or in violation of Article 5 of this chapter;

(2) All raw materials, products and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substance in violation of this article or in violation of Article 5 of this chapter;

(3) All property which is used, or intended for use, as a container for property described in paragraph (1) or (2) of this subsection;

(4) All conveyances, including aircraft, vehicles or vessels, which are used, or intended for use, to transport, or in any manner to facilitate the transportation, sale, receipt, possession or concealment of property described in paragraph (1) or (2) of this subsection, however:

A. No conveyance used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of this article;

B. No conveyance is subject to forfeiture under this section by reason of any act or omission proved by the owner thereof to have been committed or omitted without his knowledge or consent; if the confiscating authority has reason to believe that

the conveyance is a leased or rented conveyance, then the confiscating authority shall notify the owner of the conveyance within five (5) days of the confiscation;

C. A forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party if he neither had knowledge of nor consented to the act or omission;

D. A conveyance is not subject to forfeiture for a violation of Section 41-29-139(c)(2)(A) 1, 2 or (B)1 or (C)1, 2, 3;

(5) All money, deadly weapons, books, records, and research products and materials, including formulas, microfilm, tapes and data which are used, or intended for use, in violation of this article or in violation of Article 5 of this chapter;

(6) All drug paraphernalia as defined in Section 41-29-105(v); and

(7) Everything of value, including real estate, furnished, or intended to be furnished, in exchange for a controlled substance in violation of this article, all proceeds traceable to such an exchange, and all monies, negotiable instruments, businesses or business investments, securities, and other things of value used, or intended to be used, to facilitate any violation of this article. All monies, coin and currency found in close proximity to forfeitable controlled substances, to forfeitable drug manufacturing or distributing paraphernalia, or

to forfeitable records of the importation, manufacture or distribution of controlled substances are presumed to be forfeitable under this paragraph; the burden of proof is upon claimants of the property to rebut this presumption.

A. No property shall be forfeited under the provisions of subsection (a)(7) of this section, to the extent of the interest of an owner, by reason of any act or omission established by him to have been committed or omitted without his knowledge or consent.

B. Neither personal property encumbered by a bona fide security interest nor real estate encumbered by a bona fide mortgage, deed of trust, lien or encumbrance shall be forfeited under the provisions of subsection (a)(7) of this section, to the extent of the interest of the secured party or the interest of the mortgagee, holder of a deed of trust, lien or encumbrance by reason of any act or omission established by him to have been committed or omitted without his knowledge or consent.

(b) Property subject to forfeiture may be seized by the bureau, local law enforcement officers, enforcement officers of the Mississippi Department of Transportation, highway patrolmen, the board, or the State Board of Pharmacy upon process issued by any appropriate court having jurisdiction over the property. Seizure without process may be made if:

(1) The seizure is incident to an arrest or a search under a search warrant or an inspection under an administrative inspection warrant;

(2) The property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding based upon this article;

(3) The bureau, the board, local law enforcement officers, enforcement officers of the Mississippi Department of Transportation, or highway patrolmen, or the State Board of Pharmacy have probable cause to believe that the property is directly or indirectly dangerous to health or safety;

(4) The bureau, local law enforcement officers, enforcement officers of the Mississippi Department of Transportation, highway patrolmen, the board, or the State Board of Pharmacy have probable cause to believe that the property was used or is intended to be used in violation of this article; or

(5) The seizing law enforcement agency obtained a seizure warrant as described in paragraph (f) of this section.

(c) Controlled substances listed in Schedule I of Section 41-29-113 that are possessed, transferred, sold, or offered for sale in violation of this article are contraband and shall be seized and summarily forfeited to the state. Controlled substances listed in the said Schedule I, which are seized or come into the possession of the state, the owners of which are unknown, are contraband and shall be summarily forfeited to the state.

(d) Species of plants from which controlled substances in Schedules I and II of Sections 41-29-113 and 41-29-115 may be derived which have been planted or cultivated in violation of this article, or of which the owners or cultivators are unknown, or which are wild growths, may be seized and summarily forfeited to the state.

(e) The failure, upon demand by the bureau and/or local law enforcement officers, or their authorized agents, or highway patrolmen designated by the bureau, the board, or the State Board of Pharmacy, of the person in occupancy or in control of land or premises upon which the species of plants are growing or being stored, to produce an appropriate registration, or proof that he is the holder thereof, constitutes authority for the seizure and forfeiture of the plants.

(f) (1) When any property is seized under the Uniform Controlled Substances Law, except as otherwise provided in paragraph (3) of this subsection, by a law enforcement agency with the intent to be forfeited, the law enforcement agency that seized the property shall obtain a seizure warrant from the county or circuit court having jurisdiction of such property within seventy-two (72) hours of any seizure, excluding weekends and holidays. Any law enforcement agency that fails to obtain a seizure warrant within seventy-two (72) hours as required by this section shall notify the person from whom the property was seized that it will not be forfeited and shall provide written

instructions advising the person how to retrieve the seized property.

(2) A circuit or county judge having jurisdiction of any property other than a controlled substance, raw material or paraphernalia, may issue a seizure warrant upon proper oath or affirmation from a law enforcement agency. The law enforcement agency that is seeking a seizure warrant shall provide the following information to the judge:

A. Probable cause to believe that the property was used or intended to be used in violation of this article;

B. The name of the person from whom the property was seized; and

C. A detailed description of the property which is seized, including the value of the property.

(3) This subsection does not apply to seizures performed pursuant to Section 41-29-157 when property is specifically set forth in a search and seizure warrant.

SECTION 28. Section 41-29-154, Mississippi Code of 1972, is brought forward as follows:

41-29-154. Any controlled substance or paraphernalia seized under the authority of this article or any other law of Mississippi or of the United States, shall be destroyed, adulterated and disposed of or otherwise rendered harmless and disposed of, upon written authorization of the director, after such substance or paraphernalia has served its usefulness as

evidence or after such substance or paraphernalia is no longer useful for training or demonstration purposes.

A record of the disposition of such substances and paraphernalia and the method of destruction or adulteration employed along with the names of witnesses to such destruction or adulteration shall be retained by the director.

No substance or paraphernalia shall be disposed of, destroyed or rendered harmless under the authority of this section without an order from the director and without at least two (2) officers or agents of the bureau present as witnesses.

SECTION 29. Section 41-29-157, Mississippi Code of 1972, is brought forward as follows:

41-29-157. (a) Except as otherwise provided in Section 41-29-107.1, issuance and execution of administrative inspection warrants and search warrants shall be as follows, except as provided in subsection (c) of this section:

(1) A judge of any state court of record, or any justice court judge within his jurisdiction, and upon proper oath or affirmation showing probable cause, may issue warrants for the purpose of conducting administrative inspections authorized by this article or rules thereunder, and seizures of property appropriate to the inspections. For purposes of the issuance of administrative inspection warrants, probable cause exists upon showing a valid public interest in the effective enforcement of this article or rules thereunder, sufficient to justify

administrative inspection of the area, premises, building or conveyance in the circumstances specified in the application for the warrant. All such warrants shall be served during normal business hours;

(2) A search warrant shall issue only upon an affidavit of a person having knowledge or information of the facts alleged, sworn to before the judge or justice court judge and establishing the grounds for issuing the warrant. If the judge or justice court judge is satisfied that grounds for the application exist or that there is probable cause to believe they exist, he shall issue a warrant identifying the area, premises, building or conveyance to be searched, the purpose of the search, and, if appropriate, the type of property to be searched, if any. The warrant shall:

(A) State the grounds for its issuance and the name of each person whose affidavit has been taken in support thereof;

(B) Be directed to a person authorized by Section 41-29-159 to execute it;

(C) Command the person to whom it is directed to inspect the area, premises, building or conveyance identified for the purpose specified, and if appropriate, direct the seizure of the property specified;

(D) Identify the item or types of property to be seized, if any;

(E) Direct that it be served and designate the judge or magistrate to whom it shall be returned;

(3) A warrant issued pursuant to this section must be executed and returned within ten (10) days of its date unless, upon a showing of a need for additional time, the court orders otherwise. If property is seized pursuant to a warrant, a copy shall be given to the person from whom or from whose premises the property is taken, together with a receipt for the property taken. The return of the warrant shall be made promptly, accompanied by a written inventory of any property taken. The inventory shall be made in the presence of the person executing the warrant and of the person from whose possession or premises the property was taken, if present, or in the presence of at least one (1) credible person other than the person executing the warrant. A copy of the inventory shall be delivered to the person from whom or from whose premises the property was taken and to the applicant for the warrant;

(4) The judge or justice court judge who has issued a warrant shall attach thereto a copy of the return and all papers returnable in connection therewith and file them with the clerk of the appropriate state court for the judicial district in which the inspection was made.

(b) The Mississippi Bureau of Narcotics, the State Board of Pharmacy, the State Board of Medical Licensure, the State Board of Dental Examiners, the Mississippi Board of Nursing or the State

Board of Optometry may make administrative inspections of controlled premises in accordance with the following provisions:

(1) For purposes of this section only, "controlled premises" means:

(A) Places where persons registered or exempted from registration requirements under this article are required to keep records; and

(B) Places including factories, warehouses, establishments and conveyances in which persons registered or exempted from registration requirements under this article are permitted to hold, manufacture, compound, process, sell, deliver, or otherwise dispose of any controlled substance.

(2) When authorized by an administrative inspection warrant issued in accordance with the conditions imposed in this section, an officer or employee designated by the Mississippi Bureau of Narcotics, the State Board of Pharmacy, the State Board of Medical Licensure, the State Board of Dental Examiners, the Mississippi Board of Nursing or the State Board of Optometry, upon presenting the warrant and appropriate credentials to the owner, operator or agent in charge, may enter controlled premises for the purpose of conducting an administrative inspection.

(3) When authorized by an administrative inspection warrant, an officer or employee designated by the Mississippi Bureau of Narcotics, the State Board of Pharmacy, the State Board

of Medical Licensure, the State Board of Dental Examiners, the Mississippi Board of Nursing or the State Board of Optometry may:

(A) Inspect and copy records required by this article to be kept;

(B) Inspect, within reasonable limits and in a reasonable manner, controlled premises and all pertinent equipment, finished and unfinished material, containers and labeling found therein, and, except as provided in paragraph (5) of this subsection, all other things therein, including records, files, papers, processes, controls and facilities bearing on violation of this article; and

(C) Inventory any stock of any controlled substance therein and obtain samples thereof.

(4) This section does not prevent the inspection without a warrant of books and records pursuant to an administrative subpoena, nor does it prevent entries and administrative inspections, including seizures of property, without a warrant:

(A) If the owner, operator or agent in charge of the controlled premises consents;

(B) In situations presenting imminent danger to health or safety;

(C) In situations involving inspection of conveyances if there is reasonable cause to believe that the

mobility of the conveyance makes it impracticable to obtain a warrant;

(D) In any other exceptional or emergency circumstance where time or opportunity to apply for a warrant is lacking; or

(E) In all other situations in which a warrant is not constitutionally required.

(5) An inspection authorized by this section shall not extend to financial data, sales data, other than shipment data, or pricing data unless the owner, operator or agent in charge of the controlled premises consents in writing.

(c) Any agent of the bureau authorized to execute a search warrant involving controlled substances, the penalty for which is imprisonment for more than one (1) year, may, without notice of his authority and purpose, break open an outer door or inner door, or window of a building, or any part of the building, if the judge issuing the warrant:

(1) Is satisfied that there is probable cause to believe that:

(A) The property sought may, and, if such notice is given, will be easily and quickly destroyed or disposed of; or

(B) The giving of such notice will immediately endanger the life or safety of the executing officer or another person; and

(2) Has included in the warrant a direction that the officer executing the warrant shall not be required to give such notice.

Any officer acting under such warrant shall, as soon as practical, after entering the premises, identify himself and give the reasons and authority for his entrance upon the premises.

Search warrants which include the instruction that the executing officer shall not be required to give notice of authority and purpose as authorized by this subsection shall be issued only by the county court or county judge in vacation, chancery court or by the chancellor in vacation, by the circuit court or circuit judge in vacation, or by a justice of the Mississippi Supreme Court.

This subsection shall expire and stand repealed from and after July 1, 1974, except that the repeal shall not affect the validity or legality of any search authorized under this subsection and conducted prior to July 1, 1974.

SECTION 30. Section 99-15-105, Mississippi Code of 1972, is brought forward as follows:

99-15-105. (1) Each district attorney, with the consent of a circuit court judge of his district, shall have the prosecutorial discretion as defined herein and may as a matter of such prosecutorial discretion establish a pretrial intervention program in the circuit court districts.

(2) A pretrial intervention program shall be under the direct supervision and control of the district attorney.

(3) An offender must make application to an intervention program within the time prescribed by the district attorney.

SECTION 31. Section 99-15-107, Mississippi Code of 1972, is brought forward as follows:

99-15-107. A person shall not be considered for intervention if he or she has been charged with any crime of violence pursuant to Section 97-3-2. A person shall not be eligible for acceptance into the intervention program provided by Sections 99-15-101 through 99-15-127 if such person has been charged with an offense pertaining to trafficking in a controlled substance, as provided in Section 41-29-139(f).

SECTION 32. Section 99-15-109, Mississippi Code of 1972, is brought forward as follows:

99-15-109. (1) Intervention shall be appropriate only when:

(a) The offender is eighteen (18) years of age or older;

(b) There is substantial likelihood that justice will be served if the offender is placed in an intervention program;

(c) It is determined that the needs of the offender and the state can better be met outside the traditional criminal justice process;

(d) It is apparent that the offender poses no threat to the community;

(e) It appears that the offender is unlikely to be involved in further criminal activity;

(f) The offender, in those cases where it is required, is likely to respond quickly to rehabilitative treatment;

(g) The offender has no significant history of prior delinquency or criminal activity;

(h) The offender has been indicted and is represented by an attorney; and

(i) The court has determined that the office of district attorney or the Department of Corrections has sufficient support staff to administer such intervention program.

(2) When jurisdiction in a case involving a child is acquired by the circuit court pursuant to a transfer from the youth court, the provision of subsection (1)(a) of this section shall not be applicable.

(3) Notwithstanding any other provision of this section, in all criminal cases wherein an offender has been held in contempt of court for failure to pay fines or restitution, the offender may be placed in pretrial intervention for the purpose of collecting unpaid restitution and fines regardless of any prior criminal conviction, whether felony or misdemeanor.

SECTION 33. Section 99-15-111, Mississippi Code of 1972, is brought forward as follows:

99-15-111. Prior to admittance of an offender into an intervention program, the district attorney may require the

offender to furnish information concerning the offender's past criminal record, education and work record, family history, medical or psychiatric treatment or care received, psychological tests taken and other information which, in the district attorney's opinion, bears on the decision as to whether the offender should be admitted.

SECTION 34. Section 99-15-113, Mississippi Code of 1972, is brought forward as follows:

99-15-113. Prior to any person's admittance to a pretrial intervention program the victim, if any, of the crime for which the applicant is charged and the law enforcement agency employing the arresting officer shall be asked to comment in writing as to whether or not the applicant should be allowed to enter an intervention program. In each case involving admission to an intervention program, the district attorney and a circuit court judge of his district shall consider the recommendations of the law enforcement agency and the victim, if any, in making a decision.

SECTION 35. Section 99-15-115, Mississippi Code of 1972, is brought forward as follows:

99-15-115. An offender who enters an intervention program shall:

(a) Waive, in writing and contingent upon his successful completion of the program, his or her right to a speedy trial;

(b) Agree, in writing, to the tolling while in the program of all periods of limitation established by statutes or rules of court;

(c) Agree, in writing, to the conditions of the intervention program established by the district attorney which shall not require or include a guilty plea;

(d) In the event there is a victim of the crime, agree, in writing, to make restitution to the victim within a specified period of time and in an amount to be determined by the district attorney and approved by the court; and

(e) Agree, in writing, to waive extradition.

SECTION 36. Section 99-15-117, Mississippi Code of 1972, is brought forward as follows:

99-15-117. In any case in which an offender agrees to an intervention program, a specific agreement shall be made between the district attorney and the offender. This agreement shall include the terms of the intervention program, the length of the program, which shall not exceed three (3) years, and a section therein stating the period of time after which the prosecutor will either dismiss the charge or seek a conviction based upon that charge. The agreement shall be signed by the offender and his or her counsel and filed in the district attorney's office. Before an offender is admitted to an intervention program, the court having jurisdiction of the charge must approve of the offender's admission to the program and the terms of the agreement.

SECTION 37. Section 99-15-119, Mississippi Code of 1972, is brought forward as follows:

99-15-119. In all cases where an offender is accepted for intervention a written report shall be made and retained on file in the district attorney's office, regardless of whether or not the offender successfully completes the intervention program. The district attorney shall furnish to the Mississippi Justice Information Center personal identification information on each person accepted for intervention. This information shall only be released by the Mississippi Justice Information Center in those cases where a district attorney inquires as to whether a person has previously been accepted into an intervention program.

SECTION 38. Section 99-15-121, Mississippi Code of 1972, is brought forward as follows:

99-15-121. Prior to the completion of the pretrial intervention program the offender shall make restitution, as determined by the district attorney and approved by the court, to the victim, if any, and shall pay any expenses to the administrator of this program which are incurred as a result of his participation in the program. The amount of such expenses shall be determined by the district attorney and made part of the initial agreement between the district attorney and the offender.

SECTION 39. Section 99-15-123, Mississippi Code of 1972, is brought forward as follows:

99-15-123. (1) In the event an offender successfully completes a pretrial intervention program, the court shall make a noncriminal disposition of the charge or charges pending against the offender.

(2) In the event the offender violates the conditions of the program agreement: (a) the district attorney may terminate the offender's participation in the program, (b) the waiver executed pursuant to Section 99-15-115 shall be void on the date the offender is removed from the program for the violation, and (c) the prosecution of pending criminal charges against the offender shall be resumed by the district attorney.

(3) Upon petition therefor, the court shall expunge the record of any case in which an arrest was made, the person arrested was released and the case was dismissed or the charges were dropped or there was no disposition of such case.

SECTION 40. Section 99-15-125, Mississippi Code of 1972, is brought forward as follows:

99-15-125. No law enforcement officer shall refer to, mention and/or offer participation in this program as an inducement to any statement, confession or waiver of any constitutional rights of any person accused of a crime except those enumerated in Section 99-15-115.

SECTION 41. Section 99-15-127, Mississippi Code of 1972, is brought forward as follows:

99-15-127. The Department of Corrections, Division of Community Corrections, is directed to support Sections 99-15-101 through 99-15-127 to the extent that field support personnel are available in circuit court districts, and the Commissioner of Corrections shall certify to the court that the Division of Community Corrections has sufficient field parole officers to supervise and oversee those individuals who may be placed in this program by the court.

SECTION 42. Section 9-23-5, Mississippi Code of 1972, is brought forward as follows:

9-23-5. For the purposes of this chapter, the following words and phrases shall have the meanings ascribed unless the context clearly requires otherwise:

(a) "Chemical" tests means the analysis of an individual's: (i) blood, (ii) breath, (iii) hair, (iv) sweat, (v) saliva, (vi) urine, or (vii) other bodily substance to determine the presence of alcohol or a controlled substance.

(b) "Crime of violence" means an offense listed in Section 97-3-2.

(c) "Intervention court" means a drug court, mental health court, veterans court or problem-solving court that utilizes an immediate and highly structured intervention process for eligible defendants or juveniles that brings together mental health professionals, substance abuse professionals, local social programs and intensive judicial monitoring.

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

(e) "Risk and needs assessment" means the use of an actuarial assessment tool validated on a Mississippi corrections population to determine a person's risk to reoffend and the characteristics that, if addressed, reduce the risk to reoffend.

SECTION 43. Section 9-23-7, Mississippi Code of 1972, is brought forward as follows:

9-23-7. The Administrative Office of Courts shall be responsible for certification and monitoring of local intervention courts according to standards promulgated by the State Intervention Courts Advisory Committee.

SECTION 44. Section 9-23-9, Mississippi Code of 1972, is brought forward as follows:

9-23-9. (1) The State Intervention Courts Advisory Committee is established to develop and periodically update proposed statewide evaluation plans and models for monitoring all critical aspects of intervention courts. The committee must provide the proposed evaluation plans to the Chief Justice and the Administrative Office of Courts. The committee shall be chaired by the Director of the Administrative Office of Courts or a designee of the director and shall consist of eleven (11) members all of whom shall be appointed by the Supreme Court. The members shall be broadly representative of the courts, mental health,

veterans affairs, law enforcement, corrections, criminal defense bar, prosecutors association, juvenile justice, child protective services and substance abuse treatment communities.

(2) The State Intervention Courts Advisory Committee may also make recommendations to the Chief Justice, the Director of the Administrative Office of Courts and state officials concerning improvements to intervention court policies and procedures including the intervention court certification process. The committee may make suggestions as to the criteria for eligibility, and other procedural and substantive guidelines for intervention court operation.

(3) The State Intervention Courts Advisory Committee shall act as arbiter of disputes arising out of the operation of intervention courts established under this chapter and make recommendations to improve the intervention courts; it shall also make recommendations to the Supreme Court necessary and incident to compliance with established rules.

(4) The State Intervention Courts Advisory Committee shall establish through rules and regulations a viable and fiscally responsible plan to expand the number of adult and juvenile intervention court programs operating in Mississippi. These rules and regulations shall include plans to increase participation in existing and future programs while maintaining their voluntary nature.

(5) The State Intervention Courts Advisory Committee shall receive and review the monthly reports submitted to the Administrative Office of Courts by each certified intervention court and provide comments and make recommendations, as necessary, to the Chief Justice and the Director of the Administrative Office of Courts.

SECTION 45. Section 9-23-11, Mississippi Code of 1972, is brought forward as follows:

9-23-11. (1) The Administrative Office of Courts shall establish, implement and operate a uniform certification process for all intervention courts and other problem-solving courts including juvenile courts, veterans courts or any other court designed to adjudicate criminal actions involving an identified classification of criminal defendant to ensure funding for intervention courts supports effective and proven practices that reduce recidivism and substance dependency among their participants.

(2) The Administrative Office of Courts shall establish a certification process that ensures any new or existing intervention court meets minimum standards for intervention court operation.

(a) These standards shall include, but are not limited to:

(i) The use of evidence-based practices including, but not limited to, the use of a valid and reliable risk and needs

assessment tool to identify participants and deliver appropriate interventions;

(ii) Targeting medium to high-risk offenders for participation;

(iii) The use of current, evidence-based interventions proven to reduce dependency on drugs or alcohol, or both;

(iv) Frequent testing for alcohol or drugs;

(v) Coordinated strategy between all intervention court program personnel involving the use of graduated clinical interventions;

(vi) Ongoing judicial interaction with each participant; and

(vii) Monitoring and evaluation of intervention court program implementation and outcomes through data collection and reporting.

(b) Intervention court certification applications shall include:

(i) A description of the need for the intervention court;

(ii) The targeted population for the intervention court;

(iii) The eligibility criteria for intervention court participants;

(iv) A description of the process for identifying appropriate participants including the use of a risk and needs assessment and a clinical assessment;

(v) A description of the intervention court intervention components, including anticipated budget and implementation plan;

(vi) The data collection plan which shall include collecting the following data:

1. Total number of participants;

2. Total number of successful participants;

3. Total number of unsuccessful participants and the reason why each participant did not complete the program;

4. Total number of participants who were arrested for a new criminal offense while in the intervention court program;

5. Total number of participants who were convicted of a new felony or misdemeanor offense while in the intervention court program;

6. Total number of participants who committed at least one (1) violation while in the intervention court program and the resulting sanction(s);

7. Results of the initial risk and needs assessment or other clinical assessment conducted on each participant; and

8. Total number of applications for screening by race, gender, offenses charged, indigence and, if not accepted, the reason for nonacceptance; and

9. Any other data or information as required by the Administrative Office of Courts.

(c) Every intervention court shall be certified under the following schedule:

(i) An intervention court application submitted after July 1, 2014, shall require certification of the intervention court based on the proposed drug court plan.

(ii) An intervention court initially established and certified after July 1, 2014, shall be recertified after its second year of funded operation on a time frame consistent with the other certified courts of its type.

(iii) A certified adult felony intervention court in existence on December 31, 2018, must submit a recertification petition by July 1, 2019, and be recertified under the requirements of this section on or before December 31, 2019; after the recertification, all certified adult felony intervention courts must submit a recertification petition every two (2) years to the Administrative Office of Courts. The recertification process must be completed by December 31st of every odd calendar year.

(iv) A certified youth, family, misdemeanor or chancery intervention court in existence on December 31, 2018,

must submit a recertification petition by July 31, 2020, and be recertified under the requirements of this section by December 31, 2020. After the recertification, all certified youth, family, misdemeanor and chancery intervention courts must submit a recertification petition every two (2) years to the Administrative Office of Courts. The recertification process must be completed by December 31st of every even calendar year.

(3) All certified intervention courts shall measure successful completion of the drug court based on those participants who complete the program without a new criminal conviction.

(4) (a) All certified drug courts must collect and submit to the Administrative Office of Courts each month, the following data:

(i) Total number of participants at the beginning of the month;

(ii) Total number of participants at the end of the month;

(iii) Total number of participants who began the program in the month;

(iv) Total number of participants who successfully completed the intervention court in the month;

(v) Total number of participants who left the program in the month;

(vi) Total number of participants who were arrested for a new criminal offense while in the intervention court program in the month;

(vii) Total number of participants who were convicted for a new criminal arrest while in the intervention court program in the month; and

(viii) Total number of participants who committed at least one (1) violation while in the intervention court program and any resulting sanction(s).

(b) By August 1, 2015, and each year thereafter, the Administrative Office of Courts shall report to the PEER Committee the information in subsection (4)(a) of this section in a sortable, electronic format.

(5) All certified intervention courts may individually establish rules and may make special orders and rules as necessary that do not conflict with the rules promulgated by the Supreme Court or the Administrative Office of Courts.

(6) A certified intervention court may appoint the full- or part-time employees it deems necessary for the work of the intervention court and shall fix the compensation of those employees. Such employees shall serve at the will and pleasure of the judge or the judge's designee.

(7) The Administrative Office of Courts shall promulgate rules and regulations to carry out the certification and

re-certification process and make any other policies not inconsistent with this section to carry out this process.

(8) A certified intervention court established under this chapter is subject to the regulatory powers of the Administrative Office of Courts as set forth in Section 9-23-17.

SECTION 46. Section 9-23-13, Mississippi Code of 1972, is brought forward as follows:

9-23-13. (1) An intervention court's alcohol and drug intervention component shall provide for eligible individuals, either directly or through referrals, a range of necessary court intervention services, including, but not limited to, the following:

(a) Screening using a valid and reliable assessment tool effective for identifying alcohol and drug dependent persons for eligibility and appropriate services;

(b) Clinical assessment; for a DUI offense, if the person has two (2) or more DUI convictions, the court shall order the person to undergo an assessment that uses a standardized evidence-based instrument performed by a physician to determine whether the person has a diagnosis for alcohol and/or drug dependence and would likely benefit from a court-approved medication-assisted treatment indicated and approved for the treatment of alcohol and/or drug dependence by the United States Food and Drug Administration, as specified in the most recent Diagnostic and Statistical Manual of Mental Disorders published by

the American Psychiatric Association. Upon considering the results of the assessment, the court may refer the person to a rehabilitative program that offers one or more forms of court-approved medications that are approved for the treatment of alcohol and/or drug dependence by the United States Food and Drug Administration;

(c) Education;

(d) Referral;

(e) Service coordination and case management; and

(f) Counseling and rehabilitative care.

(2) Any inpatient treatment or inpatient detoxification program ordered by the court shall be certified by the Department of Mental Health, other appropriate state agency or the equivalent agency of another state.

(3) All intervention courts shall make available the option for participants to use court-approved medication-assisted treatment while participating in the programs of the court in accordance with the recommendations of the National Drug Court Institute.

SECTION 47. Section 9-23-15, Mississippi Code of 1972, is brought forward as follows:

9-23-15. (1) In order to be eligible for alternative sentencing through a local intervention court, the participant must satisfy each of the following criteria:

(a) The participant cannot have any felony convictions for any offenses that are crimes of violence as defined in Section 97-3-2 within the previous ten (10) years.

(b) The crime before the court cannot be a crime of violence as defined in Section 97-3-2.

(c) Other criminal proceedings alleging commission of a crime of violence cannot be pending against the participant.

(d) The participant cannot be charged with burglary of a dwelling under Section 97-17-23(2) or 97-17-37.

(e) The crime before the court cannot be a charge of driving under the influence of alcohol or any other drug or drugs that resulted in the death of a person.

(f) The crime charged cannot be one of trafficking in controlled substances under Section 41-29-139(f), nor can the participant have a prior conviction for same.

(2) Participation in the services of an alcohol and drug intervention component shall be open only to the individuals over whom the court has jurisdiction, except that the court may agree to provide the services for individuals referred from another intervention court. In cases transferred from another jurisdiction, the receiving judge shall act as a special master and make recommendations to the sentencing judge.

(3) (a) As a condition of participation in an intervention court, a participant may be required to undergo a chemical test or a series of chemical tests as specified by the intervention court.

A participant is liable for the costs of all chemical tests required under this section, regardless of whether the costs are paid to the intervention court or the laboratory; however, if testing is available from other sources or the program itself, the judge may waive any fees for testing. The judge may waive all fees if the applicant is determined to be indigent.

(b) A laboratory that performs a chemical test under this section shall report the results of the test to the intervention court.

(4) A person does not have a right to participate in intervention court under this chapter. The court having jurisdiction over a person for a matter before the court shall have the final determination about whether the person may participate in intervention court under this chapter. However, any person meeting the eligibility criteria in subsection (1) of this section shall, upon request, be screened for admission to intervention court.

SECTION 48. Section 9-23-17, Mississippi Code of 1972, is brought forward as follows:

9-23-17. With regard to any intervention court, the Administrative Office of Courts shall do the following:

(a) Certify and re-certify intervention court applications that meet standards established by the Administrative Office of Courts in accordance with this chapter.

(b) Ensure that the structure of the intervention component complies with rules adopted under this section and applicable federal regulations.

(c) Revoke the authorization of a program upon a determination that the program does not comply with rules adopted under this section and applicable federal regulations.

(d) Make agreements and contracts to effectuate the purposes of this chapter with:

(i) Another department, authority or agency of the state;

(ii) Another state;

(iii) The federal government;

(iv) A state-supported or private university; or

(v) A public or private agency, foundation, corporation or individual.

(e) Directly, or by contract, approve and certify any intervention component established under this chapter.

(f) Require, as a condition of operation, that each intervention court created or funded under this chapter be certified by the Administrative Office of Courts.

(g) Collect monthly data reports submitted by all certified intervention courts, provide those reports to the State Intervention Courts Advisory Committee, compile an annual report summarizing the data collected and the outcomes achieved by all

certified intervention courts and submit the annual report to the Oversight Task Force.

(h) Every three (3) years contract with an external evaluator to conduct an evaluation of the effectiveness of the intervention court program, both statewide and individual intervention court programs, in complying with the key components of the intervention courts adopted by the National Association of Drug Court Professionals.

(i) Adopt rules to implement this chapter.

SECTION 49. Section 9-23-19, Mississippi Code of 1972, is brought forward as follows:

9-23-19. (1) All monies received from any source by the intervention court shall be accumulated in a fund to be used only for intervention court purposes. Any funds remaining in this fund at the end of a fiscal year shall not lapse into any general fund, but shall be retained in the Intervention Court Fund for the funding of further activities by the intervention court.

(2) An intervention court may apply for and receive the following:

(a) Gifts, bequests and donations from private sources.

(b) Grant and contract money from governmental sources.

(c) Other forms of financial assistance approved by the court to supplement the budget of the intervention court.

(3) The costs of participation in an alcohol and drug intervention program required by the certified intervention court

may be paid by the participant or out of user fees or such other state, federal or private funds that may, from time to time, be made available.

(4) The court may assess such reasonable and appropriate fees to be paid to the local Intervention Court Fund for participation in an alcohol or drug intervention program; however, all fees may be waived if the applicant is determined to be indigent.

SECTION 50. Section 9-23-21, Mississippi Code of 1972, is brought forward as follows:

9-23-21. The director and members of the professional and administrative staff of the intervention court who perform duties in good faith under this chapter are immune from civil liability for:

(a) Acts or omissions in providing services under this chapter; and

(b) The reasonable exercise of discretion in determining eligibility to participate in the intervention court.

SECTION 51. Section 9-23-23, Mississippi Code of 1972, is brought forward as follows:

9-23-23. If the participant completes all requirements imposed upon him by the intervention court, including the payment of fines and fees assessed and not waived by the court, the charge and prosecution shall be dismissed. If the defendant or participant was sentenced at the time of entry of plea of guilty,

the successful completion of the intervention court order and other requirements of probation or suspension of sentence will result in the record of the criminal conviction or adjudication being expunged. However, no expunction of any implied consent violation shall be allowed.

SECTION 52. This act shall take effect and be in force from and after July 1, 2021, and shall be repealed from and after June 30, 2021.