

By: Representatives Horan, Reynolds

To: Corrections

HOUSE BILL NO. 936
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 41-85-5, MISSISSIPPI CODE OF 1972, TO
 2 AUTHORIZE THE DEPARTMENT OF CORRECTIONS TO PROVIDE FOR HOSPICE
 3 CARE SERVICES FOR INMATES WHO ARE CONFINED IN FACILITIES UNDER THE
 4 JURISDICTION OF THE DEPARTMENT AND WHO ARE TERMINALLY ILL; TO
 5 AUTHORIZE THE DEPARTMENT TO HAVE THOSE HOSPICE CARE SERVICES
 6 PROVIDED BY PROPERLY QUALIFIED EMPLOYEES OF THE DEPARTMENT OR TO
 7 CONTRACT FOR THE PROVISION OF THE HOSPICE CARE SERVICES; TO
 8 PROVIDE THAT IF THE DEPARTMENT PROVIDES THE HOSPICE CARE SERVICES
 9 WITH DEPARTMENT EMPLOYEES, THE DEPARTMENT IS NOT REQUIRED TO HAVE
 10 A LICENSE UNDER THE MISSISSIPPI HOSPICE LAW; TO AMEND SECTION
 11 41-85-5, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING
 12 PROVISIONS; TO AMEND SECTIONS 43-11-1 AND 43-11-13, MISSISSIPPI
 13 CODE OF 1972, TO DEFINE THE TERM "SPECIAL CARE FACILITIES FOR
 14 PAROLED INMATES" AND PRESCRIBE CONDITIONS FOR LICENSURE BY THE
 15 STATE DEPARTMENT OF HEALTH; TO AMEND SECTIONS 47-5-28 AND 47-7-4,
 16 MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE MISSISSIPPI DEPARTMENT
 17 OF CORRECTIONS TO ESTABLISH A PROGRAM TO GRANT MEDICAL PAROLE TO
 18 SUCH SPECIAL CARE FACILITIES FOR MEDICALLY FRAIL INMATES AND TO
 19 ESTABLISH ELIGIBILITY REQUIREMENTS FOR SUCH PAROLE; TO CODIFY
 20 SECTION 43-13-117.6, MISSISSIPPI CODE OF 1972, TO AUTHORIZE AND
 21 DIRECT THE DIVISION OF MEDICAID TO APPLY FOR NECESSARY WAIVERS FOR
 22 MEDICAID REIMBURSEMENT FOR SERVICES PROVIDED AT SUCH SPECIAL CARE
 23 FACILITIES FOR PAROLED INMATES; AND FOR RELATED PURPOSES.

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

25 **SECTION 1.** The Department of Corrections is authorized to
 26 provide for hospice care services for inmates who are confined in
 27 facilities under the jurisdiction of the department and who are
 28 terminally ill as defined in Section 41-85-3. The department may



29 have those hospice care services provided by properly qualified
30 employees of the department or may contract for the providing of
31 the hospice care services. If the department provides the hospice
32 care services with department employees, the department is not
33 required to have a license under the Mississippi Hospice Law.

34 **SECTION 2.** Section 41-85-5, Mississippi Code of 1972, is
35 amended as follows:

36 41-85-5. (1) It is unlawful for a person to operate or
37 maintain a hospice, use the title "hospice," or represent that the
38 person provides a hospice program of care, without first obtaining
39 a license therefor from the department.

40 (2) The license shall be displayed in a conspicuous place
41 inside the hospice program office; shall be valid only in the
42 possession of the person to which it is issued; shall not be
43 subject to sale, assignment or other transfer, voluntary or
44 involuntary; and shall not be valid for any hospice other than the
45 hospice for which originally issued.

46 (3) Services provided by a hospital, nursing home or other
47 health care facility or health care provider shall not be
48 considered to constitute a hospice program of care unless such
49 facility, provider or care giver establishes a freestanding or
50 distinct hospice unit, staff, facility and services to provide
51 hospice home care, homelike inpatient hospice care, or outpatient
52 hospice care under the separate and distinct administrative
53 authority of a hospice program.



54 (4) A license for a hospice program shall not be issued if
55 the hospice is to be located in an area in violation of any local
56 zoning ordinances or regulations.

57 (5) The Department of Corrections may provide hospice care
58 services to inmates confined in facilities under the jurisdiction
59 of the department as authorized under Section 1 of this act
60 without a license issued under this chapter.

61 **SECTION 3.** Section 43-11-1, Mississippi Code of 1972, is
62 amended as follows:

63 43-11-1. When used in this chapter, the following words
64 shall have the following meaning:

65 (a) "Institutions for the aged or infirm" means a place
66 either governmental or private that provides group living
67 arrangements for four (4) or more persons who are unrelated to the
68 operator and who are being provided food, shelter and personal
69 care, whether any such place is organized or operated for profit
70 or not. The term "institution for the aged or infirm" includes
71 nursing homes, pediatric skilled nursing facilities, psychiatric
72 residential treatment facilities, convalescent homes, homes for
73 the aged * * *, adult foster care facilities * * * and special
74 care facilities for paroled inmates, provided that these
75 institutions fall within the scope of the definitions set forth
76 above. The term "institution for the aged or infirm" does not
77 include hospitals, clinics or mental institutions devoted
78 primarily to providing medical service, and does not include any



79 private residence in which the owner of the residence is providing
80 personal care services to disabled or homeless veterans under an
81 agreement with, and in compliance with the standards prescribed
82 by, the United States Department of Veterans Affairs, if the owner
83 of the residence also provided personal care services to disabled
84 or homeless veterans at any time during calendar year 2008.

85 (b) "Person" means any individual, firm, partnership,
86 corporation, company, association or joint-stock association, or
87 any licensee herein or the legal successor thereof.

88 (c) "Personal care" means assistance rendered by
89 personnel of the home to aged or infirm residents in performing
90 one or more of the activities of daily living, which includes, but
91 is not limited to, the bathing, walking, excretory functions,
92 feeding, personal grooming and dressing of such residents.

93 (d) "Psychiatric residential treatment facility" means
94 any nonhospital establishment with permanent facilities which
95 provides a twenty-four-hour program of care by qualified
96 therapists, including, but not limited to, duly licensed mental
97 health professionals, psychiatrists, psychologists,
98 psychotherapists and licensed certified social workers, for
99 emotionally disturbed children and adolescents referred to such
100 facility by a court, local school district or by the Department of
101 Human Services, who are not in an acute phase of illness requiring
102 the services of a psychiatric hospital, and are in need of such
103 restorative treatment services. For purposes of this paragraph,



104 the term "emotionally disturbed" means a condition exhibiting one
105 or more of the following characteristics over a long period of
106 time and to a marked degree, which adversely affects educational
107 performance:

108 1. An inability to learn which cannot be explained
109 by intellectual, sensory or health factors;

110 2. An inability to build or maintain satisfactory
111 relationships with peers and teachers;

112 3. Inappropriate types of behavior or feelings
113 under normal circumstances;

114 4. A general pervasive mood of unhappiness or
115 depression; or

116 5. A tendency to develop physical symptoms or
117 fears associated with personal or school problems. An
118 establishment furnishing primarily domiciliary care is not within
119 this definition.

120 (e) "Pediatric skilled nursing facility" means an
121 institution or a distinct part of an institution that is primarily
122 engaged in providing to inpatients skilled nursing care and
123 related services for persons under twenty-one (21) years of age
124 who require medical or nursing care or rehabilitation services for
125 the rehabilitation of injured, disabled or sick persons.

126 (f) "Licensing agency" means the State Department of
127 Health.



128 (g) "Medical records" mean, without restriction, those
129 medical histories, records, reports, summaries, diagnoses and
130 prognoses, records of treatment and medication ordered and given,
131 notes, entries, x-rays and other written or graphic data prepared,
132 kept, made or maintained in institutions for the aged or infirm
133 that pertain to residency in, or services rendered to residents
134 of, an institution for the aged or infirm.

135 (h) "Adult foster care facility" means a home setting
136 for vulnerable adults in the community who are unable to live
137 independently due to physical, emotional, developmental or mental
138 impairments, or in need of emergency and continuing protective
139 social services for purposes of preventing further abuse or
140 neglect and for safeguarding and enhancing the welfare of the
141 abused or neglected vulnerable adult. Adult foster care programs
142 shall be designed to meet the needs of vulnerable adults with
143 impairments through individual plans of care, which provide a
144 variety of health, social and related support services in a
145 protective setting, enabling participants to live in the
146 community. Adult foster care programs may be (i) traditional,
147 where the foster care provider lives in the residence and is the
148 primary caregiver to clients in the home; (ii) corporate, where
149 the foster care home is operated by a corporation with shift staff
150 delivering services to clients; or (iii) shelter, where the foster
151 care home accepts clients on an emergency short-term basis for up
152 to thirty (30) days.



153 (i) "Special care facilities for paroled inmates" means
154 long-term care and skilled nursing facilities licensed as special
155 care facilities for medically frail paroled inmates, formed to
156 ease the burden of prison overcrowding and provide compassionate
157 release and medical parole initiatives while impacting economic
158 outcomes for the Mississippi prison system. The facilities shall
159 meet all Mississippi Department of Health and federal Center for
160 Medicaid Services (CMS) requirements and shall be regulated by
161 both agencies; provided, however, such regulations shall not be as
162 restrictive as those required for personal care homes and other
163 institutions devoted primarily to providing medical services. The
164 facilities will offer physical, occupational and speech therapy,
165 nursing services, wound care, a dedicated COVID services unit,
166 individualized patient centered plans of care, social services,
167 spiritual services, physical activities, transportation,
168 medication, durable medical equipment, personalized meal plans by
169 a licensed dietician and security services. There may be up to
170 three (3) facilities located in each Supreme Court district, to be
171 designated by the Chairman of the State Parole Board or his
172 designee.

173 **SECTION 4.** Section 43-11-13, Mississippi Code of 1972, is
174 amended as follows:

175 43-11-13. (1) The licensing agency shall adopt, amend,
176 promulgate and enforce such rules, regulations and standards,
177 including classifications, with respect to all institutions for



178 the aged or infirm to be licensed under this chapter as may be
179 designed to further the accomplishment of the purpose of this
180 chapter in promoting adequate care of individuals in those
181 institutions in the interest of public health, safety and welfare.
182 Those rules, regulations and standards shall be adopted and
183 promulgated by the licensing agency and shall be recorded and
184 indexed in a book to be maintained by the licensing agency in its
185 main office in the State of Mississippi, entitled "Rules,
186 Regulations and Minimum Standards for Institutions for the Aged or
187 Infirm" and the book shall be open and available to all
188 institutions for the aged or infirm and the public generally at
189 all reasonable times. Upon the adoption of those rules,
190 regulations and standards, the licensing agency shall mail copies
191 thereof to all those institutions in the state that have filed
192 with the agency their names and addresses for this purpose, but
193 the failure to mail the same or the failure of the institutions to
194 receive the same shall in no way affect the validity thereof. The
195 rules, regulations and standards may be amended by the licensing
196 agency, from time to time, as necessary to promote the health,
197 safety and welfare of persons living in those institutions.

198 (2) The licensee shall keep posted in a conspicuous place on
199 the licensed premises all current rules, regulations and minimum
200 standards applicable to fire protection measures as adopted by the
201 licensing agency. The licensee shall furnish to the licensing
202 agency at least once each six (6) months a certificate of approval



203 and inspection by state or local fire authorities. Failure to
204 comply with state laws and/or municipal ordinances and current
205 rules, regulations and minimum standards as adopted by the
206 licensing agency, relative to fire prevention measures, shall be
207 prima facie evidence for revocation of license.

208 (3) The State Board of Health shall promulgate rules and
209 regulations restricting the storage, quantity and classes of drugs
210 allowed in personal care homes and adult foster care facilities.
211 Residents requiring administration of Schedule II Narcotics as
212 defined in the Uniform Controlled Substances Law may be admitted
213 to a personal care home. Schedule drugs may only be allowed in a
214 personal care home if they are administered or stored utilizing
215 proper procedures under the direct supervision of a licensed
216 physician or nurse.

217 (4) (a) Notwithstanding any determination by the licensing
218 agency that skilled nursing services would be appropriate for a
219 resident of a personal care home, that resident, the resident's
220 guardian or the legally recognized responsible party for the
221 resident may consent in writing for the resident to continue to
222 reside in the personal care home, if approved in writing by a
223 licensed physician. However, no personal care home shall allow
224 more than two (2) residents, or ten percent (10%) of the total
225 number of residents in the facility, whichever is greater, to
226 remain in the personal care home under the provisions of this
227 subsection (4). This consent shall be deemed to be appropriately



228 informed consent as described in the regulations promulgated by
229 the licensing agency. After that written consent has been
230 obtained, the resident shall have the right to continue to reside
231 in the personal care home for as long as the resident meets the
232 other conditions for residing in the personal care home. A copy
233 of the written consent and the physician's approval shall be
234 forwarded by the personal care home to the licensing agency.

235 (b) The State Board of Health shall promulgate rules
236 and regulations restricting the handling of a resident's personal
237 deposits by the director of a personal care home. Any funds given
238 or provided for the purpose of supplying extra comforts,
239 conveniences or services to any resident in any personal care
240 home, and any funds otherwise received and held from, for or on
241 behalf of any such resident, shall be deposited by the director or
242 other proper officer of the personal care home to the credit of
243 that resident in an account that shall be known as the Resident's
244 Personal Deposit Fund. No more than one (1) month's charge for
245 the care, support, maintenance and medical attention of the
246 resident shall be applied from the account at any one time. After
247 the death, discharge or transfer of any resident for whose benefit
248 any such fund has been provided, any unexpended balance remaining
249 in his personal deposit fund shall be applied for the payment of
250 care, cost of support, maintenance and medical attention that is
251 accrued. If any unexpended balance remains in that resident's
252 personal deposit fund after complete reimbursement has been made



253 for payment of care, support, maintenance and medical attention,
254 and the director or other proper officer of the personal care home
255 has been or shall be unable to locate the person or persons
256 entitled to the unexpended balance, the director or other proper
257 officer may, after the lapse of one (1) year from the date of that
258 death, discharge or transfer, deposit the unexpended balance to
259 the credit of the personal care home's operating fund.

260 (c) The State Board of Health shall promulgate rules
261 and regulations requiring personal care homes to maintain records
262 relating to health condition, medicine dispensed and administered,
263 and any reaction to that medicine. The director of the personal
264 care home shall be responsible for explaining the availability of
265 those records to the family of the resident at any time upon
266 reasonable request.

267 (5) The State Board of Health and the Mississippi Department
268 of Corrections shall jointly issue rules and regulations for the
269 operation of the special care facilities for paroled inmates.

270 (* * *6) (a) For the purposes of this subsection

271 (* * *6):

272 (i) "Licensed entity" means a hospital, nursing
273 home, personal care home, home health agency, hospice or adult
274 foster care facility;

275 (ii) "Covered entity" means a licensed entity or a
276 health care professional staffing agency;



277 (iii) "Employee" means any individual employed by
278 a covered entity, and also includes any individual who by contract
279 provides to the patients, residents or clients being served by the
280 covered entity direct, hands-on, medical patient care in a
281 patient's, resident's or client's room or in treatment or recovery
282 rooms. The term "employee" does not include health care
283 professional/vocational technical students performing clinical
284 training in a licensed entity under contracts between their
285 schools and the licensed entity, and does not include students at
286 high schools located in Mississippi who observe the treatment and
287 care of patients in a licensed entity as part of the requirements
288 of an allied-health course taught in the high school, if:

289 1. The student is under the supervision of a
290 licensed health care provider; and

291 2. The student has signed an affidavit that
292 is on file at the student's school stating that he or she has not
293 been convicted of or pleaded guilty or nolo contendere to a felony
294 listed in paragraph (d) of this subsection (* * *6), or that any
295 such conviction or plea was reversed on appeal or a pardon was
296 granted for the conviction or plea. Before any student may sign
297 such an affidavit, the student's school shall provide information
298 to the student explaining what a felony is and the nature of the
299 felonies listed in paragraph (d) of this subsection (* * *6).

300 However, the health care professional/vocational technical
301 academic program in which the student is enrolled may require the



302 student to obtain criminal history record checks. In such
303 incidences, paragraph (a)(iii)1 and 2 of this subsection (* * *6)
304 does not preclude the licensing entity from processing submitted
305 fingerprints of students from healthcare-related
306 professional/vocational technical programs who, as part of their
307 program of study, conduct observations and provide clinical care
308 and services in a covered entity.

309 (b) Under regulations promulgated by the State Board of
310 Health, the licensing agency shall require to be performed a
311 criminal history record check on (i) every new employee of a
312 covered entity who provides direct patient care or services and
313 who is employed on or after July 1, 2003, and (ii) every employee
314 of a covered entity employed before July 1, 2003, who has a
315 documented disciplinary action by his or her present employer. In
316 addition, the licensing agency shall require the covered entity to
317 perform a disciplinary check with the professional licensing
318 agency of each employee, if any, to determine if any disciplinary
319 action has been taken against the employee by that agency.

320 Except as otherwise provided in paragraph (c) of this
321 subsection (* * *6), no such employee hired on or after July 1,
322 2003, shall be permitted to provide direct patient care until the
323 results of the criminal history record check have revealed no
324 disqualifying record or the employee has been granted a waiver.
325 In order to determine the employee applicant's suitability for
326 employment, the applicant shall be fingerprinted. Fingerprints



327 shall be submitted to the licensing agency from scanning, with the
328 results processed through the Department of Public Safety's
329 Criminal Information Center. The fingerprints shall then be
330 forwarded by the Department of Public Safety to the Federal Bureau
331 of Investigation for a national criminal history record check.
332 The licensing agency shall notify the covered entity of the
333 results of an employee applicant's criminal history record check.
334 If the criminal history record check discloses a felony
335 conviction, guilty plea or plea of nolo contendere to a felony of
336 possession or sale of drugs, murder, manslaughter, armed robbery,
337 rape, sexual battery, sex offense listed in Section 45-33-23(h),
338 child abuse, arson, grand larceny, burglary, gratification of lust
339 or aggravated assault, or felonious abuse and/or battery of a
340 vulnerable adult that has not been reversed on appeal or for which
341 a pardon has not been granted, the employee applicant shall not be
342 eligible to be employed by the covered entity.

343 (c) Any such new employee applicant may, however, be
344 employed on a temporary basis pending the results of the criminal
345 history record check, but any employment contract with the new
346 employee shall be voidable if the new employee receives a
347 disqualifying criminal history record check and no waiver is
348 granted as provided in this subsection (* * *6).

349 (d) Under regulations promulgated by the State Board of
350 Health, the licensing agency shall require every employee of a
351 covered entity employed before July 1, 2003, to sign an affidavit



352 stating that he or she has not been convicted of or pleaded guilty
353 or nolo contendere to a felony of possession or sale of drugs,
354 murder, manslaughter, armed robbery, rape, sexual battery, any sex
355 offense listed in Section 45-33-23(h), child abuse, arson, grand
356 larceny, burglary, gratification of lust, aggravated assault, or
357 felonious abuse and/or battery of a vulnerable adult, or that any
358 such conviction or plea was reversed on appeal or a pardon was
359 granted for the conviction or plea. No such employee of a covered
360 entity hired before July 1, 2003, shall be permitted to provide
361 direct patient care until the employee has signed the affidavit
362 required by this paragraph (d). All such existing employees of
363 covered entities must sign the affidavit required by this
364 paragraph (d) within six (6) months of the final adoption of the
365 regulations promulgated by the State Board of Health. If a person
366 signs the affidavit required by this paragraph (d), and it is
367 later determined that the person actually had been convicted of or
368 pleaded guilty or nolo contendere to any of the offenses listed in
369 this paragraph (d) and the conviction or plea has not been
370 reversed on appeal or a pardon has not been granted for the
371 conviction or plea, the person is guilty of perjury. If the
372 offense that the person was convicted of or pleaded guilty or nolo
373 contendere to was a violent offense, the person, upon a conviction
374 of perjury under this paragraph, shall be punished as provided in
375 Section 97-9-61. If the offense that the person was convicted of
376 or pleaded guilty or nolo contendere to was a nonviolent offense,



377 the person, upon a conviction of perjury under this paragraph,
378 shall be punished by a fine of not more than Five Hundred Dollars
379 (\$500.00), or by imprisonment in the county jail for not more than
380 six (6) months, or by both such fine and imprisonment.

381 (e) The covered entity may, in its discretion, allow
382 any employee who is unable to sign the affidavit required by
383 paragraph (d) of this subsection (* * *6) or any employee
384 applicant aggrieved by an employment decision under this
385 subsection (* * *6) to appear before the covered entity's hiring
386 officer, or his or her designee, to show mitigating circumstances
387 that may exist and allow the employee or employee applicant to be
388 employed by the covered entity. The covered entity, upon report
389 and recommendation of the hiring officer, may grant waivers for
390 those mitigating circumstances, which shall include, but not be
391 limited to: (i) age at which the crime was committed; (ii)
392 circumstances surrounding the crime; (iii) length of time since
393 the conviction and criminal history since the conviction; (iv)
394 work history; (v) current employment and character references; and
395 (vi) other evidence demonstrating the ability of the individual to
396 perform the employment responsibilities competently and that the
397 individual does not pose a threat to the health or safety of the
398 patients of the covered entity.

399 (f) The licensing agency may charge the covered entity
400 submitting the fingerprints a fee not to exceed Fifty Dollars
401 (\$50.00), which covered entity may, in its discretion, charge the



402 same fee, or a portion thereof, to the employee applicant. Any
403 increase in the fee charged by the licensing agency under this
404 paragraph shall be in accordance with the provisions of Section
405 41-3-65. Any costs incurred by a covered entity implementing this
406 subsection (* * *6) shall be reimbursed as an allowable cost
407 under Section 43-13-116.

408 (g) If the results of an employee applicant's criminal
409 history record check reveals no disqualifying event, then the
410 covered entity shall, within two (2) weeks of the notification of
411 no disqualifying event, provide the employee applicant with a
412 notarized letter signed by the chief executive officer of the
413 covered entity, or his or her authorized designee, confirming the
414 employee applicant's suitability for employment based on his or
415 her criminal history record check. An employee applicant may use
416 that letter for a period of two (2) years from the date of the
417 letter to seek employment with any covered entity without the
418 necessity of an additional criminal history record check. Any
419 covered entity presented with the letter may rely on the letter
420 with respect to an employee applicant's criminal background and is
421 not required for a period of two (2) years from the date of the
422 letter to conduct or have conducted a criminal history record
423 check as required in this subsection (* * *6).

424 (h) The licensing agency, the covered entity, and their
425 agents, officers, employees, attorneys and representatives, shall
426 be presumed to be acting in good faith for any employment decision



427 or action taken under this subsection (* * *6). The presumption
428 of good faith may be overcome by a preponderance of the evidence
429 in any civil action. No licensing agency, covered entity, nor
430 their agents, officers, employees, attorneys and representatives
431 shall be held liable in any employment decision or action based in
432 whole or in part on compliance with or attempts to comply with the
433 requirements of this subsection (* * *6).

434 (i) The licensing agency shall promulgate regulations
435 to implement this subsection (* * *6).

436 (j) The provisions of this subsection (* * *6) shall
437 not apply to:

438 (i) Applicants and employees of the University of
439 Mississippi Medical Center for whom criminal history record checks
440 and fingerprinting are obtained in accordance with Section
441 37-115-41; or

442 (ii) Health care professional/vocational technical
443 students for whom criminal history record checks and
444 fingerprinting are obtained in accordance with Section 37-29-232.

445 (* * *7) The State Board of Health shall promulgate rules,
446 regulations and standards regarding the operation of adult foster
447 care facilities.

448 **SECTION 5.** Section 47-5-28, Mississippi Code of 1972, is
449 amended as follows:

450 47-5-28. The commissioner shall have the following powers
451 and duties:



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

458 (b) To establish standards, in cooperation with other
459 state agencies having responsibility as provided by law, provide
460 technical assistance, and exercise the requisite supervision as it
461 relates to correctional programs over all state-supported adult
462 correctional facilities and community-based programs;

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

468 (d) To provide the Parole Board with suitable and
469 sufficient office space and support resources and staff necessary
470 to * * * conduct Parole Board business under the guidance of the
471 Chairman of the Parole Board;

472 (e) To contract for transitional reentry center beds
473 that will be used as noncorrections housing for offenders released
474 from the department on parole, probation or post-release
475 supervision but do not have appropriate housing available upon
476 release. At least one hundred (100) but no more than eight



477 hundred (800) transitional reentry center beds contracted by the
478 department and chosen by the Parole Board shall be available for
479 the Parole Board to place parolees without appropriate housing;

480 (f) To designate deputy commissioners while performing
481 their officially assigned duties relating to the custody, control,
482 transportation, recapture or arrest of any offender within the
483 jurisdiction of the department or any offender of any jail,
484 penitentiary, public workhouse or overnight lockup of the state or
485 any political subdivision thereof not within the jurisdiction of
486 the department, to the status of peace officers anywhere in the
487 state in any matter relating to the custody, control,
488 transportation or recapture of such offender, and shall have the
489 status of law enforcement officers and peace officers as
490 contemplated by Sections 45-6-3, 97-3-7 and 97-3-19.

491 For the purpose of administration and enforcement of this
492 chapter, deputy commissioners of the Mississippi Department of
493 Corrections, who are certified by the Mississippi Board on Law
494 Enforcement Officer Standards and Training, have the powers of a
495 law enforcement officer of this state. Such powers shall include
496 to make arrests and to serve and execute search warrants and other
497 valid legal process anywhere within the State of Mississippi while
498 performing their officially assigned duties relating to the
499 custody, control, transportation, recapture or arrest of any
500 offender within the jurisdiction of the department or any offender
501 of any jail, penitentiary, public workhouse or overnight lockup of



502 the state or any political subdivision thereof not within the
503 jurisdiction of the department in any matter relating to the
504 custody, control, transportation or recapture of such
505 offender * * *;

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

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

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

518 (j) To contract with licensed special care facilities
519 for paroled inmates to provide authorized medical services and
520 support services for medically frail inmates who have been paroled
521 and who have voluntarily submitted to the Department of
522 Corrections an address to one (1) of the licensed care facilities
523 to receive such services; and

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



527 **SECTION 6.** Section 47-7-4, Mississippi Code of 1972, is
528 amended as follows:

529 47-7-4. (1) The commissioner and the medical director of
530 the department may place an offender who has served not less than
531 one (1) year of his or her sentence, except an offender convicted
532 of a sex crime, on conditional medical release. However, a
533 nonviolent offender who is bedridden may be placed on conditional
534 medical release regardless of the time served on his or her
535 sentence. Upon the release of a nonviolent offender who is
536 bedridden, the state shall not be responsible or liable for any
537 medical costs that may be incurred if such costs are acquired
538 after the offender is no longer incarcerated due to his or her
539 placement on conditional medical release. The commissioner shall
540 not place an offender on conditional medical release unless the
541 medical director of the department certifies to the commissioner
542 that (a) the offender is suffering from a significant permanent
543 physical medical condition with no possibility of recovery; (b)
544 that his or her further incarceration will serve no rehabilitative
545 purposes; and (c) that the state would incur unreasonable expenses
546 as a result of his or her continued incarceration. Any offender
547 placed on conditional medical release shall be supervised by the
548 Division of Community Corrections of the department for the
549 remainder of his or her sentence. An offender's conditional
550 medical release may be revoked and the offender returned and
551 placed in actual custody of the department if the offender



552 violates an order or condition of his or her conditional medical
553 release. An offender who is no longer bedridden shall be returned
554 and placed in the actual custody of the department.

555 (2) (a) The State Parole Board may grant a medical parole
556 and referral to licensed special care facilities for paroled
557 inmates for an inmate determined to be "medically frail" as
558 defined in this subsection.

559 (b) For purposes of this subsection (2), the term
560 "medically frail" means an individual who has a mental or physical
561 medical condition from which he or she, to a reasonable degree of
562 medical certainty, is not expected to recover and as a result
563 cannot perform daily living activities and who is a minimal threat
564 to society as a result of the mental or physical medical
565 condition.

566 (c) The following conditions apply to a parole granted
567 under this subsection (2):

568 (i) An inmate who has been sentenced to capital
569 punishment is not eligible;

570 (ii) An inmate who has been convicted as a
571 criminal sex offender is not eligible;

572 (iii) An inmate does not pose a public safety risk
573 or risk of flight as determined by the State Parole Board;

574 (iv) If the prisoner is incapacitated as a result
575 of a mental or physical medical condition as prescribed under
576 paragraph (b) of this subsection, an individual legally entitled



577 to agree to the inmate's placement agrees to the inmate's
578 placement in a licensed special care facility for paroled inmates
579 or in a medical facility where medical care and treatment are
580 determined to be appropriate for the parolee by the State Parole
581 Board;

582 (v) An inmate shall agree to the release of his or
583 her medical records that are directly relevant to the condition or
584 conditions rendering the inmate medically frail to any prosecuting
585 attorney of the county from which the inmate was committed before
586 the State Parole Board determines whether or not to grant parole
587 under this subsection;

588 (vi) If the inmate is granted parole under this
589 subsection (2), the inmate shall agree to the quarterly release of
590 his or her medical records that are directly relevant to the
591 condition or conditions rendering the inmate medically frail at
592 the request of any prosecuting attorney of the county from which
593 the inmate was committed;

594 (vii) The parolee shall adhere to the terms of his
595 or her parole for the length of his or her parole term, and the
596 parole shall be for a term not less than the time necessary to
597 reach the prisoner's earliest release date;

598 (viii) The department or the State Parole Board
599 shall not retain authority over the medical treatment plan for the
600 inmate granted parole under this subsection (2);



601 (ix) The department and the State Parole Board
602 shall ensure that the placement and terms and conditions of parole
603 granted under this subsection (2) do not violate any other state
604 or federal regulations;

605 (x) A facility utilized by the department to
606 facilitate parole under this subsection (2) shall be operated in a
607 manner that ensures the safety of the residents of the facility;

608 (xi) If the inmate recovers from the mental or
609 physical medical condition that rendered the inmate medically
610 frail under this subsection (2), the State Parole Board shall
611 revoke the parole granted under this subsection (2), and the
612 department shall ensure that the inmate returns to incarceration.

613 (d) The Mississippi Department of Corrections may enter
614 into contracts to facilitate the housing of paroled inmates under
615 this subsection (2). The Mississippi Department of Corrections
616 shall appoint a specialist in the appropriate field of medicine,
617 who is not employed by the department, to evaluate the condition
618 of the inmate considered for parole under this subsection (2) and
619 to report on that condition to the department and the State Parole
620 Board. The State Parole Board shall determine whether the inmate
621 is medically frail in consultation with the Mississippi Department
622 of Health.

623 **SECTION 7.** The following shall be codified as Section
624 43-13-117.6, Mississippi Code of 1972:



625 43-13-117.6. (1) The Division of Medicaid may apply to the
626 federal Center for Medicaid Services (CMS) for necessary waivers
627 to provide federal funding under the Medicaid program for
628 providing reimbursement for authorized services to medically frail
629 inmates who qualify for nursing home-level care and who the state
630 deems are not public safety risks, provided through a Special Care
631 Facility for Paroled Inmates licensed by the State Department of
632 Health under contract with the Mississippi Department of
633 Corrections, as specifically authorized under this act.

634 (2) Subject to CMS approval, the program for paroled inmates
635 shall be funded from monies that are appropriated or otherwise
636 made available to the division specifically to cover the cost of
637 the paroled inmate program. This program shall be a separate
638 program within the Division of Medicaid as the administering
639 agent.

640 **SECTION 8.** This act shall take effect and be in force from
641 and after July 1, 2022.

