

By: Representative Horan

To: Corrections

HOUSE BILL NO. 929
(As Passed the House)

1 AN ACT TO BRING FORWARD SECTIONS 47-5-533 THROUGH 47-5-575,
2 MISSISSIPPI CODE OF 1972, WHICH RELATE TO THE MISSISSIPPI PRISON
3 INDUSTRIES, FOR PURPOSES OF POSSIBLE AMENDMENT; TO CREATE A PILOT
4 REENTRY COURT; TO ESTABLISH A REHABILITATION AND WORKFORCE
5 DEVELOPMENT PROGRAM AT THE MISSISSIPPI DEPARTMENT OF CORRECTIONS;
6 TO AUTHORIZE THE JUDGE PRESIDING OVER THE PILOT REENTRY COURT AT
7 THE TIME OF INITIAL SENTENCING OF ANY OFFENDER TO RECOMMEND THE
8 OFFENDER BE PLACED IN THE REHABILITATION AND WORKFORCE DEVELOPMENT
9 PROGRAM FOR A PERIOD OF NO MORE THAN THREE YEARS AFTER THE INITIAL
10 SENTENCING; TO RECONSIDER THE SENTENCE AND PLACE THE OFFENDER ON
11 POST-RELEASE SUPERVISION; AND FOR RELATED PURPOSES.

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

13 **SECTION 1.** Section 47-5-533, Mississippi Code of 1972, is
14 brought forward as follows:

15 47-5-533. (1) It is the finding of the Legislature that
16 prison industry programs of the State Department of Corrections
17 are uniquely different from other programs operated or conducted
18 by other departments in that it is essential to the state that the
19 prison industry programs provide inmates with useful activities
20 that can lead to meaningful employment after release in order to
21 assist in reducing the return of inmates to the system.



22 (2) It is further the finding of the Legislature that the
23 mission of a prison industry program is:

24 (a) To reduce the cost of state government by operating
25 prison industries primarily with inmate labor, which industries do
26 not seek to unreasonably compete with private enterprise;

27 (b) To serve the rehabilitative goals of the state by
28 duplicating as nearly as possible, the operating activities of a
29 free-enterprise type of profit-making enterprise; and

30 (c) To serve the security goals of the state by
31 reducing the idleness of inmates and by providing an incentive for
32 good behavior while in prison.

33 **SECTION 2.** Section 47-5-535, Mississippi Code of 1972, is
34 brought forward as follows:

35 47-5-535. (1) Except as otherwise specifically provided by
36 law, it is the intent of the Legislature that a nonprofit
37 corporation be organized and formed, within sixty (60) days from
38 April 4, 1990, to lease and manage the prison industry programs of
39 the Mississippi Correctional Industries. The corporation created
40 and established shall be a body politic and corporate, may acquire
41 and hold real and personal property, may receive, hold and
42 dispense monies appropriated to it by the Legislature of the State
43 of Mississippi received from the federal government, received from
44 the sale of products, goods, and services which it produces, and
45 received from any other sources whatsoever.



46 (2) Except as otherwise specifically provided by law, it is
47 the further intent of the Legislature that the nonprofit
48 corporation shall create any additional prison industry program as
49 it deems fit, and any such program shall be created in compliance
50 with the provisions of Sections 47-5-531 through 47-5-575.

51 (3) Except as otherwise specifically provided by law, it is
52 the further intent of the Legislature that such nonprofit
53 corporation shall have exclusive rights to operate any prison
54 industry program and when such corporation is lawfully formed, no
55 other public or private entity shall be allowed to carry out the
56 provisions of Sections 47-5-531 through 47-5-575.

57 (4) It is the further intent of the Legislature, that the
58 nonprofit corporation which is required to be organized and formed
59 under Sections 47-5-531 through 47-5-575 shall locate and operate
60 prison industries at any state correctional facility with the
61 approval of the Commissioner of Corrections. It is the intent of
62 the Legislature that the nonprofit corporation locate and operate
63 such industries in an orderly and expeditious manner. Such
64 corporation may locate and operate prison industries at other
65 prison satellites, at community work centers in the state, at any
66 private correctional facility which houses state inmates and at
67 any regional correctional facility as authorized under Section
68 47-5-931. No industrial prison program shall be located at a site
69 other than state prison facilities approved by the commissioner.



70 (5) It is the further intent of the Legislature that the
71 nonprofit corporation shall not have any rights to operate a
72 program under the prison agricultural enterprises and shall not
73 create a prison industry program that duplicates a prison
74 agricultural enterprises program or product.

75 (6) It is the further intent of the Legislature that the
76 department retain exclusive rights to conduct all prison
77 agricultural and related enterprises.

78 **SECTION 3.** Section 47-5-537, Mississippi Code of 1972, is
79 brought forward as follows:

80 47-5-537. The Secretary of State, or his designee, shall
81 assist the Department of Corrections and the Department of Finance
82 and Administration in the formation of the nonprofit corporation,
83 and within sixty (60) days after the formation of the corporation,
84 the corporation shall apply for exemption from federal tax under
85 the provisions of Section 501(c)(3) of the Internal Revenue Code
86 of 1986, as amended. Any program of the Division of Vocational
87 Rehabilitation of the State Department of Human Services shall not
88 be classified as prison industries under the provisions Sections
89 47-5-531 through 47-5-575.

90 **SECTION 4.** Section 47-5-539, Mississippi Code of 1972, is
91 brought forward as follows:

92 47-5-539. For the purposes of Sections 47-5-531 through
93 47-5-575, the following terms shall have the following meanings
94 unless the context shall provide otherwise:



95 (a) "Corporation" means the private nonprofit
96 corporation which is required to be organized and formed to carry
97 out the provisions of Sections 47-5-531 through 47-5-575 regarding
98 prison industries.

99 (b) "Department" means the State Department of
100 Corrections.

101 (c) "Inmate" means any person incarcerated within any
102 state correctional facility.

103 (d) "Prison industry program" means any program which
104 is considered to be a part of any prison industry in this state.

105 (e) "Prison agricultural enterprises" means all
106 agricultural endeavors as defined in Section 47-5-353.

107 **SECTION 5.** Section 47-5-541, Mississippi Code of 1972, is
108 brought forward as follows:

109 47-5-541. (1) The corporation shall be governed by a board
110 of directors. The board of directors of the nonprofit corporation
111 shall be composed of the following eleven (11) members who shall
112 be appointed by the Governor with the advice and consent of the
113 Senate: one (1) representative of the manufacturing industry, one
114 (1) representative of the agriculture industry, one (1)
115 representative of the banking and finance industry, one (1)
116 representative of the labor industry, one (1) representative from
117 the marketing industry and six (6) members from the state at
118 large. In addition, the State Commissioner of Corrections and the
119 President of Mississippi Delta Community College shall be ex



120 officio members of the board of directors with full voting
121 privileges. In making initial appointments, three (3) members
122 shall be appointed for a term of two (2) years; four (4) members
123 shall be appointed for a term of three (3) years; and four (4)
124 members shall be appointed for a term of four (4) years; to be
125 designated by the Governor at the time of appointment; and all
126 succeeding terms shall be for four (4) years from the expiration
127 date of the previous term. Initial appointments shall be made
128 within thirty (30) days after passage of Sections 47-5-531 through
129 47-5-575. Any vacancy shall be filled by the Governor, with the
130 advice and consent of the Senate. The officers of the corporation
131 shall consist of a chairman, vice chairman and a
132 secretary-treasurer. The officers shall be selected by the
133 members of the board. However, the Commissioner of Corrections
134 and the President of Mississippi Delta Community College shall not
135 be eligible to serve as an officer of the corporation.

136 (2) The board of directors shall select and employ a chief
137 executive officer of the corporation who shall serve at the
138 pleasure of the board. The board shall set the compensation of
139 the chief executive officer. The chief executive officer shall be
140 responsible for the general business and entire operations of the
141 corporation, and shall be responsible for operating the
142 corporation in compliance with the bylaws of the corporation and
143 in compliance with any provision of law. The board shall be
144 authorized and empowered to do only those acts provided by law and



145 by the bylaws of the corporation. Except as otherwise
146 specifically provided by law, such board shall have the authority
147 to establish prison industries, to cease the operation of any
148 industry which it deems unsuitable or unprofitable, to enter into
149 any lease or contract for the corporation and it shall have the
150 full authority to establish prices for any industry good.

151 (3) No member of the board of directors shall vote on any
152 matter that comes before the board that could result in pecuniary
153 benefit for himself or for any entity in which such member has an
154 interest.

155 (4) In addition to the board of directors, an advisory board
156 may be set up for the benefit of each industry which is
157 established pursuant to the provisions of Sections 47-5-531
158 through 47-5-575. Such boards shall be advisory only, and may be
159 set up in the discretion of the board of directors of the
160 corporation.

161 (5) Each member of the board of directors of the corporation
162 shall receive per diem as provided in Section 25-3-69 for each day
163 or fraction thereof spent in actual discharge of his official
164 duties and shall be reimbursed for mileage and actual expenses
165 incurred in the performance of his official duties in accordance
166 with the requirements of Section 25-3-41, Mississippi Code of
167 1972.

168 (6) The board of directors shall make and publish policies,
169 rules and regulations governing all business functions, including



170 but not limited to accounting, marketing, purchasing and
171 personnel, not inconsistent with the terms of Sections 47-5-531
172 through 47-5-575, as may be necessary for the efficient
173 administration and operation of the corporation.

174 (7) The chief executive officer of the corporation shall:

175 (a) Employ all necessary employees of the corporation
176 and dismiss them as is necessary;

177 (b) Administer the daily operations of the corporation;

178 (c) Upon approval of the board of directors, execute
179 any contracts on behalf of the corporation; and

180 (d) Take any further actions which are necessary and
181 proper toward the achievement of the corporation purposes.

182 (8) A member of the board of directors of the corporation
183 shall not be liable for any civil damages for any personal injury
184 or property damage caused to a person as a result of any acts or
185 omissions committed in good faith in the exercise of their duties
186 as members of the board of directors of the corporation, except
187 where a member of the board engages in acts or omissions which are
188 intentional, willful, wanton, reckless or grossly negligent.

189 **SECTION 6.** Section 47-5-543, Mississippi Code of 1972, is
190 brought forward as follows:

191 47-5-543. (1) Within sixty (60) days after the formation of
192 the corporation pursuant to the provisions of Section 47-5-535,
193 the State Department of Corrections shall lease to the corporation
194 all existing prison industries including the buildings, land,



195 furnishings, equipment and other chattel used in the operation of
196 such industries. Such lease shall be agreed upon by the State
197 Department of Corrections, State Department of Finance and
198 Administration and the corporation. The initial term of such
199 lease shall not exceed six (6) years, provided that such lease may
200 be renewed for additional successive terms of years not to exceed
201 six (6) years in any one (1) renewal. No sublease to the
202 corporation shall be in excess of that amount for which the
203 department is obligated to pay under any lease agreement with any
204 other state agency. Any receivable and remaining funds shall be
205 transferred to the corporation after the payment of any existing
206 liabilities. No operating loss of any type shall be transferred
207 to the corporation. The State Department of Corrections shall
208 continue to manage and operate the prison industries until such
209 industries are leased to the corporation. When leasing any prison
210 industry program to the corporation, the corporation shall
211 exercise a reasonable effort to employ any personnel of the State
212 Department of Corrections who are currently involved in any prison
213 industry program being leased to the corporation. Before the
214 leasing of the prison industries, buildings, lands and other items
215 mentioned herein to the corporation, the State Auditor of Public
216 Accounts shall perform a comprehensive audit of all the items and
217 things mentioned herein which are to be leased by the department
218 to the corporation. The corporation may expand, eliminate,
219 suspend or alter any of its industries as it sees fit.



220 (2) Any lands, buildings, equipment, furnishings, livestock,
221 supplies and vehicles used in the department's farming operations
222 which were leased or transferred to the nonprofit corporation
223 under subsection (1) shall be transferred to the department. Any
224 personnel in the department's farming operations employed by the
225 nonprofit corporation who desire to be reassigned to the
226 department and who are under state service may be reassigned to
227 the department.

228 (3) The department is not required to lease land, buildings,
229 equipment, furnishings or other chattel used in its prison
230 agricultural enterprises.

231 **SECTION 7.** Section 47-5-545, Mississippi Code of 1972, is
232 brought forward as follows:

233 47-5-545. Except as otherwise specifically provided by law,
234 after the commissioning and implementation of a marketing
235 feasibility study for any proposed new prison industry, the
236 corporation may establish such prison industry. Before any new
237 industry is established, the corporation shall hold a hearing to
238 determine the impact such industry may have on the private sector
239 market. The corporation shall provide adequate and advance notice
240 regarding the nature, time, date and place of such hearing. After
241 the hearing which is required under this section, the corporation
242 may commence negotiations with the State Department of
243 Corrections, with the Secretary of State, or his designee, serving



244 as a mediator, regarding the leasing of land and other chattels
245 for the purpose of establishing any new industry.

246 **SECTION 8.** Section 47-5-547, Mississippi Code of 1972, is
247 brought forward as follows:

248 47-5-547. Except as otherwise specifically provided by law,
249 any training program or auxiliary program associated with any
250 existing prison industry shall be transferred to the corporation.

251 The corporation is empowered and authorized to establish in
252 participation with the Mississippi Delta Community College, any
253 training or auxiliary program for existing prison industries or
254 for any industries which the corporation might create.

255 Mississippi Delta Community College shall provide assistance in
256 business planning, marketing and analysis of existing or projected
257 industries. These industrial services shall be contracted with
258 appropriate community colleges when these industries are developed
259 at other correction sites.

260 **SECTION 9.** Section 47-5-549, Mississippi Code of 1972, is
261 brought forward as follows:

262 47-5-549. Any service or item manufactured, processed, grown
263 or produced by the corporation from its prison industries may be
264 furnished or sold to any legislative, executive or judicial branch
265 of the state, any political subdivision or any governing authority
266 of the state, any other state, any school, college or university
267 of the state, any foreign government, any agency of the federal
268 government or to any private entity. The corporation shall make



269 reasonable efforts to purchase raw materials from in-state
270 vendors. The prices for industry-made products shall be
271 established by the board of directors of the corporation or its
272 designee.

273 **SECTION 10.** Section 47-5-551, Mississippi Code of 1972, is
274 brought forward as follows:

275 47-5-551. In the event the corporation is dissolved or its
276 lease of any prison industry program expires or is otherwise
277 terminated, all property relating to such prison industry program
278 which ceases to function because of such termination or
279 dissolution, including all funds, buildings, land, furnishings,
280 equipment and other chattels subsequently purchased or otherwise
281 acquired by the corporation in connection with its continued
282 operation of that program, automatically reverts to full ownership
283 by the department.

284 **SECTION 11.** Section 47-5-553, Mississippi Code of 1972, is
285 brought forward as follows:

286 47-5-553. Before any prison industry may commence
287 operations, the chief executive officer of the corporation must
288 communicate with the Commissioner of Corrections regarding the
289 proper security for the facility. If at anytime the Commissioner
290 of Corrections recognizes a need for improvement in the security
291 at any facility, then he or she shall communicate to the
292 corporation regarding what improvements are needed for the
293 facility to be properly secured. The corporation shall furnish



294 its own security within the parameters of any prison industry work
295 area.

296 **SECTION 12.** Section 47-5-555, Mississippi Code of 1972, is
297 brought forward as follows:

298 47-5-555. The department shall, subject to the necessary
299 security requirements and the needs of the corporation, provide to
300 the corporation sufficient inmate labor for the various prison
301 industry programs. The department may adopt rules and regulations
302 as may be necessary to govern the use of inmates by the
303 corporation. The corporation shall establish policies and
304 procedures, subject to the approval of the department, relating to
305 the use of inmates in the prison industry programs.

306 **SECTION 13.** Section 47-5-557, Mississippi Code of 1972, is
307 brought forward as follows:

308 47-5-557. Any inmate who performs work for the corporation,
309 except those inmates employed by the corporation in the Prison
310 Industry Enhancement Program under Section 47-5-1251, shall not be
311 deemed an agent, employee or involuntary servant of the
312 corporation while performing such work or while going to and from
313 work or other specified areas.

314 **SECTION 14.** Section 47-5-559, Mississippi Code of 1972, is
315 brought forward as follows:

316 47-5-559. The corporation shall submit to the Governor and
317 the Legislature, on or before January 1 of each year, a report on
318 the status of the correctional work programs, including but not



319 limited to the programs and funds which have been transferred to
320 the corporation, the programs and funds to be taken over within
321 the next year and the proposed use of the profits from such
322 programs, a breakdown of the amount of noninmate labor used, work
323 subcontracted to other vendors, use of consultants, finished goods
324 purchased for resale, and the number of inmates working in the
325 correctional work programs at the time of the report. In
326 addition, the corporation shall submit to the department, the
327 Governor and the Legislature an annual independently audited
328 financial statement and such other information as may be requested
329 by the Legislature together with recommendations from the
330 corporation relating to provisions for reasonable tax incentives
331 to private enterprises that employ inmates, parolees or former
332 inmates who have participated in correctional work programs. The
333 department shall include, as a portion of its annual report, a
334 report on post-release job placement and the rate of subsequent
335 contact with the correctional system for those inmates who have
336 participated in the correctional work programs operated by the
337 corporation and by the department. Beginning January 1, 1991, the
338 State Auditor shall conduct an annual financial audit of the
339 corporation in conjunction with an independent audit conducted by
340 the corporation's auditors. The State Auditor and the legislative
341 PEER committee shall also conduct a biennial performance audit of
342 the corporation for the period beginning January 1, 1991, through
343 January 1, 1993, and thereafter upon the joint request of the



344 Senate Corrections Committee, House Penitentiary Committee, Senate
345 Finance Committee, and House Ways and Means Committee.

346 **SECTION 15.** Section 47-5-561, Mississippi Code of 1972, is
347 brought forward as follows:

348 47-5-561. (1) In addition to its other powers, the
349 corporation shall have the power to request, through the
350 department, an appropriation of general revenue funds for the
351 purposes of operation of, addition to or renovation of facilities
352 or correctional work programs at the various correctional
353 institutions; however, upon receipt of such appropriation, the
354 rental paid by the corporation for the operation of or such new
355 remodeled or renovated facilities or the operation of a
356 correctional work program shall be sufficient to amortize its cost
357 over a period of five (5) years.

358 (2) The corporation shall maintain those prison industries
359 funds in excess of that amount necessary for sustaining quarterly
360 or monthly operations of the corporation in an interest-bearing
361 account best serving the proper management of corporation funds
362 and earning the maximum amount of interest allowed by law. The
363 corporation shall cause monies from the interest-bearing account
364 to be deposited quarterly or monthly into the corporation's
365 checking account in order to pay the legal debts of the
366 corporation, approved for payment by the corporation.

367 **SECTION 16.** Section 47-5-563, Mississippi Code of 1972, is
368 brought forward as follows:



369 47-5-563. (1) The department may adopt such rules as may be
370 necessary to govern the use of inmates by the corporation;
371 however, such rules shall be related only to the need for
372 security, inmate projections, and efficient operation of each
373 institution.

374 (2) The corporation, with the input of the department, shall
375 establish policies and procedures subject to the approval of the
376 department's legal counsel relating to the use of inmates in the
377 correctional work programs.

378 (3) All such policies and procedures adopted by the
379 department and the corporation shall be placed on file in the
380 Office of the Secretary of State.

381 **SECTION 17.** Section 47-5-565, Mississippi Code of 1972, is
382 brought forward as follows:

383 47-5-565. To carry out the provisions of Sections 47-5-531
384 through 47-5-575, the provisions of Sections 47-5-301 et seq., and
385 47-5-501 et seq., Mississippi Code of 1972, the corporation shall
386 authorize the transfer and expending of monies from the Prison
387 Industries Fund.

388 **SECTION 18.** Section 47-5-567, Mississippi Code of 1972, is
389 brought forward as follows:

390 47-5-567. Except as otherwise specifically provided by law,
391 no inmate shall be eligible for unemployment compensation or
392 workmen's compensation whether employed by the corporation or by
393 any other private enterprise operating on the grounds of a



394 correctional institution or elsewhere where such employment shall
395 be a part of a correctional work program or work release program
396 of either the corporation or the department.

397 **SECTION 19.** Section 47-5-569, Mississippi Code of 1972, is
398 brought forward as follows:

399 47-5-569. (1) Except as otherwise specifically provided by
400 law, if the department leases a single correctional work program
401 at any correctional institution to the corporation, the
402 corporation shall lease all such correctional work programs at
403 that institution. Any rent paid by the corporation to the
404 department shall be deposited in a correctional programs trust
405 fund for enhancement of education and training, post-release job
406 placement, and other correctional purposes related to the purposes
407 of Sections 47-5-531 through 47-5-575.

408 (2) All leases of department-owned land for the funding or
409 operations of the corporation shall be subject to the approval of
410 the corporation, the Mississippi Department of Corrections and the
411 Public Procurement Review Board.

412 (3) This section shall not apply to any program within the
413 prison agricultural enterprises operated by the department.

414 **SECTION 20.** Section 47-5-571, Mississippi Code of 1972, is
415 brought forward as follows:

416 47-5-571. Except as otherwise specifically provided by law,
417 no goods, wares, services or merchandise manufactured, mined or
418 offered in whole or in part by prisoners shall be sold or offered



419 by any person or other authority except by the corporation, as
420 authorized by Sections 47-5-531 through 47-5-575.

421 **SECTION 21.** Section 47-5-573, Mississippi Code of 1972, is
422 brought forward as follows:

423 47-5-573. (1) In adopting or modifying master plans for
424 correctional work programs, and in the administration of the
425 Department of Corrections, it shall be the objective of the
426 department to develop a logical sequence of vocational training,
427 employment by correctional work programs, and post-release job
428 placement for inmates participating in correctional work programs.

429 (2) The Department of Corrections shall establish guidelines
430 for the development of correctional work programs.

431 (3) The needs of the corporation shall be considered by the
432 department when assigning and transferring prisoners to
433 correctional institutions. The following criteria shall be used
434 when assigning and transferring inmates:

435 (a) Skills of the inmate relevant to the corporation's
436 industries;

437 (b) Security classification of the inmate relevant to
438 the type of corporation's industry;

439 (c) Duration of availability of the inmate for
440 employment by the corporation;

441 (d) Establishment of a concept of potentially
442 rehabilitative inmate.



443 **SECTION 22.** Section 47-5-575, Mississippi Code of 1972, is
444 brought forward as follows:

445 47-5-575. Any records or reports which relate to the
446 financial aspect or operations of the corporation, with the
447 exception of any trade secrets, shall be considered as public
448 records and shall be subject to the provisions of the Mississippi
449 Public Records Act of 1983.

450 **SECTION 23.** (1) This act shall be known as the "Reentry
451 Court Act of 2021."

452 (2) The Mississippi Department of Corrections shall
453 establish a rehabilitation and workplace development program that
454 can be completed in no more than three (3) years.

455 (3) The Senior Circuit Court Judge of the First, Seventh,
456 and Fifteenth Circuit Court Districts may establish a pilot
457 reentry division in the district. Any reentry division of the
458 court and sentencing program shall work in conjunction with the
459 Mississippi Department of Corrections and the Mississippi
460 Intervention Court Commission to establish best practices for the
461 court including standards for suitability. Any person placed in
462 the reentry court shall be counted in determining funding
463 allocations to the court from the Administrative Office of Courts.

464 (4) Participation in the workforce development sentencing
465 program as authorized by the provisions of this section shall be
466 subject to certain provisions. The court may recommend that a
467 defendant convicted of one or more felony offenses in this state



468 or any other state or federal court participate in the workforce
469 development sentencing program if all of the following criteria
470 are satisfied:

471 (a) The defendant meets the eligibility and suitability
472 requirements for participation in the Offender Rehabilitation and
473 Workforce Development Program;

474 (b) The court determines that it is in the best
475 interest of the community and in the interest of justice that the
476 defendant be sentenced to the Offender Rehabilitation and
477 Workforce Development Program;

478 (c) The defendant is not sentenced to a term of
479 incarceration which exceeds twenty (20) years;

480 (d) The defendant shall not have any prior felony
481 convictions for any offenses defined as a sex offense in Section
482 45-33-23;

483 (e) The crime before the court shall not be a crime of
484 violence as listed in Section 97-3-2, except house burglary under
485 Section 97-17-23(1);

486 (f) The defendant cannot be sentenced in the present
487 charge as a habitual offender pursuant to Section 99-19-81 or
488 99-19-83;

489 (g) Other criminal proceedings alleging commission of a
490 crime of violence as listed in Section 97-3-2, except house
491 burglary under Section 97-17-23(1), shall not be pending against
492 the defendant; and



493 (h) The crime before the court shall not be a charge of
494 any crime that resulted in the death of a person.

495 (5) Upon a determination that the defendant meets the
496 eligibility and suitability criteria provided for in subsection
497 (4) of this section, the court shall advise the defendant that he
498 may be eligible for enrollment in the workforce development
499 sentencing program.

500 (6) Prior to sentence, the court shall contact the
501 Department of Corrections Reentry Services to determine if there
502 is adequate capacity for enrollment or if bed space is available.

503 (7) In offering a defendant the opportunity to request the
504 program, the court shall advise the defendant of the following:

505 (a) If the defendant is eligible to participate in the
506 workforce development sentencing program, the defendant shall
507 waive the right to a trial. The defendant shall enter a plea of
508 guilty to the charge with the stipulation that the defendant shall
509 be sentenced to custody of the Department of Corrections to
510 participate in the Offender Rehabilitation and Workforce
511 Development Program, and, after successful completion of that
512 program, the court shall suspend the remainder of his or her
513 sentence and place him or her on probation under the intensive
514 supervision of the reentry division of court.

515 (b) The court may impose any conditions reasonably
516 related to the rehabilitation of the defendant, including ordering



517 the defendant to participate and complete a substance abuse
518 treatment program.

519 (c) A defendant who is placed under the supervision of
520 the reentry division of court may be ordered to pay the cost of
521 any assessments, substance abuse tests, and treatment programs to
522 which he or she is assigned and the cost of any additional
523 supervision that may be required, to the extent of his financial
524 resources, as determined by the reentry division of court as
525 guided by Section 99-19-20.1(1).

526 (d) Notwithstanding any provision of law to the
527 contrary, any offender sentenced under this section shall not be
528 eligible for parole pursuant to Section 47-7-3, nor earn "good
529 time" pursuant to Section 47-5-138, 47-5-138.1, 47-5-139 or
530 47-5-142 while in the program.

531 (8) The defendant shall agree to participation in the
532 workforce development sentencing program.

533 (9) The judge shall consider the following factors in
534 determining whether workforce development sentencing is in the
535 interest of justice and of benefit to the defendant and the
536 community:

537 (a) The nature of the crime charged and the
538 circumstances surrounding the crime;

539 (b) Any special characteristics or circumstances of the
540 defendant;



541 (c) Whether there is a probability that the defendant
542 will cooperate with and benefit from the workforce development
543 sentencing program;

544 (d) Whether the available workforce development
545 sentencing program is appropriate to meet the needs of the
546 defendant;

547 (e) The impact of the defendant's sentencing upon the
548 community;

549 (f) Recommendations, if any, of the district attorney;

550 (g) Recommendations, if any, of the involved law
551 enforcement agency;

552 (h) Recommendations, if any, of the victim;

553 (i) Provisions for and the likelihood of obtaining
554 restitution from the defendant;

555 (j) Any mitigating circumstances; and

556 (k) Any other circumstances reasonably related to the
557 defendant's case.

558 (10) If the judge determines that the defendant shall be
559 enrolled in the workforce development sentencing program, the
560 court shall accept the defendant's guilty plea and sentence the
561 defendant to the custody of the Department of Corrections for a
562 term of years subject to participation in the Offender
563 Rehabilitation and Workforce Development Program under the terms
564 and conditions of the workforce development sentencing program.



565 (11) If the judge determines that the defendant is not
566 qualified for enrollment, the judge shall state for the record the
567 reasons for that determination.

568 (12) If the defendant successfully completes the Offender
569 Rehabilitation and Workforce Development Program and successfully
570 completes all other requirements of the workforce development
571 sentencing program, the court, notwithstanding any provision of
572 Section 47-7-33 or 47-7-47 to the contrary, shall suspend the
573 remainder of his sentence and place the person on probation for
574 not more than three (3) years under the intensive supervision of
575 the reentry division of court. If the defendant fails to complete
576 the program, the court shall order the defendant to serve all or
577 part of the remainder of the sentence. The Department of
578 Corrections shall not grant any "good time credits" for the time
579 served prior to the resentencing nor shall the time in the program
580 be used to calculate a parole eligibility date.

581 (13) If the defendant violates any condition of his reentry
582 probation, the court may revoke the probation and order the
583 defendant to serve all or part of the sentence previously imposed
584 and suspended, unless the violation is a technical violation and
585 then the court may impose a sentence of not more than ninety (90)
586 days to be served at the Technical Violation Center. The term of
587 the revocation for a technical violation shall begin on the date
588 the court orders the revocation. Upon completion of the imposed
589 sentence for the technical revocation, the defendant shall return



590 to active supervised probation for a period equal to the remainder
591 of the original period of probation subject to any additional
592 conditions imposed by the court.

593 (14) This section shall stand repealed on July 1, 2024.

594 **SECTION 24.** The Joint Legislative Committee on Performance
595 Evaluation and Expenditure Review shall conduct a review of all
596 reentry court programs active after three (3) years and produce a
597 report to the Legislature on their effectiveness by December 1,
598 2024. The PEER Committee may seek the assistance of the
599 Administrative Office of Courts or any other criminal justice
600 experts it deems necessary during its review.

601 **SECTION 25.** This act shall take effect and be in force from
602 and after July 1, 2021, and shall stand repealed from and after
603 June 30, 2021.

