

By: Representative Horan

To: Corrections

HOUSE BILL NO. 1129

1 AN ACT TO BRING FORWARD SECTION 47-7-2, MISSISSIPPI CODE OF
2 1972, WHICH IS THE DEFINITIONS SECTION OF THE PROBATION AND PAROLE
3 LAW, FOR PURPOSES OF POSSIBLE AMENDMENT; TO BRING FORWARD SECTION
4 47-7-3, MISSISSIPPI CODE OF 1972, WHICH RELATES TO PAROLE
5 ELIGIBILITY FOR INMATES, FOR PURPOSES OF POSSIBLE AMENDMENT; TO
6 BRING FORWARD SECTION 47-7-3.1, MISSISSIPPI CODE OF 1972, WHICH
7 RELATES TO CASE PLANS FOR INMATES, FOR PURPOSES OF POSSIBLE
8 AMENDMENT; TO BRING FORWARD SECTION 47-7-3.2, MISSISSIPPI CODE OF
9 1972, WHICH RELATES TO THE MINIMUM TIME OFFENDERS MUST SERVE, FOR
10 PURPOSES OF POSSIBLE AMENDMENT; TO BRING FORWARD SECTION 47-7-4,
11 MISSISSIPPI CODE OF 1972, WHICH PERTAINS TO CONDITIONAL MEDICAL
12 RELEASE, FOR PURPOSES OF POSSIBLE AMENDMENT; TO BRING FORWARD
13 SECTION 47-7-5, MISSISSIPPI CODE OF 1972, WHICH RELATES TO THE
14 CREATION OF THE STATE PAROLE BOARD, FOR PURPOSES OF POSSIBLE
15 AMENDMENT; TO BRING FORWARD SECTION 47-7-6, MISSISSIPPI CODE OF
16 1972, WHICH RELATES TO THE PAROLE BOARD COLLECTING CERTAIN
17 INFORMATION, FOR PURPOSES OF POSSIBLE AMENDMENT; TO BRING FORWARD
18 SECTION 47-7-9, MISSISSIPPI CODE OF 1972, WHICH RELATES TO THE
19 DIVISION OF COMMUNITY CORRECTIONS, FOR PURPOSES OF POSSIBLE
20 AMENDMENT; TO BRING FORWARD SECTION 47-7-11, MISSISSIPPI CODE OF
21 1972, WHICH PERTAINS TO CERTAIN PER DIEM AND EXPENSES, FOR
22 PURPOSES OF POSSIBLE AMENDMENT; TO BRING FORWARD SECTION 47-7-13,
23 MISSISSIPPI CODE OF 1972, WHICH RELATES TO THE VOTING REQUIREMENTS
24 OF THE PAROLE BOARD, FOR PURPOSES OF POSSIBLE AMENDMENT; TO BRING
25 FORWARD SECTION 47-7-15, MISSISSIPPI CODE OF 1972, WHICH RELATES
26 TO THE OFFICIAL SEAL OF THE PAROLE BOARD; TO BRING FORWARD SECTION
27 47-7-17, MISSISSIPPI CODE OF 1972, WHICH RELATES TO THE
28 EXAMINATION OF INMATES RECORDS BY THE PAROLE BOARD, FOR PURPOSES
29 OF POSSIBLE AMENDMENT; TO BRING FORWARD SECTION 47-7-18,
30 MISSISSIPPI CODE OF 1972, WHICH RELATES TO CONDITIONS FOR
31 PAROLE-ELIGIBLE INMATES WITHOUT A HEARING, FOR PURPOSES OF
32 POSSIBLE AMENDMENT; TO BRING FORWARD SECTION 47-7-19, MISSISSIPPI
33 CODE OF 1972, WHICH RELATES TO THE STATE PAROLE BOARD HAVING
34 ACCESS TO OFFENDERS TO GATHER INFORMATION, FOR PURPOSES OF



35 POSSIBLE AMENDMENT; TO BRING FORWARD SECTION 47-7-21, MISSISSIPPI
36 CODE OF 1972, WHICH RELATES TO PRIVILEGED INFORMATION, FOR
37 PURPOSES OF POSSIBLE AMENDMENT; TO BRING FORWARD SECTION 47-7-23,
38 MISSISSIPPI CODE OF 1972, WHICH RELATES TO CERTAIN RULES AND
39 REGULATIONS, FOR PURPOSES OF POSSIBLE AMENDMENT; TO BRING FORWARD
40 SECTION 47-7-25, MISSISSIPPI CODE OF 1972, WHICH RELATES TO
41 GRATUITIES TO PAROLED OFFENDERS, FOR PURPOSES OF POSSIBLE
42 AMENDMENT; TO BRING FORWARD SECTION 47-7-27, MISSISSIPPI CODE OF
43 1972, WHICH RELATES TO TECHNICAL VIOLATION CENTERS, FOR PURPOSES
44 OF POSSIBLE AMENDMENT; TO BRING FORWARD SECTION 47-7-29,
45 MISSISSIPPI CODE OF 1972, WHICH RELATES TO THE EFFECT OF A FELONY
46 CONVICTION WHILE ON PAROLE, FOR PURPOSES OF POSSIBLE AMENDMENT; TO
47 BRING FORWARD SECTION 47-7-31, MISSISSIPPI CODE OF 1972, WHICH
48 RELATES TO THE DEPARTMENT OF CORRECTIONS ROLE IN PARDON AND
49 COMMUTATION REQUESTS, FOR PURPOSES OF POSSIBLE AMENDMENT; TO BRING
50 FORWARD SECTION 47-7-33, MISSISSIPPI CODE OF 1972, WHICH RELATES
51 TO THE POWER OF THE COURT TO SUSPEND SENTENCES AND PLACE
52 DEFENDANTS ON PROBATION, FOR PURPOSES OF POSSIBLE AMENDMENT; TO
53 BRING FORWARD SECTION 47-7-33.1, MISSISSIPPI CODE OF 1972,
54 REGARDING DEPARTMENT DISCHARGE PLANS FOR RELEASED INMATES; TO
55 BRING FORWARD SECTION 47-7-34, MISSISSIPPI CODE OF 1972, WHICH
56 RELATES TO POST-RELEASE SUPERVISION, FOR PURPOSES OF POSSIBLE
57 AMENDMENT; TO BRING FORWARD SECTION 47-7-35, MISSISSIPPI CODE OF
58 1972, WHICH RELATES TO THE TERMS AND CONDITIONS OF PROBATION, FOR
59 PURPOSES OF POSSIBLE AMENDMENT; TO BRING FORWARD SECTION 47-7-36,
60 MISSISSIPPI CODE OF 1972, WHICH RELATES TO PERSONS WHO SUPERVISE
61 THOSE ON PROBATION OR PAROLE, FOR PURPOSES OF POSSIBLE AMENDMENT;
62 TO BRING FORWARD SECTION 47-7-37, MISSISSIPPI CODE OF 1972, WHICH
63 RELATES TO THE PERIOD OF PROBATION THAT IS SET BY A COURT, FOR
64 PURPOSES OF POSSIBLE AMENDMENT; TO BRING FORWARD SECTION
65 47-7-37.1, MISSISSIPPI CODE OF 1972, WHICH RELATES TO THE
66 REVOCATION OF PROBATION OR POST-RELEASE SUPERVISION, FOR PURPOSES
67 OF POSSIBLE AMENDMENT; TO BRING FORWARD SECTION 47-7-38,
68 MISSISSIPPI CODE OF 1972, WHICH RELATES TO CERTAIN GRADUATED
69 SECTIONS, FOR PURPOSES OF POSSIBLE AMENDMENT; TO BRING FORWARD
70 SECTION 47-7-38.1, MISSISSIPPI CODE OF 1972, WHICH RELATES TO
71 TECHNICAL VIOLATION CENTERS, FOR PURPOSES OF POSSIBLE AMENDMENT;
72 TO BRING FORWARD SECTION 47-7-39, MISSISSIPPI CODE OF 1972, WHICH
73 RELATES TO CHANGE OF RESIDENCE, FOR PURPOSES OF POSSIBLE
74 AMENDMENT; TO BRING FORWARD SECTION 47-7-40, MISSISSIPPI CODE OF
75 1972, WHICH PERTAINS TO THE EARNED-DISCHARGE PROGRAM; TO BRING
76 FORWARD SECTION 47-7-41, MISSISSIPPI CODE OF 1972, WHICH RELATES
77 TO DISCHARGE FROM PROBATION, FOR PURPOSES OF POSSIBLE AMENDMENT;
78 TO BRING FORWARD SECTION 47-7-43, MISSISSIPPI CODE OF 1972, WHICH
79 RELATES TO THE APPLICATION OF CERTAIN PROVISIONS, FOR PURPOSES OF
80 POSSIBLE AMENDMENT; TO BRING FORWARD SECTION 47-7-45, MISSISSIPPI
81 CODE OF 1972, WHICH RELATES TO PROVISIONS INAPPLICABLE TO OAKLEY
82 YOUTH DEVELOPMENT CENTER, FOR PURPOSES OF POSSIBLE AMENDMENT; TO
83 BRING FORWARD SECTION 47-7-47, MISSISSIPPI CODE OF 1972, WHICH
84 RELATES TO THE EARNED PROBATION PROGRAM, FOR PURPOSES OF POSSIBLE
85 AMENDMENT; TO BRING FORWARD SECTION 47-7-49, MISSISSIPPI CODE OF



86 1972, WHICH RELATES TO THE COMMUNITY SERVICE REVOLVING FUND, FOR
87 PURPOSES OF POSSIBLE AMENDMENT; TO BRING FORWARD SECTION 47-7-51,
88 MISSISSIPPI CODE OF 1972, WHICH RELATES TO THE CORRECTIONAL
89 TRAINING REVOLVING FUND, FOR PURPOSES OF POSSIBLE AMENDMENT; TO
90 BRING FORWARD SECTION 47-7-53, MISSISSIPPI CODE OF 1972, WHICH
91 RELATES TO THE AUTHORITY OF THE DEPARTMENT TO ASSUME CERTAIN
92 RESPONSIBILITIES, FOR PURPOSES OF POSSIBLE AMENDMENT; TO BRING
93 FORWARD SECTION 47-7-55, MISSISSIPPI CODE OF 1972, WHICH RELATES
94 TO THE CREATION OF THE PAROLE COMMISSION, FOR PURPOSES OF POSSIBLE
95 AMENDMENT; TO BRING FORWARD SECTION 47-5-28, MISSISSIPPI CODE OF
96 1972, WHICH RELATES TO THE ADDITIONAL POWERS AND DUTIES OF THE
97 COMMISSIONER OF CORRECTIONS, FOR PURPOSES OF POSSIBLE AMENDMENT;
98 TO BRING FORWARD SECTION 47-5-931, MISSISSIPPI CODE OF 1972, WHICH
99 AUTHORIZES STATE OFFENDERS TO BE HOUSED IN REGIONAL FACILITIES,
100 FOR PURPOSES OF POSSIBLE AMENDMENT; TO BRING FORWARD SECTION
101 47-5-933, MISSISSIPPI CODE OF 1972, WHICH RELATES TO CONTRACTS FOR
102 THE INCARCERATION OF STATE OFFENDERS IN COUNTY JAILS, FOR PURPOSES
103 OF POSSIBLE AMENDMENT; TO BRING FORWARD SECTION 47-5-938,
104 MISSISSIPPI CODE OF 1972, WHICH RELATES TO OFFENDERS IN COUNTIES
105 TO PARTICIPATE IN WORK PROGRAMS, FOR PURPOSES OF POSSIBLE
106 AMENDMENT; TO BRING FORWARD SECTION 45-1-3, MISSISSIPPI CODE OF
107 1972, WHICH RELATES TO THE RULE MAKING POWER OF THE COMMISSIONER
108 OF PUBLIC SAFETY, FOR PURPOSES OF POSSIBLE AMENDMENT; TO BRING
109 FORWARD SECTION 9-23-11, MISSISSIPPI CODE OF 1972, WHICH RELATES
110 TO THE UNIFORM CERTIFICATION PROCESS FOR INTERVENTION AND CERTAIN
111 OTHER COURTS, FOR PURPOSES OF POSSIBLE AMENDMENT; TO BRING FORWARD
112 SECTIONS 99-39-5 AND 99-39-27, MISSISSIPPI CODE OF 1972, WHICH
113 RELATE TO CERTAIN POST-CONVICTION PROCEEDINGS, FOR PURPOSES OF
114 POSSIBLE AMENDMENT; TO BRING FORWARD SECTIONS 41-29-153 THROUGH
115 41-29-157, MISSISSIPPI CODE OF 1972, WHICH RELATE TO CERTAIN
116 FORFEITURE, FOR PURPOSES OF POSSIBLE AMENDMENT; TO BRING FORWARD
117 SECTIONS 99-15-103 THROUGH 99-15-127, MISSISSIPPI CODE OF 1972,
118 WHICH RELATE TO PRETRIAL-INTERVENTION, FOR PURPOSES OF POSSIBLE
119 AMENDMENT; TO BRING FORWARD SECTIONS 9-23-5 THROUGH 9-23-23,
120 MISSISSIPPI CODE OF 1972, WHICH RELATE TO INTERVENTION COURTS, FOR
121 PURPOSES OF POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

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

123 **SECTION 1.** Section 47-7-2, Mississippi Code of 1972, is
124 brought forward as follows:

125 47-7-2. For purposes of this chapter, the following words
126 shall have the meaning ascribed herein unless the context shall
127 otherwise require:



128 (a) "Adult" means a person who is seventeen (17) years
129 of age or older, or any person convicted of any crime not subject
130 to the provisions of the youth court law, or any person
131 "certified" to be tried as an adult by any youth court in the
132 state.

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

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

140 (d) "Commissioner" means the Commissioner of
141 Corrections.

142 (e) "Correctional system" means the facilities,
143 institutions, programs and personnel of the department utilized
144 for adult offenders who are committed to the custody of the
145 department.

146 (f) "Criminal risk factors" means characteristics that
147 increase a person's likelihood of reoffending. These
148 characteristics include: antisocial behavior; antisocial
149 personality; criminal thinking; criminal associates; dysfunctional
150 family; low levels of employment or education; poor use of leisure
151 and recreation; and substance abuse.



152 (g) "Department" means the Mississippi Department of
153 Corrections.

154 (h) "Detention" means the temporary care of juveniles
155 and adults who require secure custody for their own or the
156 community's protection in a physically restricting facility prior
157 to adjudication, or retention in a physically restricting facility
158 upon being taken into custody after an alleged parole or probation
159 violation.

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

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

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

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

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



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

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

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

190 (q) "Technical violation" means an act or omission by
191 the probationer that violates a condition or conditions of
192 probation placed on the probationer by the court or the probation
193 officer.

194 (r) "Transitional reentry center" means a
195 state-operated or state-contracted facility used to house
196 offenders leaving the physical custody of the Department of
197 Corrections on parole, probation or post-release supervision who
198 are in need of temporary housing and services that reduce their
199 risk to reoffend.



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

203 (t) "Risk and needs assessment" means the determination
204 of a person's risk to reoffend using an actuarial assessment tool
205 validated on Mississippi corrections populations and the needs
206 that, when addressed, reduce the risk to reoffend.

207 **SECTION 2.** Section 47-7-3, Mississippi Code of 1972, is
208 brought forward as follows:

209 47-7-3. (1) Every prisoner who has been convicted of any
210 offense against the State of Mississippi, and is confined in the
211 execution of a judgment of such conviction in the Mississippi
212 Department of Corrections for a definite term or terms of one (1)
213 year or over, or for the term of his or her natural life, whose
214 record of conduct shows that such prisoner has observed the rules
215 of the department, and who has served the minimum required time
216 for parole eligibility, may be released on parole as set forth
217 herein:

218 (a) **Habitual offenders.** Except as provided by Sections
219 99-19-81 through 99-19-87, no person sentenced as a confirmed and
220 habitual criminal shall be eligible for parole;

221 (b) **Sex offenders.** Any person who has been sentenced
222 for a sex offense as defined in Section 45-33-23(h) shall not be
223 released on parole except for a person under the age of nineteen
224 (19) who has been convicted under Section 97-3-67;



225 (c) **Capital offenders.** No person sentenced for the
226 following offenses shall be eligible for parole:

227 (i) Capital murder committed on or after July 1,
228 1994, as defined in Section 97-3-19(2);

229 (ii) Any offense to which an offender is sentenced
230 to life imprisonment under the provisions of Section 99-19-101; or

231 (iii) Any offense to which an offender is
232 sentenced to life imprisonment without eligibility for parole
233 under the provisions of Section 99-19-101, whose crime was
234 committed on or after July 1, 1994;

235 (d) **Murder.** No person sentenced for murder in the
236 first degree, whose crime was committed on or after June 30, 1995,
237 or murder in the second degree, as defined in Section 97-3-19,
238 shall be eligible for parole;

239 (e) **Human trafficking.** No person sentenced for human
240 trafficking, as defined in Section 97-3-54.1, whose crime was
241 committed on or after July 1, 2014, shall be eligible for parole;

242 (f) **Drug trafficking.** No person sentenced for
243 trafficking and aggravated trafficking, as defined in Section
244 41-29-139(f) through (g), shall be eligible for parole;

245 (g) **Offenses specifically prohibiting parole release.**
246 No person shall be eligible for parole who is convicted of any
247 offense that specifically prohibits parole release;

248 (h) (i) **Offenders eligible for parole consideration**
249 **for offenses committed after June 30, 1995.** Except as provided in



250 paragraphs (a) through (g) of this subsection, offenders may be
251 considered eligible for parole release as follows:

252 1. **Nonviolent crimes.** All persons sentenced
253 for a nonviolent offense shall be eligible for parole only after
254 they have served twenty-five percent (25%) or ten (10) years,
255 whichever is less, of the sentence or sentences imposed by the
256 trial court. For purposes of this paragraph, "nonviolent crime"
257 means a felony not designated as a crime of violence in Section
258 97-3-2.

259 2. **Violent crimes.** A person who is sentenced
260 for a violent offense as defined in Section 97-3-2, except robbery
261 with a deadly weapon as defined in Section 97-3-79, drive-by
262 shooting as defined in Section 97-3-109, and carjacking as defined
263 in Section 97-3-117, shall be eligible for parole only after
264 having served fifty percent (50%) or twenty (20) years, whichever
265 is less, of the sentence or sentences imposed by the trial court.
266 Those persons sentenced for robbery with a deadly weapon as
267 defined in Section 97-3-79, drive-by shooting as defined in
268 Section 97-3-109, and carjacking as defined in Section 97-3-117,
269 shall be eligible for parole only after having served sixty
270 percent (60%) or twenty-five (25) years, whichever is less, of the
271 sentence or sentences imposed by the trial court.

272 3. **Nonviolent and nonhabitual drug offenses.**
273 A person who has been sentenced to a drug offense pursuant to
274 Section 41-29-139(a) through (d), whose crime was committed after



275 June 30, 1995, shall be eligible for parole only after he has
276 served twenty-five percent (25%) or ten (10) years, whichever is
277 less, of the sentence or sentences imposed.

278 (ii) **Parole hearing required.** All persons
279 eligible for parole under subparagraph (i) of this paragraph (h)
280 who are serving a sentence or sentences for a crime of violence,
281 as defined in Section 97-3-2, shall be required to have a parole
282 hearing before the Parole Board pursuant to Section 47-7-17, prior
283 to parole release.

284 (iii) **Geriatric parole.** Notwithstanding the
285 provisions in subparagraph (i) of this paragraph (h), a person
286 serving a sentence who has reached the age of sixty (60) or older
287 and who has served no less than ten (10) years of the sentence or
288 sentences imposed by the trial court shall be eligible for parole.
289 Any person eligible for parole under this subparagraph (iii) shall
290 be required to have a parole hearing before the board prior to
291 parole release. No inmate shall be eligible for parole under this
292 subparagraph (iii) of this paragraph (h) if:

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

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

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



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

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

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

305 (iv) **Parole consideration as authorized by the**
306 **trial court.** Notwithstanding the provisions of paragraph (a) of
307 this subsection, any offender who has not committed a crime of
308 violence under Section 97-3-2 and has served twenty-five percent
309 (25%) or more of his sentence may be paroled by the State Parole
310 Board if, after the sentencing judge or if the sentencing judge is
311 retired, disabled or incapacitated, the senior circuit judge
312 authorizes the offender to be eligible for parole consideration;
313 or if the senior circuit judge must be recused, another circuit
314 judge of the same district or a senior status judge may hear and
315 decide the matter. A petition for parole eligibility
316 consideration pursuant to this subparagraph (iv) shall be filed in
317 the original criminal cause or causes, and the offender shall
318 serve an executed copy of the petition on the District Attorney.
319 The court may, in its discretion, require the District Attorney to
320 respond to the petition.

321 (2) The State Parole Board shall, by rules and regulations,
322 establish a method of determining a tentative parole hearing date
323 for each eligible offender taken into the custody of the



324 Department of Corrections. The tentative parole hearing date
325 shall be determined within ninety (90) days after the department
326 has assumed custody of the offender. Except as provided in
327 Section 47-7-18, the parole hearing date shall occur when the
328 offender is within thirty (30) days of the month of his parole
329 eligibility date. Any parole eligibility date shall not be
330 earlier than as required in this section.

331 (3) Notwithstanding any other provision of law, an inmate
332 shall not be eligible to receive earned time, good time or any
333 other administrative reduction of time which shall reduce the time
334 necessary to be served for parole eligibility as provided in
335 subsection (1) of this section.

336 (4) Any inmate within forty-eight (48) months of his parole
337 eligibility date and who meets the criteria established by the
338 classification board shall receive priority for placement in any
339 educational development and job-training programs that are part of
340 his or her parole case plan. Any inmate refusing to participate
341 in an educational development or job-training program, including,
342 but not limited to, programs required as part of the case plan,
343 shall be in jeopardy of noncompliance with the case plan and may
344 be denied parole.

345 (5) In addition to other requirements, if an offender is
346 convicted of a drug or driving under the influence felony, the
347 offender must complete a drug and alcohol rehabilitation program



348 prior to parole, or the offender shall be required to complete a
349 postrelease drug and alcohol program as a condition of parole.

350 (6) Except as provided in subsection (1)(a) through (h) of
351 this section, all other persons shall be eligible for parole after
352 serving twenty-five percent (25%) of the sentence or sentences
353 imposed by the trial court, or, if sentenced to thirty (30) years
354 or more, after serving ten (10) years of the sentence or sentences
355 imposed by the trial court.

356 (7) The Corrections and Criminal Justice Oversight Task
357 Force established in Section 47-5-6 shall develop and submit
358 recommendations to the Governor and to the Legislature annually on
359 or before December 1st concerning issues relating to juvenile and
360 habitual offender parole reform and to review and monitor the
361 implementation of Chapter 479, Laws of 2021.

362 (8) The amendments contained in Chapter 479, Laws of 2021,
363 shall apply retroactively from and after July 1, 1995.

364 (9) Notwithstanding provisions to the contrary in this
365 section, a person who was sentenced before July 1, 2021, may be
366 considered for parole if the person's sentence would have been
367 parole eligible before July 1, 2021.

368 (10) This section shall stand repealed on July 1, 2024.

369 **SECTION 3.** Section 47-7-3.1, Mississippi Code of 1972, is
370 brought forward as follows:

371 47-7-3.1. (1) In consultation with the Parole Board, the
372 department shall develop a case plan for all parole-eligible



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

376 (2) The case plan shall include, but not be limited to:

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

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

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

383 (3) With respect to parole-eligible inmates admitted to the
384 department's custody on or after July 1, 2021, the department
385 shall complete the case plan within ninety (90) days of admission.

386 With respect to parole-eligible inmates admitted to the
387 department's custody before July 1, 2021, the department shall
388 complete the case plan by January 1, 2022.

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

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

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



398 (5) With respect to parole-eligible inmates admitted to the
399 department's custody after July 1, 2021, the department shall
400 ensure that the case plan is achievable prior to the inmate's
401 parole eligibility date. With respect to parole-eligible inmates
402 admitted to the department's custody before July 1, 2021, the
403 department shall, to the extent possible, ensure that the case
404 plan is achievable prior to the inmate's parole eligibility date
405 or next parole hearing date, or date of release, whichever is
406 sooner.

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

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

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

420 (9) If the Department of Corrections fails to adequately
421 provide opportunity and access for the completion of such case
422 plans, the Department of Corrections shall, to the extent



423 possible, contract with regional jail facilities that offer
424 educational development and job-training programs to facilitate
425 the fulfillment of the case plans of parole-eligible inmates.

426 **SECTION 4.** Section 47-7-3.2, Mississippi Code of 1972, is
427 brought forward as follows:

428 47-7-3.2. (1) Notwithstanding Section 47-5-138, 47-5-139,
429 47-5-138.1 or 47-5-142, no person convicted of a criminal offense
430 on or after July 1, 2014, shall be released by the department
431 until he or she has served no less than the percentage of the
432 sentence or sentences imposed by the court as set forth below:

433 (a) Twenty-five percent (25%) or ten (10) years,
434 whichever is less, for a nonviolent crime;

435 (b) Fifty percent (50%) or twenty (20) years, whichever
436 is less, for a crime of violence pursuant to Section 97-3-2,
437 except for robbery with a deadly weapon as defined in Section
438 97-3-79, drive-by shooting as defined in Section 97-3-109, or
439 carjacking as defined in Section 97-3-117;

440 (c) Sixty percent (60%) or twenty-five (25) years,
441 whichever is less, for robbery with a deadly weapon as defined in
442 Section 97-3-79, drive-by shooting as defined in Section 97-3-109,
443 or carjacking as defined in Section 97-3-117.

444 (2) This section shall not apply to:

445 (a) Offenders sentenced to life imprisonment;

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



448 (c) Offenders serving a sentence for a sex offense; or
449 (d) Offenders serving a sentence for trafficking
450 pursuant to Section 41-29-139(f).

451 **SECTION 5.** Section 47-7-4, Mississippi Code of 1972, is
452 brought forward as follows:

453 47-7-4. (1) The commissioner and the medical director of
454 the department may place an offender who has served not less than
455 one (1) year of his or her sentence, except an offender convicted
456 of a sex crime, on conditional medical release. However, a
457 nonviolent offender who is bedridden may be placed on conditional
458 medical release regardless of the time served on his or her
459 sentence. Upon the release of a nonviolent offender who is
460 bedridden, the state shall not be responsible or liable for any
461 medical costs that may be incurred if such costs are acquired
462 after the offender is no longer incarcerated due to his or her
463 placement on conditional medical release. The commissioner shall
464 not place an offender on conditional medical release unless the
465 medical director of the department certifies to the commissioner
466 that (a) the offender is suffering from a significant permanent
467 physical medical condition with no possibility of recovery; (b)
468 that his or her further incarceration will serve no rehabilitative
469 purposes; and (c) that the state would incur unreasonable expenses
470 as a result of his or her continued incarceration. Any offender
471 placed on conditional medical release shall be supervised by the
472 Division of Community Corrections of the department for the



473 remainder of his or her sentence. An offender's conditional
474 medical release may be revoked and the offender returned and
475 placed in actual custody of the department if the offender
476 violates an order or condition of his or her conditional medical
477 release. An offender who is no longer bedridden shall be returned
478 and placed in the actual custody of the department.

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

483 (b) For purposes of this subsection (2), the term
484 "medically frail" means an individual who has a mental or physical
485 medical condition from which he or she, to a reasonable degree of
486 medical certainty, is not expected to recover and as a result
487 cannot perform daily living activities and who is a minimal threat
488 to society as a result of the mental or physical medical
489 condition.

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

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

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

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



498 (iv) If the prisoner is incapacitated as a result
499 of a mental or physical medical condition as prescribed under
500 paragraph (b) of this subsection, an individual legally entitled
501 to agree to the inmate's placement agrees to the inmate's
502 placement in a licensed special care facility for paroled inmates
503 or in a medical facility where medical care and treatment are
504 determined to be appropriate for the parolee by the State Parole
505 Board;

506 (v) An inmate shall agree to the release of his or
507 her medical records that are directly relevant to the condition or
508 conditions rendering the inmate medically frail to any prosecuting
509 attorney of the county from which the inmate was committed before
510 the State Parole Board determines whether or not to grant parole
511 under this subsection;

512 (vi) If the inmate is granted parole under this
513 subsection (2), the inmate shall agree to the quarterly release of
514 his or her medical records that are directly relevant to the
515 condition or conditions rendering the inmate medically frail at
516 the request of any prosecuting attorney of the county from which
517 the inmate was committed;

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



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

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

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

532 (xi) If the inmate recovers from the mental or
533 physical medical condition that rendered the inmate medically
534 frail under this subsection (2), the State Parole Board shall
535 revoke the parole granted under this subsection (2), and the
536 department shall ensure that the inmate returns to incarceration.

537 (d) The Mississippi Department of Corrections may enter
538 into contracts to facilitate the housing of paroled inmates under
539 this subsection (2). The Mississippi Department of Corrections
540 shall appoint a specialist in the appropriate field of medicine,
541 who is not employed by the department, to evaluate the condition
542 of the inmate considered for parole under this subsection (2) and
543 to report on that condition to the department and the State Parole
544 Board. The State Parole Board shall determine whether the inmate
545 is medically frail in consultation with the Mississippi Department
546 of Health.



547 **SECTION 6.** Section 47-7-5, Mississippi Code of 1972, is
548 brought forward as follows:

549 47-7-5. (1) The State Parole Board, created under former
550 Section 47-7-5, is hereby created, continued and reconstituted and
551 shall be composed of five (5) members. The Governor shall appoint
552 the members with the advice and consent of the Senate. All terms
553 shall be at the will and pleasure of the Governor. Any vacancy
554 shall be filled by the Governor, with the advice and consent of
555 the Senate. The Governor shall appoint a chairman of the board.

556 (2) Any person who is appointed to serve on the board shall
557 possess at least a bachelor's degree or a high school diploma and
558 four (4) years' work experience. Each member shall devote his
559 full time to the duties of his office and shall not engage in any
560 other business or profession or hold any other public office. A
561 member shall receive compensation or per diem in addition to his
562 or her salary. Each member shall keep such hours and workdays as
563 required of full-time state employees under Section 25-1-98.
564 Individuals shall be appointed to serve on the board without
565 reference to their political affiliations. Each board member,
566 including the chairman, may be reimbursed for actual and necessary
567 expenses as authorized by Section 25-3-41. Each member of the
568 board shall complete annual training developed based on guidance
569 from the National Institute of Corrections, the Association of
570 Paroling Authorities International, or the American Probation and
571 Parole Association. Each first-time appointee of the board shall,



572 within sixty (60) days of appointment, or as soon as practical,
573 complete training for first-time Parole Board members developed in
574 consideration of information from the National Institute of
575 Corrections, the Association of Paroling Authorities
576 International, or the American Probation and Parole Association.

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

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

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

594 (6) The board shall have no authority or responsibility for
595 supervision of offenders granted a release for any reason,
596 including, but not limited to, probation, parole or executive



597 clemency or other offenders requiring the same through interstate
598 compact agreements. The supervision shall be provided exclusively
599 by the staff of the Division of Community Corrections of the
600 department.

601 (7) (a) The Parole Board is authorized to select and place
602 offenders in an electronic monitoring program under the conditions
603 and criteria imposed by the Parole Board. The conditions,
604 restrictions and requirements of Section 47-7-17 and Sections
605 47-5-1001 through 47-5-1015 shall apply to the Parole Board and
606 any offender placed in an electronic monitoring program by the
607 Parole Board.

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

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

616 (8) (a) The Parole Board shall maintain a central registry
617 of paroled inmates. The Parole Board shall place the following
618 information on the registry: name, address, photograph, crime for
619 which paroled, the date of the end of parole or flat-time date and
620 other information deemed necessary. The Parole Board shall



621 immediately remove information on a parolee at the end of his
622 parole or flat-time date.

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

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

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

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

635 (10) This section shall stand repealed on July 1, 2025.

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

638 47-7-6. (1) The Parole Board, with the assistance of the
639 Department of Corrections, shall collect the following
640 information:

641 (a) The number of offenders supervised on parole;

642 (b) The number of offenders released on parole;

643 (c) The number of parole hearings held;

644 (d) The parole grant rate for parolees released with
645 and without a hearing;



646 (e) The average length of time offenders spend on
647 parole;

648 (f) The number and percentage of parolees revoked for a
649 technical violation and returned for a term of imprisonment in a
650 technical violation center;

651 (g) The number and percentage of parolees revoked for a
652 technical violation and returned for a term of imprisonment in
653 another type of department of corrections' facility;

654 (h) The number and percentage of parolees who are
655 convicted of a new offense and returned for a term of imprisonment
656 on their current crime as well as the new crime;

657 (i) The number of parolees held on a violation in
658 county jail awaiting a revocation hearing; and

659 (j) The average length of stay in a county jail for
660 parolees awaiting a revocation hearing.

661 (2) The Parole Board shall semiannually report information
662 required in subsection (1) to the Oversight Task Force, and upon
663 request, shall report such information to the PEER Committee.

664 **SECTION 8.** Section 47-7-9, Mississippi Code of 1972, is
665 brought forward as follows:

666 47-7-9. (1) The circuit judges and county judges in the
667 districts to which Division of Community Corrections personnel
668 have been assigned shall have the power to request of the
669 department transfer or removal of the division personnel from
670 their court.



671 (2) (a) Division personnel shall investigate all cases
672 referred to them for investigation by the board, the division or
673 by any court in which they are authorized to serve. They shall
674 furnish to each person released under their supervision a written
675 statement of the conditions of probation, parole, earned-release
676 supervision, post-release supervision or suspension and shall
677 instruct the person regarding the same. They shall administer a
678 risk and needs assessment on each person under their supervision
679 to measure criminal risk factors and individual needs. They shall
680 use the results of the risk and needs assessment to guide
681 supervision responses consistent with evidence-based practices as
682 to the level of supervision and the practices used to reduce
683 recidivism. They shall develop a supervision plan for each person
684 assessed as moderate to high risk to reoffend. They shall keep
685 informed concerning the conduct and conditions of persons under
686 their supervision and use all suitable methods that are consistent
687 with evidence-based practices to aid and encourage them and to
688 bring about improvements in their conduct and condition and to
689 reduce the risk of recidivism. They shall keep detailed records
690 of their work and shall make such reports in writing as the court
691 or the board may require.

692 (b) Division personnel shall complete annual training
693 on evidence-based practices and criminal risk factors, as well as
694 instructions on how to target these factors to reduce recidivism.



695 (c) The division personnel duly assigned to court
696 districts are hereby vested with all the powers of police officers
697 or sheriffs to make arrests or perform any other duties required
698 of policemen or sheriffs which may be incident to the division
699 personnel responsibilities. All probation and parole officers
700 hired on or after July 1, 1994, will be placed in the Law
701 Enforcement Officers Training Program and will be required to meet
702 the standards outlined by that program.

703 (d) It is the intention of the Legislature that insofar
704 as practicable the case load of each division personnel
705 supervising offenders in the community (hereinafter field
706 supervisor) shall not exceed the number of cases that may be
707 adequately handled.

708 (3) (a) Division personnel shall be provided to perform
709 investigation for the court as provided in this subsection.
710 Division personnel shall conduct presentence investigations on all
711 persons convicted of a felony in any circuit court of the state,
712 prior to sentencing and at the request of the circuit court judge
713 of the court of conviction. The presentence evaluation report
714 shall consist of a complete record of the offender's criminal
715 history, educational level, employment history, psychological
716 condition and such other information as the department or judge
717 may deem necessary. Division personnel shall also prepare written
718 victim impact statements at the request of the sentencing judge as
719 provided in Section 99-19-157.



720 (b) In order that offenders in the custody of the
721 department on July 1, 1976, may benefit from the kind of
722 evaluations authorized in this section, an evaluation report to
723 consist of the information required hereinabove, supplemented by
724 an examination of an offender's record while in custody, shall be
725 compiled by the division upon all offenders in the custody of the
726 department on July 1, 1976. After a study of such reports by the
727 State Parole Board those cases which the board believes would
728 merit some type of executive clemency shall be submitted by the
729 board to the Governor with its recommendation for the appropriate
730 executive action.

731 (c) The department is authorized to accept gifts,
732 grants and subsidies to conduct this activity.

733 **SECTION 9.** Section 47-7-11, Mississippi Code of 1972, is
734 brought forward as follows:

735 47-7-11. All salaries and expenses incurred in the carrying
736 out of this chapter shall be paid out of funds appropriated by the
737 Legislature for the support and maintenance of the Probation and
738 Parole Board. All accounts, including salaries, shall be approved
739 and allowed by the board, and the board shall keep a complete
740 record thereof.

741 **SECTION 10.** Section 47-7-13, Mississippi Code of 1972, is
742 brought forward as follows:

743 47-7-13. A majority of the board shall constitute a quorum
744 for the transaction of all business. A decision to parole an



745 offender convicted of murder or a sex-related crime shall require
746 the affirmative vote of three (3) members. The board shall
747 maintain, in minute book form, a copy of each of its official
748 actions with the reasons therefor. Suitable and sufficient office
749 space and support resources and staff necessary to conducting
750 Parole Board business shall be provided by the Department of
751 Corrections. However, the principal place for conducting parole
752 hearings shall be the State Penitentiary at Parchman.

753 **SECTION 11.** Section 47-7-15, Mississippi Code of 1972, is
754 brought forward as follows:

755 47-7-15. The board shall adopt an official seal of which the
756 courts shall take judicial notice. Decisions of the board shall
757 be made by majority vote, except as provided in Section 47-7-5(9).

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

763 **SECTION 12.** Section 47-7-17, Mississippi Code of 1972, is
764 brought forward as follows:

765 47-7-17. (1) Within one (1) year after his admission and at
766 such intervals thereafter as it may determine, the board shall
767 secure and consider all pertinent information regarding each
768 offender, except any under sentence of death or otherwise
769 ineligible for parole, including the circumstances of his offense,



770 his previous social history, his previous criminal record,
771 including any records of law enforcement agencies or of a youth
772 court regarding that offender's juvenile criminal history, his
773 conduct, employment and attitude while in the custody of the
774 department, the case plan created to prepare the offender for
775 parole, and the reports of such physical and mental examinations
776 as have been made. The board shall furnish at least three (3)
777 months' written notice to each such offender of the date on which
778 he is eligible for parole.

779 (2) Except as provided in Section 47-7-18, the board shall
780 require a parole-eligible offender to have a hearing as required
781 in this chapter before the board and to be interviewed. The
782 hearing shall be held no later than thirty (30) days prior to the
783 month of eligibility. No application for parole of a person
784 convicted of a capital offense shall be considered by the board
785 unless and until notice of the filing of such application shall
786 have been published at least once a week for two (2) weeks in a
787 newspaper published in or having general circulation in the county
788 in which the crime was committed. The board shall, within thirty
789 (30) days prior to the scheduled hearing, also give notice of the
790 filing of the application for parole to the victim of the offense
791 for which the prisoner is incarcerated and being considered for
792 parole or, in case the offense be homicide, a designee of the
793 immediate family of the victim, provided the victim or designated
794 family member has furnished in writing a current address to the



795 board for such purpose. The victim or designated family member
796 shall be provided an opportunity to be heard by the board before
797 the board makes a decision regarding release on parole. The board
798 shall consider whether any restitution ordered has been paid in
799 full. Parole release shall, at the hearing, be ordered only for
800 the best interest of society, not as an award of clemency; it
801 shall not be considered to be a reduction of sentence or pardon.
802 An offender shall be placed on parole only when arrangements have
803 been made for his proper employment or for his maintenance and
804 care, and when the board believes that he is able and willing to
805 fulfill the obligations of a law-abiding citizen. When the board
806 determines that the offender will need transitional housing upon
807 release in order to improve the likelihood of the offender
808 becoming a law-abiding citizen, the board may parole the offender
809 with the condition that the inmate spends no more than six (6)
810 months in a transitional reentry center. At least fifteen (15)
811 days prior to the release of an offender on parole, the director
812 of records of the department shall give the written notice which
813 is required pursuant to Section 47-5-177. Every offender while on
814 parole shall remain in the legal custody of the department from
815 which he was released and shall be amenable to the orders of the
816 board. Upon determination by the board that an offender is
817 eligible for release by parole, notice shall also be given within
818 at least fifteen (15) days before release, by the board to the
819 victim of the offense or the victim's family member, as indicated



820 above, regarding the date when the offender's release shall occur,
821 provided a current address of the victim or the victim's family
822 member has been furnished in writing to the board for such
823 purpose.

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

830 (4) A letter of protest against granting an offender parole
831 shall not be treated as the conclusive and only reason for not
832 granting parole.

833 (5) The board may adopt such other rules not inconsistent
834 with law as it may deem proper or necessary with respect to the
835 eligibility of offenders for parole, the conduct of parole
836 hearings, or conditions to be imposed upon parolees, including a
837 condition that the parolee submit, as provided in Section 47-5-601
838 to any type of breath, saliva or urine chemical analysis test, the
839 purpose of which is to detect the possible presence of alcohol or
840 a substance prohibited or controlled by any law of the State of
841 Mississippi or the United States. The board shall have the
842 authority to adopt rules related to the placement of certain
843 offenders on unsupervised parole and for the operation of
844 transitional reentry centers. However, in no case shall an



845 offender be placed on unsupervised parole before he has served a
846 minimum of fifty percent (50%) of the period of supervised parole.

847 **SECTION 13.** Section 47-7-18, Mississippi Code of 1972, is
848 brought forward as follows:

849 47-7-18 (1) No inmate convicted of a sex offense as defined
850 by Section 45-33-23(h), a crime of violence as defined by Section
851 97-3-2, or both, nor an inmate who is eligible for geriatric
852 parole shall be released on parole without a hearing before the
853 Parole Board as required by Section 47-7-17. All other inmates
854 eligible for parole pursuant to Section 47-7-3 shall be released
855 from incarceration to parole supervision on the inmate's parole
856 eligibility date, without a hearing before the board, if:

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

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

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

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

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

867 (2) At least thirty (30) days prior to an inmate's parole
868 eligibility date, the department shall notify the board in writing
869 of the inmate's compliance or noncompliance with the case plan.



870 If an inmate fails to meet a requirement of the case plan, prior
871 to the parole eligibility date, he or she shall have a hearing
872 before the board to determine if completion of the case plan can
873 occur while in the community.

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

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

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

887 (6) If a parole hearing is held, the board may determine the
888 inmate has sufficiently complied with the case plan or that the
889 incomplete case plan is not the fault of the inmate and that
890 granting parole is not incompatible with public safety, the board
891 may then parole the inmate with appropriate conditions. If the
892 board determines that the inmate has sufficiently complied with
893 the case plan but the discharge plan indicates that the inmate
894 does not have appropriate housing immediately upon release, the



895 board may parole the inmate to a transitional reentry center with
896 the condition that the inmate spends no more than six (6) months
897 in the center. If the board determines that the inmate has not
898 substantively complied with the requirement(s) of the case plan it
899 may deny parole. If the board denies parole, the board may
900 schedule a subsequent parole hearing and, if a new date is
901 scheduled, the board shall identify the corrective action the
902 inmate will need to take in order to be granted parole. Any
903 inmate not released at the time of the inmate's initial parole
904 date shall have a parole hearing at least every year.

905 **SECTION 14.** Section 47-7-19, Mississippi Code of 1972, is
906 brought forward as follows:

907 47-7-19. It shall be the duty of all correctional system
908 officials to grant to the members of the board or its properly
909 accredited representatives, access at all reasonable times to any
910 person over whom the board may have jurisdiction under this
911 chapter; to provide for the board or such representatives
912 facilities for communicating with and observing the offender; and
913 to furnish to the board such reports as the board shall require
914 concerning the conduct and character of any offender in the
915 Department of Corrections custody and any other facts deemed by
916 the board pertinent in determining whether such offender shall be
917 paroled.

918 It shall be the duty of any judge, district attorney, county
919 attorney, police officer, or other public official of the state,



920 having information with reference to any person eligible for
921 parole, to send such information as may be in his possession or
922 under his control to the board, in writing, upon request of any
923 member or employee thereof.

924 **SECTION 15.** Section 47-7-21, Mississippi Code of 1972, is
925 brought forward as follows:

926 47-7-21. All information obtained in the discharge of
927 official duty by a field officer as an employee of the Department
928 of Corrections shall be privileged and shall not be disclosed
929 directly or indirectly to anyone other than to (a) the State
930 Parole Board, (b) a judge, or (c) law enforcement agencies when
931 such information is relevant to criminal activity.

932 **SECTION 16.** Section 47-7-23, Mississippi Code of 1972, is
933 brought forward as follows:

934 47-7-23. Except as otherwise provided by law, the Department
935 of Corrections shall have the power and duty to make rules for the
936 conduct of persons heretofore or hereafter placed on parole under
937 the supervision of the Department of Corrections and for the
938 investigation and supervision of such persons, which supervision
939 may include a condition that such persons submit, as provided in
940 Section 47-5-601, to any type of breath, saliva or urine chemical
941 analysis test, the purpose of which is to detect the possible
942 presence of alcohol or a substance prohibited or controlled by any
943 law of the State of Mississippi or the United States. The
944 department shall not make any rules which shall be inconsistent



945 with the rules imposed by the State Parole Board pursuant to
946 Section 47-7-17 on offenders who are placed on unsupervised
947 parole.

948 **SECTION 17.** Section 47-7-25, Mississippi Code of 1972, is
949 brought forward as follows:

950 47-7-25. When an offender is placed on parole he shall
951 receive, if needed, from the state, civilian clothing and
952 transportation to the place in which he is to reside. At the
953 discretion of the board the offender may be advanced such sum for
954 his temporary maintenance as the board may allow. The aforesaid
955 gratuities are to be furnished by the Commissioner of Corrections
956 who is authorized to charge the actual cost of same in his account
957 as Commissioner of Corrections.

958 **SECTION 18.** Section 47-7-27, Mississippi Code of 1972, is
959 brought forward as follows:

960 47-7-27. (1) The board may, at any time and upon a showing
961 of probable violation of parole, issue a warrant for the return of
962 any paroled offender to the custody of the department. The
963 warrant shall authorize all persons named therein to return the
964 paroled offender to actual custody of the department from which he
965 was paroled.

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



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

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

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

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



995 this state, shall not be impaired by this chapter and shall remain
996 in full force and effect. An offender convicted of a felony
997 committed while on parole, whether in the State of Mississippi or
998 another state, shall immediately have his parole revoked upon
999 presentment of a certified copy of the commitment order to the
1000 board. If an offender is on parole and the offender is convicted
1001 of a felony for a crime committed prior to the offender being
1002 placed on parole, whether in the State of Mississippi or another
1003 state, the offender may have his parole revoked upon presentment
1004 of a certified copy of the commitment order to the board.

1005 (6) (a) The board shall hold a hearing for any parolee who
1006 is detained as a result of a warrant or a violation report within
1007 twenty-one (21) days of the parolee's admission to detention. The
1008 board may, in its discretion, terminate the parole or modify the
1009 terms and conditions thereof. If the board revokes parole for one
1010 or more technical violations the board shall impose a period of
1011 imprisonment to be served in a technical violation center operated
1012 by the department not to exceed ninety (90) days for the first
1013 revocation and not to exceed one hundred twenty (120) days for the
1014 second revocation. For the third revocation, the board may impose
1015 a period of imprisonment to be served in a technical violation
1016 center for up to one hundred and eighty (180) days or the board
1017 may impose the remainder of the suspended portion of the sentence.
1018 For the fourth and any subsequent revocation, the board may impose
1019 up to the remainder of the suspended portion of the sentence. The



1020 period of imprisonment in a technical violation center imposed
1021 under this section shall not be reduced in any manner.

1022 (b) If the board does not hold a hearing or does not
1023 take action on the violation within the twenty-one-day time frame
1024 in paragraph (a) of this subsection, the parolee shall be released
1025 from detention and shall return to parole status. The board may
1026 subsequently hold a hearing and may revoke parole or may continue
1027 parole and modify the terms and conditions of parole. If the
1028 board revokes parole for one or more technical violations the
1029 board shall impose a period of imprisonment to be served in a
1030 technical violation center operated by the department not to
1031 exceed ninety (90) days for the first revocation and not to exceed
1032 one hundred twenty (120) days for the second revocation. For the
1033 third revocation, the board may impose a period of imprisonment to
1034 be served in a technical violation center for up to one hundred
1035 eighty (180) days or the board may impose the remainder of the
1036 suspended portion of the sentence. For the fourth and any
1037 subsequent revocation, the board may impose up to the remainder of
1038 the suspended portion of the sentence. The period of imprisonment
1039 in a technical violation center imposed under this section shall
1040 not be reduced in any manner.

1041 (c) For a parolee charged with one or more technical
1042 violations who has not been detained awaiting the revocation
1043 hearing, the board may hold a hearing within a reasonable time.
1044 The board may revoke parole or may continue parole and modify the



1045 terms and conditions of parole. If the board revokes parole for
1046 one or more technical violations the board shall impose a period
1047 of imprisonment to be served in a technical violation center
1048 operated by the department not to exceed ninety (90) days for the
1049 first revocation and not to exceed one hundred twenty (120) days
1050 for the second revocation. For the third revocation, the board
1051 may impose a period of imprisonment to be served in a technical
1052 violation center for up to one hundred eighty (180) days or the
1053 board may impose the remainder of the suspended portion of the
1054 sentence. For the fourth and any subsequent revocation, the board
1055 may impose up to the remainder of the suspended portion of the
1056 sentence. The period of imprisonment in a technical violation
1057 center imposed under this section shall not be reduced in any
1058 manner.

1059 (7) Unless good cause for the delay is established in the
1060 record of the proceeding, the parole revocation charge shall be
1061 dismissed if the revocation hearing is not held within the thirty
1062 (30) days of the issuance of the warrant.

1063 (8) The chairman and each member of the board and the
1064 designated parole revocation hearing officer may, in the discharge
1065 of their duties, administer oaths, summon and examine witnesses,
1066 and take other steps as may be necessary to ascertain the truth of
1067 any matter about which they have the right to inquire.

1068 (9) The board shall provide semiannually to the Oversight
1069 Task Force the number of warrants issued for an alleged violation



1070 of parole, the average time between detention on a warrant and
1071 preliminary hearing, the average time between detention on a
1072 warrant and revocation hearing, the number of ninety-day sentences
1073 in a technical violation center issued by the board, the number of
1074 one-hundred-twenty-day sentences in a technical violation center
1075 issued by the board, the number of one-hundred-eighty-day
1076 sentences issued by the board, and the number and average length
1077 of the suspended sentences imposed by the board in response to a
1078 violation.

1079 **SECTION 19.** Section 47-7-29, Mississippi Code of 1972, is
1080 brought forward as follows:

1081 47-7-29. Any prisoner who commits a felony while at large
1082 upon parole or earned-release supervision and who is convicted and
1083 sentenced therefor shall be required to serve such sentence after
1084 the original sentence has been completed.

1085 **SECTION 20.** Section 47-7-31, Mississippi Code of 1972, is
1086 brought forward as follows:

1087 47-7-31. Upon request of the Governor the Department of
1088 Corrections shall investigate and report to him with respect to
1089 any case of pardon, commutation of sentence, reprieve, furlough or
1090 remission of fine or forfeiture.

1091 Any attorney of record in the State of Mississippi
1092 representing any person whose record is before the department
1093 shall have the right to inspect such records on file with the
1094 department.



1095 **SECTION 21.** Section 47-7-33, Mississippi Code of 1972, is
1096 brought forward as follows:

1097 47-7-33. (1) When it appears to the satisfaction of any
1098 circuit court or county court in the State of Mississippi having
1099 original jurisdiction over criminal actions, or to the judge
1100 thereof, that the ends of justice and the best interest of the
1101 public, as well as the defendant, will be served thereby, such
1102 court, in termtime or in vacation, shall have the power, after
1103 conviction or a plea of guilty, except in a case where a death
1104 sentence or life imprisonment is the maximum penalty which may be
1105 imposed, to suspend the imposition or execution of sentence, and
1106 place the defendant on probation as herein provided, except that
1107 the court shall not suspend the execution of a sentence of
1108 imprisonment after the defendant shall have begun to serve such
1109 sentence. In placing any defendant on probation, the court, or
1110 judge, shall direct that such defendant be under the supervision
1111 of the Department of Corrections.

1112 (2) When any circuit or county court places an offender on
1113 probation, the court shall give notice to the Mississippi
1114 Department of Corrections within fifteen (15) days of the court's
1115 decision to place the offender on probation. Notice shall be
1116 delivered to the central office of the Mississippi Department of
1117 Corrections and to the regional office of the department which
1118 will be providing supervision to the offender on probation.



1119 (3) When any circuit court or county court places a person
1120 on probation in accordance with the provisions of this section and
1121 that person is ordered to make any payments to his family, if any
1122 member of his family whom he is ordered to support is receiving
1123 public assistance through the State Department of Human Services,
1124 the court shall order him to make such payments to the county
1125 welfare officer of the county rendering public assistance to his
1126 family, for the sole use and benefit of said family.

1127 **SECTION 22.** Section 47-7-33.1, Mississippi Code of 1972, is
1128 brought forward as follows:

1129 47-7-33.1. (1) The department shall create a discharge plan
1130 for any offender returning to the community, regardless of whether
1131 the person will discharge from the custody of the department, or
1132 is released on parole, pardon, or otherwise. At least ninety (90)
1133 days prior to an offender's earliest release date, the
1134 commissioner shall conduct a pre-release assessment and complete a
1135 written discharge plan based on the assessment results. The
1136 discharge plan for parole eligible offenders shall be sent to the
1137 parole board at least thirty (30) days prior to the offender's
1138 parole eligibility date for approval. The board may suggest
1139 changes to the plan that it deems necessary to ensure a successful
1140 transition.

1141 (2) The pre-release assessment shall identify whether an
1142 inmate requires assistance obtaining the following basic needs
1143 upon release: transportation, clothing and food, financial



1144 resources, identification documents, housing, employment,
1145 education, health care and support systems. The discharge plan
1146 shall include information necessary to address these needs and the
1147 steps being taken by the department to assist in this process,
1148 including an up-to-date version of the information described in
1149 Section 63-1-309(4). Based on the findings of the assessment, the
1150 commissioner shall:

1151 (a) Arrange transportation for inmates from the
1152 correctional facility to their release destination;

1153 (b) Ensure inmates have clean, seasonally appropriate
1154 clothing, and provide inmates with a list of food providers and
1155 other basic resources immediately accessible upon release;

1156 (c) Ensure inmates have a provisional driver's license
1157 issued pursuant to Title 63, Chapter 1, Article 7, Mississippi
1158 Code of 1972, a regular driver's license if eligible, or a
1159 state-issued identification card that is not a Department of
1160 Corrections identification card;

1161 (d) Assist inmates in identifying safe, affordable
1162 housing upon release. If accommodations are not available,
1163 determine whether temporary housing is available for at least ten
1164 (10) days after release. If temporary housing is not available,
1165 the discharge plan shall reflect that satisfactory housing has not
1166 been established and the person may be a candidate for
1167 transitional reentry center placement;



1168 (e) Refer inmates without secured employment to
1169 employment opportunities;

1170 (f) Provide inmates with contact information of a
1171 health care facility/provider in the community in which they plan
1172 to reside;

1173 (g) Notify family members of the release date and
1174 release plan, if the inmate agrees; and

1175 (h) Refer inmates to a community or a faith-based
1176 organization that can offer support within the first twenty-four
1177 (24) hours of release.

1178 (3) A written discharge plan shall be provided to the
1179 offender and supervising probation officer or parole officer, if
1180 applicable.

1181 (4) A discharge plan created for a parole-eligible offender
1182 shall also include supervision conditions and the intensity of
1183 supervision based on the assessed risk to recidivate and whether
1184 there is a need for transitional housing. The board shall approve
1185 discharge plans before an offender is released on parole pursuant
1186 to this chapter.

1187 **SECTION 23.** Section 47-7-34, Mississippi Code of 1972, is
1188 brought forward as follows:

1189 47-7-34. (1) When a court imposes a sentence upon a
1190 conviction for any felony committed after June 30, 1995, the
1191 court, in addition to any other punishment imposed if the other
1192 punishment includes a term of incarceration in a state or local



1193 correctional facility, may impose a term of post-release
1194 supervision. However, the total number of years of incarceration
1195 plus the total number of years of post-release supervision shall
1196 not exceed the maximum sentence authorized to be imposed by law
1197 for the felony committed. The defendant shall be placed under
1198 post-release supervision upon release from the term of
1199 incarceration. The period of supervision shall be established by
1200 the court.

1201 (2) The period of post-release supervision shall be
1202 conducted in the same manner as a like period of supervised
1203 probation, including a requirement that the defendant shall abide
1204 by any terms and conditions as the court may establish. Failure
1205 to successfully abide by the terms and conditions shall be grounds
1206 to terminate the period of post-release supervision and to
1207 recommit the defendant to the correctional facility from which he
1208 was previously released. Procedures for termination and
1209 recommitment shall be conducted in the same manner as procedures
1210 for the revocation of probation and imposition of a suspended
1211 sentence as required pursuant to Section 47-7-37.

1212 (3) Post-release supervision programs shall be operated
1213 through the probation and parole unit of the Division of Community
1214 Corrections of the department. The maximum amount of time that
1215 the Mississippi Department of Corrections may supervise an
1216 offender on the post-release supervision program is five (5)
1217 years.



1218 **SECTION 24.** Section 47-7-35, Mississippi Code of 1972, is
1219 brought forward as follows:

1220 47-7-35. (1) The courts referred to in Section 47-7-33 or
1221 47-7-34 shall determine the terms and conditions of probation or
1222 post-release supervision and may alter or modify, at any time
1223 during the period of probation or post-release supervision, the
1224 conditions and may include among them the following or any other:

1225 That the offender shall:

1226 (a) Commit no offense against the laws of this or any
1227 other state of the United States, or of any federal, territorial
1228 or tribal jurisdiction of the United States;

1229 (b) Avoid injurious or vicious habits;

1230 (c) Avoid persons or places of disreputable or harmful
1231 character;

1232 (d) Report to the probation and parole officer as
1233 directed;

1234 (e) Permit the probation and parole officer to visit
1235 him at home or elsewhere;

1236 (f) Work faithfully at suitable employment so far as
1237 possible;

1238 (g) Remain within a specified area;

1239 (h) Pay his fine in one (1) or several sums;

1240 (i) Support his dependents;

1241 (j) Submit, as provided in Section 47-5-601, to any
1242 type of breath, saliva or urine chemical analysis test, the



1243 purpose of which is to detect the possible presence of alcohol or
1244 a substance prohibited or controlled by any law of the State of
1245 Mississippi or the United States;

1246 (k) Register as a sex offender if so required under
1247 Title 45, Chapter 33.

1248 (2) When any court places a defendant on misdemeanor
1249 probation, the court must cause to be conducted a search of the
1250 probationer's name or other identifying information against the
1251 registration information regarding sex offenders maintained under
1252 Title 45, Chapter 33. The search may be conducted using the
1253 Internet site maintained by the Department of Public Safety Sex
1254 Offender Registry.

1255 **SECTION 25.** Section 47-7-36, Mississippi Code of 1972, is
1256 brought forward as follows:

1257 47-7-36. (1) Any person who supervises an individual placed
1258 on parole by the Parole Board or placed on probation by the court
1259 shall set the times and locations for meetings that are required
1260 for parole or probation at such times and locations that are
1261 reasonably designed to accommodate the work schedule of an
1262 individual on parole or probation who is employed by another
1263 person or entity.

1264 (2) To effectuate the provisions of this section, the parole
1265 officer or probation officer may utilize technology portals such
1266 as Skype, FaceTime or Google video chat, or any other technology
1267 portal that allows communication between the individual on parole



1268 or probation and the parole or probation officer, as applicable,
1269 to occur simultaneously in real time by voice and video in lieu of
1270 requiring a face-to-face in person meeting of such individual and
1271 the parole or probation officer, as applicable. For individuals
1272 who are self-employed, the provisions of this subsection shall
1273 only apply with the agreement of their supervising parole or
1274 probation officer.

1275 (3) The Department of Corrections shall promulgate rules and
1276 regulations to implement the provisions of this section. The
1277 rules and regulations promulgated by the department shall include,
1278 but are not limited to, minimum standards and guidelines for the
1279 authorized technology and how it may be used as well as standards
1280 for determining the eligibility and suitability of an individual
1281 on parole or probation to meet his or her reporting requirements
1282 through the use of such technology. The eligibility and
1283 suitability standards shall include consideration of the severity
1284 of the individual's underlying criminal conviction and such
1285 individual's criminal history, supervision level, and past
1286 supervision history.

1287 (4) This section shall not apply to offenders whose
1288 employers comply with the requirements of Section 47-7-36.1(1).

1289 **SECTION 26.** Section 47-7-37, Mississippi Code of 1972, is
1290 brought forward as follows:

1291 47-7-37. (1) The period of probation shall be fixed by the
1292 court, and may at any time be extended or terminated by the court,



1293 or judge in vacation. Such period with any extension thereof
1294 shall not exceed five (5) years, except that in cases of desertion
1295 and/or failure to support minor children, the period of probation
1296 may be fixed and/or extended by the court for so long as the duty
1297 to support such minor children exists. The time served on
1298 probation or post-release supervision may be reduced pursuant to
1299 Section 47-7-40.

1300 (2) At any time during the period of probation, the court,
1301 or judge in vacation, may issue a warrant for violating any of the
1302 conditions of probation or suspension of sentence and cause the
1303 probationer to be arrested. Any probation and parole officer may
1304 arrest a probationer without a warrant, or may deputize any other
1305 officer with power of arrest to do so by giving him a written
1306 statement setting forth that the probationer has, in the judgment
1307 of the probation and parole officer, violated the conditions of
1308 probation. Such written statement delivered with the probationer
1309 by the arresting officer to the official in charge of a county
1310 jail or other place of detention shall be sufficient warrant for
1311 the detention of the probationer.

1312 (3) Whenever an offender is arrested on a warrant for an
1313 alleged violation of probation as herein provided, the department
1314 shall hold an informal preliminary hearing within seventy-two (72)
1315 hours of the arrest to determine whether there is reasonable cause
1316 to believe the person has violated a condition of probation. A
1317 preliminary hearing shall not be required when the offender is not



1318 under arrest on a warrant or the offender signed a waiver of a
1319 preliminary hearing. The preliminary hearing may be conducted
1320 electronically. If reasonable cause is found, the offender may be
1321 confined no more than twenty-one (21) days from the admission to
1322 detention until a revocation hearing is held. If the revocation
1323 hearing is not held within twenty-one (21) days, the probationer
1324 shall be released from custody and returned to probation status.

1325 (4) If a probationer or offender is subject to registration
1326 as a sex offender, the court must make a finding that the
1327 probationer or offender is not a danger to the public prior to
1328 release with or without bail. In determining the danger posed by
1329 the release of the offender or probationer, the court may consider
1330 the nature and circumstances of the violation and any new offenses
1331 charged; the offender or probationer's past and present conduct,
1332 including convictions of crimes and any record of arrests without
1333 conviction for crimes involving violence or sex crimes; any other
1334 evidence of allegations of unlawful sexual conduct or the use of
1335 violence by the offender or probationer; the offender or
1336 probationer's family ties, length of residence in the community,
1337 employment history and mental condition; the offender or
1338 probationer's history and conduct during the probation or other
1339 supervised release and any other previous supervisions, including
1340 disciplinary records of previous incarcerations; the likelihood
1341 that the offender or probationer will engage again in a criminal



1342 course of conduct; the weight of the evidence against the offender
1343 or probationer; and any other facts the court considers relevant.

1344 (5) (a) The probation and parole officer after making an
1345 arrest shall present to the detaining authorities a similar
1346 statement of the circumstances of violation. The probation and
1347 parole officer shall at once notify the court of the arrest and
1348 detention of the probationer and shall submit a report in writing
1349 showing in what manner the probationer has violated the conditions
1350 of probation. Within twenty-one (21) days of arrest and detention
1351 by warrant as herein provided, the court shall cause the
1352 probationer to be brought before it and may continue or revoke all
1353 or any part of the probation or the suspension of sentence. If
1354 the court revokes probation for one or more technical violations,
1355 the court shall impose a period of imprisonment to be served in
1356 either a technical violation center or a restitution center not to
1357 exceed ninety (90) days for the first revocation and not to exceed
1358 one hundred twenty (120) days for the second revocation. For the
1359 third revocation, the court may impose a period of imprisonment to
1360 be served in either a technical violation center or a restitution
1361 center for up to one hundred eighty (180) days or the court may
1362 impose the remainder of the suspended portion of the sentence.
1363 For the fourth and any subsequent revocation, the court may impose
1364 up to the remainder of the suspended portion of the sentence. The
1365 period of imprisonment in a technical violation center imposed
1366 under this section shall not be reduced in any manner.



1367 (b) If the offender is not detained as a result of the
1368 warrant, the court shall cause the probationer to be brought
1369 before it within a reasonable time and may continue or revoke all
1370 or any part of the probation or the suspension of sentence, and
1371 may cause the sentence imposed to be executed or may impose any
1372 part of the sentence which might have been imposed at the time of
1373 conviction. If the court revokes probation for one or more
1374 technical violations, the court shall impose a period of
1375 imprisonment to be served in either a technical violation center
1376 or a restitution center not to exceed ninety (90) days for the
1377 first revocation and not to exceed one hundred twenty (120) days
1378 for the second revocation. For the third revocation, the court
1379 may impose a period of imprisonment to be served in either a
1380 technical violation center or a restitution center for up to one
1381 hundred eighty (180) days or the court may impose the remainder of
1382 the suspended portion of the sentence. For the fourth and any
1383 subsequent revocation, the court may impose up to the remainder of
1384 the suspended portion of the sentence. The period of imprisonment
1385 in a technical violation center imposed under this section shall
1386 not be reduced in any manner.

1387 (c) If the court does not hold a hearing or does not
1388 take action on the violation within the twenty-one-day period, the
1389 offender shall be released from detention and shall return to
1390 probation status. The court may subsequently hold a hearing and
1391 may revoke probation or may continue probation and modify the



1392 terms and conditions of probation. If the court revokes probation
1393 for one or more technical violations, the court shall impose a
1394 period of imprisonment to be served in either a technical
1395 violation center operated by the department or a restitution
1396 center not to exceed ninety (90) days for the first revocation and
1397 not to exceed one hundred twenty (120) days for the second
1398 revocation. For the third revocation, the court may impose a
1399 period of imprisonment to be served in either a technical
1400 violation center or a restitution center for up to one hundred
1401 eighty (180) days or the court may impose the remainder of the
1402 suspended portion of the sentence. For the fourth and any
1403 subsequent revocation, the court may impose up to the remainder of
1404 the suspended portion of the sentence. The period of imprisonment
1405 in a technical violation center imposed under this section shall
1406 not be reduced in any manner.

1407 (d) For an offender charged with a technical violation
1408 who has not been detained awaiting the revocation hearing, the
1409 court may hold a hearing within a reasonable time. The court may
1410 revoke probation or may continue probation and modify the terms
1411 and conditions of probation. If the court revokes probation for
1412 one or more technical violations the court shall impose a period
1413 of imprisonment to be served in either a technical violation
1414 center operated by the department or a restitution center not to
1415 exceed ninety (90) days for the first revocation and not to exceed
1416 one hundred twenty (120) days for the second revocation. For the



1417 third revocation, the court may impose a period of imprisonment to
1418 be served in either a technical violation center or a restitution
1419 center for up to one hundred eighty (180) days or the court may
1420 impose the remainder of the suspended portion of the sentence.
1421 For the fourth and any subsequent revocation, the court may impose
1422 up to the remainder of the suspended portion of the sentence. The
1423 period of imprisonment in a technical violation center imposed
1424 under this section shall not be reduced in any manner.

1425 (6) If the probationer is arrested in a circuit court
1426 district in the State of Mississippi other than that in which he
1427 was convicted, the probation and parole officer, upon the written
1428 request of the sentencing judge, shall furnish to the circuit
1429 court or the county court of the county in which the arrest is
1430 made, or to the judge of such court, a report concerning the
1431 probationer, and such court or the judge in vacation shall have
1432 authority, after a hearing, to continue or revoke all or any part
1433 of probation or all or any part of the suspension of sentence, and
1434 may in case of revocation proceed to deal with the case as if
1435 there had been no probation. In such case, the clerk of the court
1436 in which the order of revocation is issued shall forward a
1437 transcript of such order to the clerk of the court of original
1438 jurisdiction, and the clerk of that court shall proceed as if the
1439 order of revocation had been issued by the court of original
1440 jurisdiction. Upon the revocation of probation or suspension of
1441 sentence of any offender, such offender shall be placed in the



1442 legal custody of the State Department of Corrections and shall be
1443 subject to the requirements thereof.

1444 (7) Any probationer who removes himself from the State of
1445 Mississippi without permission of the court placing him on
1446 probation, or the court to which jurisdiction has been
1447 transferred, shall be deemed and considered a fugitive from
1448 justice and shall be subject to extradition as now provided by
1449 law. No part of the time that one is on probation shall be
1450 considered as any part of the time that he shall be sentenced to
1451 serve.

1452 (8) The arresting officer, except when a probation and
1453 parole officer, shall be allowed the same fees as now provided by
1454 law for arrest on warrant, and such fees shall be taxed against
1455 the probationer and paid as now provided by law.

1456 (9) The arrest, revocation and recommitment procedures of
1457 this section also apply to persons who are serving a period of
1458 post-release supervision imposed by the court.

1459 (10) Unless good cause for the delay is established in the
1460 record of the proceeding, the probation revocation charge shall be
1461 dismissed if the revocation hearing is not held within thirty (30)
1462 days of the warrant being issued.

1463 (11) The Department of Corrections shall provide
1464 semiannually to the Oversight Task Force the number of warrants
1465 issued for an alleged violation of probation or post-release
1466 supervision, the average time between detention on a warrant and



1467 preliminary hearing, the average time between detention on a
1468 warrant and revocation hearing, the number of ninety-day sentences
1469 in a technical violation center issued by the court, the number of
1470 one-hundred-twenty-day sentences in a technical violation center
1471 issued by the court, the number of one-hundred-eighty-day
1472 sentences issued by the court, and the number and average length
1473 of the suspended sentences imposed by the court in response to a
1474 violation.

1475 **SECTION 27.** Section 47-7-37.1, Mississippi Code of 1972, is
1476 brought forward as follows:

1477 47-7-37.1. Notwithstanding any other provision of law to the
1478 contrary, if a court finds by a preponderance of the evidence,
1479 that a probationer or a person under post-release supervision has
1480 committed a felony or absconded, the court may revoke his
1481 probation and impose any or all of the sentence. For purposes of
1482 this section, "absconding from supervision" means the failure of a
1483 probationer to report to his supervising officer for six (6) or
1484 more consecutive months.

1485 **SECTION 28.** Section 47-7-38, Mississippi Code of 1972, is
1486 brought forward as follows:

1487 47-7-38. (1) The department shall have the authority to
1488 impose graduated sanctions as an alternative to judicial
1489 modification or revocation, as provided in Sections 47-7-27 and
1490 47-7-37, for offenders on probation, parole, or post-release



1491 supervision who commit technical violations of the conditions of
1492 supervision as defined by Section 47-7-2.

1493 (2) The commissioner shall develop a standardized graduated
1494 sanctions system, which shall include a grid to guide field
1495 officers in determining the suitable response to a technical
1496 violation. The commissioner shall promulgate rules and
1497 regulations for the development and application of the system of
1498 sanctions. Field officers shall be required to conform to the
1499 sanction grid developed.

1500 (3) The system of sanctions shall include a list of
1501 sanctions for the most common types of violations. When
1502 determining the sanction to impose, the field officer shall take
1503 into account the offender's assessed risk level, previous
1504 violations and sanctions, and severity of the current and prior
1505 violations.

1506 (4) Field officers shall notify the sentencing court when a
1507 probationer has committed a technical violation or the parole
1508 board when a parolee has committed a technical violation of the
1509 type of violation and the sanction imposed. When the technical
1510 violation is an arrest for a new criminal offense, the field
1511 officer shall notify the court within forty-eight (48) hours of
1512 becoming aware of the arrest.

1513 (5) The graduated sanctions that the department may impose
1514 include, but shall not be limited to:

1515 (a) Verbal warnings;



1516 (b) Increased reporting;
1517 (c) Increased drug and alcohol testing;
1518 (d) Mandatory substance abuse treatment;
1519 (e) Loss of earned-discharge credits; and
1520 (f) Incarceration in a county jail for no more than two
1521 (2) days. Incarceration as a sanction shall not be used more than
1522 two (2) times per month for a total period incarcerated of no more
1523 than four (4) days.

1524 (6) The system shall also define positive reinforcements
1525 that offenders will receive for compliance with conditions of
1526 supervision. These positive reinforcements shall include, but not
1527 limited to:

1528 (a) Verbal recognition;
1529 (b) Reduced reporting; and
1530 (c) Credits for earned discharge which shall be awarded
1531 pursuant to Section 47-7-40.

1532 (7) The Department of Corrections shall provide semiannually
1533 to the Oversight Task Force the number and percentage of offenders
1534 who have one or more violations during the year, the average
1535 number of violations per offender during the year and the total
1536 and average number of incarceration sanctions as defined in
1537 subsection (5) of this section imposed during the year.

1538 **SECTION 29.** Section 47-7-38.1, Mississippi Code of 1972, is
1539 brought forward as follows:



1540 47-7-38.1. (1) The Department of Corrections shall
1541 establish technical violation centers to detain probation and
1542 parole violators revoked by the court or parole board.

1543 (2) The department shall place an offender in a violation
1544 center for a technical violation as ordered by the board pursuant
1545 to Section 47-7-27 and the sentencing court pursuant to Section
1546 47-7-37.

1547 (3) The violation centers shall be equipped to address the
1548 underlying factors that led to the offender's violation as
1549 identified based on the results of a risk and needs assessment.
1550 At a minimum each violation center shall include substance abuse
1551 services shown to reduce recidivism and a reduction in the use of
1552 illicit substances or alcohol, education programs, employment
1553 preparation and training programs and behavioral programs.

1554 (4) As required by Section 47-5-20(b), the department shall
1555 notify, by certified mail, each member of the board of supervisors
1556 of the county in which the violation center shall be located of
1557 the department's intent to convert an existing department facility
1558 to a technical violation center.

1559 (5) The department shall establish rules and regulations for
1560 the implementation and operation of the technical violation
1561 centers.

1562 (6) The Department of Corrections shall provide to the
1563 Oversight Task Force semiannually the average daily population of
1564 the technical violation centers, the number of admissions to the



1565 technical violation centers, and the average time served in the
1566 technical violation centers.

1567 **SECTION 30.** Section 47-7-39, Mississippi Code of 1972, is
1568 brought forward as follows:

1569 47-7-39. If, for good and sufficient reasons, a probationer
1570 desires to change his residence within or without the state, such
1571 transfer may be effected by application to his field supervisor
1572 which transfer shall be subject to the court's consent and subject
1573 to such regulations as the court, or judge, may require.

1574 **SECTION 31.** Section 47-7-40, Mississippi Code of 1972, is
1575 brought forward as follows:

1576 47-7-40. (1) The commissioner shall establish rules and
1577 regulations for implementing the earned-discharge program that
1578 allows offenders on probation and parole to reduce the period of
1579 supervision for complying with conditions of probation. The
1580 department shall have the authority to award earned-discharge
1581 credits to all offenders placed on probation, parole, or
1582 post-release supervision who are in compliance with the terms and
1583 conditions of supervision. An offender serving a Mississippi
1584 sentence for an eligible offense in any jurisdiction under the
1585 Interstate Compact for Adult Offender Supervision shall be
1586 eligible for earned-discharge credits under this section.
1587 Offenders shall not be denied earned-discharge credits solely
1588 based on nonpayment of fees or fines if a hardship waiver has been
1589 granted as provided in Section 47-7-49.



1590 (2) For each full calendar month of compliance with the
1591 conditions of supervision, earned-discharge credits equal to the
1592 number of days in that month shall be deducted from the offender's
1593 sentence discharge date. Credits begin to accrue for eligible
1594 offenders after the first full calendar month of compliance
1595 supervision conditions. For the purposes of this section, an
1596 offender is deemed to be in compliance with the conditions of
1597 supervision if there was no violation of the conditions of
1598 supervision.

1599 (3) No earned-discharge credits may accrue for a calendar
1600 month in which a violation report has been submitted, the offender
1601 has absconded from supervision, the offender is serving a term of
1602 imprisonment in a technical violation center, or for the months
1603 between the submission of the violation report and the final
1604 action on the violation report by the court or the board.

1605 (4) Earned-discharge credits shall be applied to the
1606 sentence within thirty (30) days of the end of the month in which
1607 the credits were earned. At least every six (6) months, an
1608 offender who is serving a sentence eligible for earned-discharge
1609 credits shall be notified of the current sentence discharge date.

1610 (5) Once the combination of time served on probation, parole
1611 or post-release supervision, and earned-discharge credits satisfy
1612 the term of probation, parole, or post-release supervision, the
1613 board or sentencing court shall order final discharge of the
1614 offender. No less than sixty (60) days prior to the date of final



1615 discharge, the department shall notify the sentencing court and
1616 the board of the impending discharge.

1617 (6) The department shall provide semiannually to the
1618 Oversight Task Force the number and percentage of offenders who
1619 qualify for earned discharge in one or more months of the year and
1620 the average amount of credits earned within the year.

1621 **SECTION 32.** Section 47-7-41, Mississippi Code of 1972, is
1622 brought forward as follows:

1623 47-7-41. When a probationer shall be discharged from
1624 probation by the court of original jurisdiction, the field
1625 supervisor, upon receiving a written request from the probationer,
1626 shall forward a written report of the record of the probationer to
1627 the Division of Community Corrections of the department, which
1628 shall present a copy of this report to the Governor. The Governor
1629 may, in his discretion, at any time thereafter by appropriate
1630 executive order restore any civil rights lost by the probationer
1631 by virtue of his conviction or plea of guilty in the court of
1632 original jurisdiction.

1633 **SECTION 33.** Section 47-7-43, Mississippi Code of 1972, is
1634 brought forward as follows:

1635 47-7-43. The provisions of this chapter are hereby extended
1636 to all persons who, at the effective date thereof, may be on
1637 parole, or eligible to be placed on parole under existing laws,
1638 with the same force and effect as if this chapter had been in



1639 operation at the time such persons were placed on parole or become
1640 eligible to be placed thereon, as the case may be.

1641 **SECTION 34.** Section 47-7-45, Mississippi Code of 1972, is
1642 brought forward as follows:

1643 47-7-45. The provisions of this chapter shall not apply to
1644 probation under the Youth Court Law nor to parole from the Oakley
1645 Youth Development Center.

1646 **SECTION 35.** Section 47-7-47, Mississippi Code of 1972, is
1647 brought forward as follows:

1648 47-7-47. (1) The judge of any circuit court may place an
1649 offender on a program of earned probation after a period of
1650 confinement as set out herein and the judge may seek the advice of
1651 the commissioner and shall direct that the defendant be under the
1652 supervision of the department.

1653 (2) (a) Any circuit court or county court may, upon its own
1654 motion, acting upon the advice and consent of the commissioner not
1655 earlier than thirty (30) days nor later than one (1) year after
1656 the defendant has been delivered to the custody of the department,
1657 to which he has been sentenced, suspend the further execution of
1658 the sentence and place the defendant on earned probation, except
1659 when a death sentence or life imprisonment is the maximum penalty
1660 which may be imposed or if the defendant has been confined two (2)
1661 or more times for the conviction of a felony on a previous
1662 occasion in any court or courts of the United States and of any



1663 state or territories thereof or has been convicted of a felony
1664 involving the use of a deadly weapon.

1665 (b) The authority granted in this subsection shall be
1666 exercised by the judge who imposed sentence on the defendant, or
1667 his successor.

1668 (c) The time limit imposed by paragraph (a) of this
1669 subsection is not applicable to those defendants sentenced to the
1670 custody of the department prior to April 14, 1977. Persons who
1671 are convicted of crimes that carry mandatory sentences shall not
1672 be eligible for earned probation.

1673 (3) When any circuit or county court places an offender on
1674 earned probation, the court shall give notice to the Mississippi
1675 Department of Corrections within fifteen (15) days of the court's
1676 decision to place the offender on earned probation. Notice shall
1677 be delivered to the central office of the Mississippi Department
1678 of Corrections and to the regional office of the department which
1679 will be providing supervision to the offender on earned probation.

1680 (4) If the court places any person on probation or earned
1681 probation, the court may order the person, as a condition of
1682 probation, to a period of confinement and treatment at a private
1683 or public agency or institution, either within or without the
1684 state, which treats emotional, mental or drug-related problems.
1685 Any person who, as a condition of probation, is confined for
1686 treatment at an out-of-state facility shall be supervised pursuant
1687 to Section 47-7-71, and any person confined at a private agency



1688 shall not be confined at public expense. Time served in any such
1689 agency or institution may be counted as time required to meet the
1690 criteria of subsection (2) (a).

1691 (5) If the court places any person on probation or earned
1692 probation, the court may order the person to make appropriate
1693 restitution to any victim of his crime or to society through the
1694 performance of reasonable work for the benefit of the community.

1695 (6) If the court places any person on probation or earned
1696 probation, the court may order the person, as a condition of
1697 probation, to submit, as provided in Section 47-5-601, to any type
1698 of breath, saliva or urine chemical analysis test, the purpose of
1699 which is to detect the possible presence of alcohol or a substance
1700 prohibited or controlled by any law of the State of Mississippi or
1701 the United States.

1702 **SECTION 36.** Section 47-7-49, Mississippi Code of 1972, is
1703 brought forward as follows:

1704 47-7-49. (1) Any offender on probation, parole,
1705 earned-release supervision, post-release supervision, earned
1706 probation or any other offender under the field supervision of the
1707 Community Services Division of the department shall pay to the
1708 department the sum of Fifty-five Dollars (\$55.00) per month by
1709 certified check or money order unless a hardship waiver is
1710 granted. An offender shall make the initial payment within sixty
1711 (60) days after being released from imprisonment unless a hardship
1712 waiver is granted. A hardship waiver may be granted by the



1713 sentencing court or the Department of Corrections. A hardship
1714 waiver may not be granted for a period of time exceeding ninety
1715 (90) days. The commissioner or his designee shall deposit Fifty
1716 Dollars (\$50.00) of each payment received into a special fund in
1717 the State Treasury, which is hereby created, to be known as the
1718 Community Service Revolving Fund. Expenditures from this fund
1719 shall be made for: (a) the establishment of restitution and
1720 satellite centers; and (b) the establishment, administration and
1721 operation of the department's Drug Identification Program and the
1722 intensive and field supervision program. The Fifty Dollars
1723 (\$50.00) may be used for salaries and to purchase equipment,
1724 supplies and vehicles to be used by the Community Services
1725 Division in the performance of its duties. Expenditures for the
1726 purposes established in this section may be made from the fund
1727 upon requisition by the commissioner, or his designee.

1728 Of the remaining amount, Three Dollars (\$3.00) of each
1729 payment shall be deposited into the Crime Victims' Compensation
1730 Fund created in Section 99-41-29, and Two Dollars (\$2.00) shall be
1731 deposited into the Training Revolving Fund created pursuant to
1732 Section 47-7-51. When a person is convicted of a felony in this
1733 state, in addition to any other sentence it may impose, the court
1734 may, in its discretion, order the offender to pay a state
1735 assessment not to exceed the greater of One Thousand Dollars
1736 (\$1,000.00) or the maximum fine that may be imposed for the



1737 offense, into the Crime Victims' Compensation Fund created
1738 pursuant to Section 99-41-29.

1739 Any federal funds made available to the department for
1740 training or for training facilities, equipment or services shall
1741 be deposited into the Correctional Training Revolving Fund created
1742 in Section 47-7-51. The funds deposited in this account shall be
1743 used to support an expansion of the department's training program
1744 to include the renovation of facilities for training purposes,
1745 purchase of equipment and contracting of training services with
1746 community colleges in the state.

1747 No offender shall be required to make this payment for a
1748 period of time longer than ten (10) years.

1749 (2) The offender may be imprisoned until the payments are
1750 made if the offender is financially able to make the payments and
1751 the court in the county where the offender resides so finds,
1752 subject to the limitations hereinafter set out. The offender
1753 shall not be imprisoned if the offender is financially unable to
1754 make the payments and so states to the court in writing, under
1755 oath, and the court so finds.

1756 (3) An offender's responsibilities under this section may be
1757 satisfied by an offender's employer under Section 47-7-36.1(2).

1758 (4) This section shall stand repealed from and after June
1759 30, 2026.

1760 **SECTION 37.** Section 47-7-51, Mississippi Code of 1972, is
1761 brought forward as follows:



1762 47-7-51. (1) There is hereby created in the State Treasury
1763 a special fund, which shall be known as the Correctional Training
1764 Revolving Fund. This fund shall be used to develop and implement
1765 the comprehensive correction training program authorized in
1766 Chapter 509, Laws of 1990. These funds may be used to construct
1767 and renovate training facilities, purchase training equipment for
1768 the hiring of instructors, and to pay operating expenses to
1769 accomplish and fulfill the purposes of the training program.

1770 (2) The Commissioner of Corrections shall establish
1771 guidelines for the use and accountability of such funds.

1772 **SECTION 38.** Section 47-7-53, Mississippi Code of 1972, is
1773 brought forward as follows:

1774 47-7-53. If the Parole Board is abolished, the Department of
1775 Corrections shall assume and exercise all the duties, powers and
1776 responsibilities of the State Parole Board. The Commissioner of
1777 Corrections may assign to the appropriate officers and divisions
1778 any powers and duties deemed appropriate to carry out the duties
1779 and powers of the Parole Board. Wherever the terms "State Parole
1780 Board" or "Parole Board" appear in any state law, they shall mean
1781 the Department of Corrections.

1782 **SECTION 39.** Section 47-7-55, Mississippi Code of 1972, is
1783 brought forward as follows:

1784 47-7-55. (1) There is hereby created a joint committee of
1785 the Senate and House of Representatives to be known as the Parole
1786 Commission, hereinafter referred to as the "commission." The



1787 commission shall study and make recommendations to the Legislature
1788 related to the abolition of parole, the complete and thorough
1789 classification of inmates prior to sentencing and sentencing
1790 standards.

1791 (2) The commission shall consist of the following members:

1792 (a) Three (3) members of the House Judiciary "B"
1793 Committee and three (3) members of the House Penitentiary
1794 Committee appointed by the Speaker.

1795 (b) Three (3) members of the Senate Corrections
1796 Committee and three (3) members of the Senate Judiciary Committee
1797 appointed by the Lieutenant Governor.

1798 (3) The Chairman of the Senate Corrections Committee and the
1799 Chairman of the House Penitentiary Committee shall serve as
1800 cochair of the commission.

1801 (4) The commission shall submit its findings and
1802 recommendations to the Legislature no later than January 2, 1996.

1803 (5) For attending meetings of the commission, members of the
1804 commission shall receive per diem as provided by Section 25-3-69,
1805 and reimbursement of expenses as provided by Section 5-1-47. The
1806 members of the commission shall obtain the approval of the
1807 Management Committee of the House of Representatives and the
1808 Contingent Expense Committee of the Senate for per diem and travel
1809 expense expenditures of the commission. The members of the
1810 commission shall not receive per diem or expenses while the
1811 Legislature is in session. All expenses incurred by and on behalf



1812 of the commission shall be paid from the contingency funds of the
1813 Senate and the House of Representatives.

1814 (6) In conducting its activities pursuant to this section,
1815 the commission may elicit the support of and participation by
1816 federal, state and local agencies and interested associations,
1817 organizations and individuals. The commission may appoint an
1818 advisory committee whose members shall serve without compensation.
1819 The advisory committee may consist of judges, prosecuting
1820 attorneys, defense attorneys, medical professionals, correctional
1821 personnel and any other individual or groups that the commission
1822 desires to place on the advisory committee.

1823 **SECTION 40.** Section 47-5-28, Mississippi Code of 1972, is
1824 brought forward as follows:

1825 47-5-28. The commissioner shall have the following powers
1826 and duties:

1827 (a) To implement and administer laws and policy
1828 relating to corrections and coordinate the efforts of the
1829 department with those of the federal government and other state
1830 departments and agencies, county governments, municipal
1831 governments, and private agencies concerned with providing
1832 offender services;

1833 (b) To establish standards, in cooperation with other
1834 state agencies having responsibility as provided by law, provide
1835 technical assistance, and exercise the requisite supervision as it



1836 relates to correctional programs over all state-supported adult
1837 correctional facilities and community-based programs;

1838 (c) To promulgate and publish such rules, regulations
1839 and policies of the department as are needed for the efficient
1840 government and maintenance of all facilities and programs in
1841 accord insofar as possible with currently accepted standards of
1842 adult offender care and treatment;

1843 (d) To provide the Parole Board with suitable and
1844 sufficient office space and support resources and staff necessary
1845 to conduct Parole Board business under the guidance of the
1846 Chairman of the Parole Board;

1847 (e) To contract for transitional reentry center beds
1848 that will be used as noncorrections housing for offenders released
1849 from the department on parole, probation or post-release
1850 supervision but do not have appropriate housing available upon
1851 release. At least one hundred (100) but no more than eight
1852 hundred (800) transitional reentry center beds contracted by the
1853 department and chosen by the Parole Board shall be available for
1854 the Parole Board to place parolees without appropriate housing;

1855 (f) To designate deputy commissioners while performing
1856 their officially assigned duties relating to the custody, control,
1857 transportation, recapture or arrest of any offender within the
1858 jurisdiction of the department or any offender of any jail,
1859 penitentiary, public workhouse or overnight lockup of the state or
1860 any political subdivision thereof not within the jurisdiction of



1861 the department, to the status of peace officers anywhere in the
1862 state in any matter relating to the custody, control,
1863 transportation or recapture of such offender, and shall have the
1864 status of law enforcement officers and peace officers as
1865 contemplated by Sections 45-6-3, 97-3-7 and 97-3-19.

1866 For the purpose of administration and enforcement of this
1867 chapter, deputy commissioners of the Mississippi Department of
1868 Corrections, who are certified by the Mississippi Board on Law
1869 Enforcement Officer Standards and Training, have the powers of a
1870 law enforcement officer of this state. Such powers shall include
1871 to make arrests and to serve and execute search warrants and other
1872 valid legal process anywhere within the State of Mississippi while
1873 performing their officially assigned duties relating to the
1874 custody, control, transportation, recapture or arrest of any
1875 offender within the jurisdiction of the department or any offender
1876 of any jail, penitentiary, public workhouse or overnight lockup of
1877 the state or any political subdivision thereof not within the
1878 jurisdiction of the department in any matter relating to the
1879 custody, control, transportation or recapture of such offender;

1880 (g) To make an annual report to the Governor and the
1881 Legislature reflecting the activities of the department and make
1882 recommendations for improvement of the services to be performed by
1883 the department;



1884 (h) To cooperate fully with periodic independent
1885 internal investigations of the department and to file the report
1886 with the Governor and the Legislature;

1887 (i) To contract with licensed special care facilities
1888 for paroled inmates to provide authorized medical services and
1889 support services for medically frail inmates who have been paroled
1890 and who have voluntarily submitted to the Department of Corrections
1891 an address to one of the licensed care facilities to receive such
1892 services; and

1893 (j) To perform such other duties necessary to
1894 effectively and efficiently carry out the purposes of the
1895 department as may be directed by the Governor.

1896 **SECTION 41.** Section 47-5-931, Mississippi Code of 1972, is
1897 brought forward as follows:

1898 47-5-931. (1) The Department of Corrections, in its
1899 discretion, may contract with the board of supervisors of one or
1900 more counties or with a regional facility operated by one or more
1901 counties, to provide for housing, care and control of offenders
1902 who are in the custody of the State of Mississippi. Any facility
1903 owned or leased by a county or counties for this purpose shall be
1904 designed, constructed, operated and maintained in accordance with
1905 American Correctional Association standards, and shall comply with
1906 all constitutional standards of the United States and the State of
1907 Mississippi, and with all court orders that may now or hereinafter
1908 be applicable to the facility. If the Department of Corrections



1909 contracts with more than one (1) county to house state offenders
1910 in county correctional facilities, excluding a regional facility,
1911 then the first of such facilities shall be constructed in Sharkey
1912 County and the second of such facilities shall be constructed in
1913 Jefferson County.

1914 (2) The Department of Corrections shall contract with the
1915 board of supervisors of the following counties to house state
1916 inmates in regional facilities: (a) Marion and Walthall Counties;
1917 (b) Carroll and Montgomery Counties; (c) Stone and Pearl River
1918 Counties; (d) Winston and Choctaw Counties; (e) Kemper and Neshoba
1919 Counties; (f) Alcorn County and any contiguous county in which
1920 there is located an unapproved jail; (g) Yazoo County and any
1921 contiguous county in which there is located an unapproved jail;
1922 (h) Chickasaw County and any contiguous county in which there is
1923 located an unapproved jail; (i) George and Greene Counties and any
1924 contiguous county in which there is located an unapproved jail;
1925 (j) Washington County and any contiguous county in which there is
1926 located an unapproved jail; (k) Hinds County and any contiguous
1927 county in which there is located an unapproved jail; (l) Leake
1928 County and any contiguous county in which there is located an
1929 unapproved jail; (m) Issaquena County and any contiguous county in
1930 which there is located an unapproved jail; (n) Jefferson County
1931 and any contiguous county in which there is located an unapproved
1932 jail; (o) Franklin County and any contiguous county in which there
1933 is located an unapproved jail; (p) Holmes County and any



1934 contiguous county in which there is located an unapproved jail;
1935 and (q) Bolivar County and any contiguous county in which there is
1936 located an unapproved jail. The Department of Corrections shall
1937 decide the order of priority of the counties listed in this
1938 subsection with which it will contract for the housing of state
1939 inmates. For the purposes of this subsection, the term
1940 "unapproved jail" means any jail that the local grand jury
1941 determines should be condemned or has found to be of substandard
1942 condition or in need of substantial repair or reconstruction.

1943 (3) In addition to the offenders authorized to be housed
1944 under subsection (1) of this section, the Department of
1945 Corrections may contract with any regional facility to provide for
1946 housing, care and control of not more than seventy-five (75)
1947 additional offenders who are in the custody of the State of
1948 Mississippi.

1949 (4) The Governor and the Commissioner of Corrections are
1950 authorized to increase administratively the number of offenders
1951 who are in the custody of the State of Mississippi that can be
1952 placed in regional correctional facilities.

1953 **SECTION 42.** Section 47-5-933, Mississippi Code of 1972, is
1954 brought forward as follows:

1955 47-5-933. The Department of Corrections may contract for the
1956 purposes set out in Section 47-5-931 for a period of not more than
1957 twenty (20) years. The contract may provide that the Department
1958 of Corrections pay a fee of no more than Thirty-one Dollars



1959 (\$31.00) per day for each offender that is housed in the facility.
1960 The Department of Corrections may include in the contract, as an
1961 inflation factor, a three percent (3%) annual increase in the
1962 contract price. The state shall retain responsibility for medical
1963 care for state offenders to the extent that is required by law;
1964 provided, however, the department may reimburse each facility for
1965 contract medical services as provided by law in an amount not to
1966 exceed Six Dollars and Twenty-five Cents (\$6.25) per day per
1967 offender.

1968 **SECTION 43.** Section 47-5-938, Mississippi Code of 1972, is
1969 brought forward as follows:

1970 47-5-938. (1) Offenders are encouraged to participate in
1971 work programs. The chief corrections officer as created in
1972 Section 47-5-935, with ratification of the board of supervisors of
1973 the county in which a correctional facility established pursuant
1974 to Sections 47-5-931 through 47-5-941, is located, may enter into
1975 agreements to provide work for any state offender housed in the
1976 facility, with the approval of the Commissioner of Corrections, to
1977 perform any work:

1978 (a) Authorized in the Mississippi Prison Industries Act
1979 of 1990 as provided in Sections 47-5-531 through 47-5-575;

1980 (b) Authorized in the Prison Agricultural Enterprises
1981 Act as provided in Sections 47-5-351 through 47-5-357;

1982 (c) Authorized in the Penitentiary-Made Goods Law of
1983 1978 as provided in Sections 47-5-301 through 47-5-331;



1984 (d) Authorized in the Public Service Work Programs Act
1985 as provided in Sections 47-5-401 through 47-5-421;

1986 (e) Authorized in Section 47-5-431, which authorizes
1987 the sheriff to use county or state offenders to pick up trash
1988 along public roads and state highways.

1989 (2) The chief corrections officer shall promulgate rules and
1990 regulations as may be necessary to govern the work performance of
1991 the offenders for the parties to the agreements. Political
1992 subdivisions of the State of Mississippi including but not limited
1993 to counties, municipalities, school districts, drainage districts,
1994 water management districts and joint county-municipal endeavors
1995 are to have free use of the offender's labor but are responsible
1996 for reimbursing the facility for costs of transportation, guards,
1997 meals and other necessary costs when the inmates are providing
1998 work for that political body. Offenders may be compensated for
1999 work performed if the agreement so provides.

2000 (3) There is created a special fund in the county treasury
2001 to be known as the "offender's compensation fund." All
2002 compensation paid to offenders shall be placed in the special fund
2003 for use by the offenders to purchase certain goods and other items
2004 of value as authorized in Section 47-5-109, for offenders housed
2005 in state correctional facilities. As provided in Section
2006 47-5-194, no cash is to be paid to offenders. The agreement shall
2007 provide that a certain portion of the compensation shall be used
2008 for the welfare of the offenders. All money collected from the



2009 regional jail canteen operations shall be placed in a county
2010 special fund. Expenditures from that fund can be made by the
2011 chief corrections officer for any lawful purpose that is in the
2012 best interest and welfare of the offenders. The chief corrections
2013 officer, his employees and the county or counties owning the
2014 facility are given the authority necessary to carry out the
2015 provisions of this section.

2016 (4) The provisions of this section shall be supplemental to
2017 any other provisions of law regarding offender labor and work
2018 programs.

2019 **SECTION 44.** Section 45-1-3, Mississippi Code of 1972, is
2020 brought forward as follows:

2021 45-1-3. (1) When not otherwise specifically provided, the
2022 commissioner is authorized to make and promulgate reasonable rules
2023 and regulations to be coordinated, and carry out the general
2024 provisions of the Highway Safety Patrol and Driver's License Law
2025 of 1938.

2026 (2) The commissioner shall have the authority to administer
2027 oaths.

2028 **SECTION 45.** Section 9-23-11, Mississippi Code of 1972, is
2029 brought forward as follows:

2030 9-23-11. (1) The Administrative Office of Courts shall
2031 establish, implement and operate a uniform certification process
2032 for all intervention courts and other problem-solving courts
2033 including juvenile courts, veterans courts or any other court



2034 designed to adjudicate criminal actions involving an identified
2035 classification of criminal defendant to ensure funding for
2036 intervention courts supports effective and proven practices that
2037 reduce recidivism and substance dependency among their
2038 participants.

2039 (2) The Administrative Office of Courts shall establish a
2040 certification process that ensures any new or existing
2041 intervention court meets minimum standards for intervention court
2042 operation.

2043 (a) These standards shall include, but are not limited
2044 to:

2045 (i) The use of evidence-based practices including,
2046 but not limited to, the use of a valid and reliable risk and needs
2047 assessment tool to identify participants and deliver appropriate
2048 interventions;

2049 (ii) Targeting medium to high-risk offenders for
2050 participation;

2051 (iii) The use of current, evidence-based
2052 interventions proven to reduce dependency on drugs or alcohol, or
2053 both;

2054 (iv) Frequent testing for alcohol or drugs;

2055 (v) Coordinated strategy between all intervention
2056 court program personnel involving the use of graduated clinical
2057 interventions;



2058 (vi) Ongoing judicial interaction with each
2059 participant; and
2060 (vii) Monitoring and evaluation of intervention
2061 court program implementation and outcomes through data collection
2062 and reporting.
2063 (b) Intervention court certification applications shall
2064 include:
2065 (i) A description of the need for the intervention
2066 court;
2067 (ii) The targeted population for the intervention
2068 court;
2069 (iii) The eligibility criteria for intervention
2070 court participants;
2071 (iv) A description of the process for identifying
2072 appropriate participants including the use of a risk and needs
2073 assessment and a clinical assessment;
2074 (v) A description of the intervention court
2075 intervention components, including anticipated budget and
2076 implementation plan;
2077 (vi) The data collection plan which shall include
2078 collecting the following data:
2079 1. Total number of participants;
2080 2. Total number of successful participants;
2081 3. Total number of unsuccessful participants
2082 and the reason why each participant did not complete the program;



2083 4. Total number of participants who were
2084 arrested for a new criminal offense while in the intervention
2085 court program;

2086 5. Total number of participants who were
2087 convicted of a new felony or misdemeanor offense while in the
2088 intervention court program;

2089 6. Total number of participants who committed
2090 at least one (1) violation while in the intervention court program
2091 and the resulting sanction(s);

2092 7. Results of the initial risk and needs
2093 assessment or other clinical assessment conducted on each
2094 participant; and

2095 8. Total number of applications for screening
2096 by race, gender, offenses charged, indigence and, if not accepted,
2097 the reason for nonacceptance; and

2098 9. Any other data or information as required
2099 by the Administrative Office of Courts.

2100 (c) Every intervention court shall be certified under
2101 the following schedule:

2102 (i) An intervention court application submitted
2103 after July 1, 2014, shall require certification of the
2104 intervention court based on the proposed drug court plan.

2105 (ii) An intervention court initially established
2106 and certified after July 1, 2014, shall be recertified after its



2107 second year of funded operation on a time frame consistent with
2108 the other certified courts of its type.

2109 (iii) A certified adult felony intervention court
2110 in existence on December 31, 2018, must submit a recertification
2111 petition by July 1, 2019, and be recertified under the
2112 requirements of this section on or before December 31, 2019; after
2113 the recertification, all certified adult felony intervention
2114 courts must submit a recertification petition every two (2) years
2115 to the Administrative Office of Courts. The recertification
2116 process must be completed by December 31st of every odd calendar
2117 year.

2118 (iv) A certified youth, family, misdemeanor or
2119 chancery intervention court in existence on December 31, 2018,
2120 must submit a recertification petition by July 31, 2020, and be
2121 recertified under the requirements of this section by December 31,
2122 2020. After the recertification, all certified youth, family,
2123 misdemeanor and chancery intervention courts must submit a
2124 recertification petition every two (2) years to the Administrative
2125 Office of Courts. The recertification process must be completed
2126 by December 31st of every even calendar year.

2127 (3) All certified intervention courts shall measure
2128 successful completion of the drug court based on those
2129 participants who complete the program without a new criminal
2130 conviction.



2131 (4) (a) All certified drug courts must collect and submit
2132 to the Administrative Office of Courts each month, the following
2133 data:

2134 (i) Total number of participants at the beginning
2135 of the month;

2136 (ii) Total number of participants at the end of
2137 the month;

2138 (iii) Total number of participants who began the
2139 program in the month;

2140 (iv) Total number of participants who successfully
2141 completed the intervention court in the month;

2142 (v) Total number of participants who left the
2143 program in the month;

2144 (vi) Total number of participants who were
2145 arrested for a new criminal offense while in the intervention
2146 court program in the month;

2147 (vii) Total number of participants who were
2148 convicted for a new criminal arrest while in the intervention
2149 court program in the month; and

2150 (viii) Total number of participants who committed
2151 at least one (1) violation while in the intervention court program
2152 and any resulting sanction(s).

2153 (b) By August 1, 2015, and each year thereafter, the
2154 Administrative Office of Courts shall report to the PEER Committee



2155 the information in subsection (4)(a) of this section in a
2156 sortable, electronic format.

2157 (5) All certified intervention courts may individually
2158 establish rules and may make special orders and rules as necessary
2159 that do not conflict with the rules promulgated by the Supreme
2160 Court or the Administrative Office of Courts.

2161 (6) A certified intervention court may appoint the full- or
2162 part-time employees it deems necessary for the work of the
2163 intervention court and shall fix the compensation of those
2164 employees. Such employees shall serve at the will and pleasure of
2165 the judge or the judge's designee.

2166 (7) The Administrative Office of Courts shall promulgate
2167 rules and regulations to carry out the certification and
2168 re-certification process and make any other policies not
2169 inconsistent with this section to carry out this process.

2170 (8) A certified intervention court established under this
2171 chapter is subject to the regulatory powers of the Administrative
2172 Office of Courts as set forth in Section 9-23-17.

2173 **SECTION 46.** Section 99-39-5, Mississippi Code of 1972, is
2174 brought forward as follows:

2175 99-39-5. (1) Any person sentenced by a court of record of
2176 the State of Mississippi, including a person currently
2177 incarcerated, civilly committed, on parole or probation or subject
2178 to sex offender registration for the period of the registration or
2179 for the first five (5) years of the registration, whichever is the



2180 shorter period, may file a motion to vacate, set aside or correct
2181 the judgment or sentence, a motion to request forensic DNA testing
2182 of biological evidence, or a motion for an out-of-time appeal if
2183 the person claims:

2184 (a) That the conviction or the sentence was imposed in
2185 violation of the Constitution of the United States or the
2186 Constitution or laws of Mississippi;

2187 (b) That the trial court was without jurisdiction to
2188 impose sentence;

2189 (c) That the statute under which the conviction and/or
2190 sentence was obtained is unconstitutional;

2191 (d) That the sentence exceeds the maximum authorized by
2192 law;

2193 (e) That there exists evidence of material facts, not
2194 previously presented and heard, that requires vacation of the
2195 conviction or sentence in the interest of justice;

2196 (f) That there exists biological evidence secured in
2197 relation to the investigation or prosecution attendant to the
2198 petitioner's conviction not tested, or, if previously tested, that
2199 can be subjected to additional DNA testing, that would provide a
2200 reasonable likelihood of more probative results, and that testing
2201 would demonstrate by reasonable probability that the petitioner
2202 would not have been convicted or would have received a lesser
2203 sentence if favorable results had been obtained through such
2204 forensic DNA testing at the time of the original prosecution.



2205 (g) That his plea was made involuntarily;
2206 (h) That his sentence has expired; his probation,
2207 parole or conditional release unlawfully revoked; or he is
2208 otherwise unlawfully held in custody;
2209 (i) That he is entitled to an out-of-time appeal; or
2210 (j) That the conviction or sentence is otherwise
2211 subject to collateral attack upon any grounds of alleged error
2212 heretofore available under any common law, statutory or other
2213 writ, motion, petition, proceeding or remedy.

2214 (2) A motion for relief under this article shall be made
2215 within three (3) years after the time in which the petitioner's
2216 direct appeal is ruled upon by the Supreme Court of Mississippi
2217 or, in case no appeal is taken, within three (3) years after the
2218 time for taking an appeal from the judgment of conviction or
2219 sentence has expired, or in case of a guilty plea, within three
2220 (3) years after entry of the judgment of conviction. Excepted
2221 from this three-year statute of limitations are those cases in
2222 which the petitioner can demonstrate either:

2223 (a) (i) That there has been an intervening decision of
2224 the Supreme Court of either the State of Mississippi or the United
2225 States which would have actually adversely affected the outcome of
2226 his conviction or sentence or that he has evidence, not reasonably
2227 discoverable at the time of trial, which is of such nature that it
2228 would be practically conclusive that had such been introduced at



2229 trial it would have caused a different result in the conviction or
2230 sentence; or

2231 (ii) That, even if the petitioner pled guilty or
2232 nolo contendere, or confessed or admitted to a crime, there exists
2233 biological evidence not tested, or, if previously tested, that can
2234 be subjected to additional DNA testing that would provide a
2235 reasonable likelihood of more probative results, and that testing
2236 would demonstrate by reasonable probability that the petitioner
2237 would not have been convicted or would have received a lesser
2238 sentence if favorable results had been obtained through such
2239 forensic DNA testing at the time of the original prosecution.

2240 (b) Likewise excepted are those cases in which the
2241 petitioner claims that his sentence has expired or his probation,
2242 parole or conditional release has been unlawfully revoked.
2243 Likewise excepted are filings for post-conviction relief in
2244 capital cases which shall be made within one (1) year after
2245 conviction.

2246 (3) This motion is not a substitute for, nor does it affect,
2247 any remedy incident to the proceeding in the trial court, or
2248 direct review of the conviction or sentence.

2249 (4) Proceedings under this article shall be subject to the
2250 provisions of Section 99-19-42.

2251 (5) For the purposes of this article:

2252 (a) "Biological evidence" means the contents of a
2253 sexual assault examination kit and any item that contains blood,



2254 semen, hair, saliva, skin tissue, fingernail scrapings, bone,
2255 bodily fluids or other identifiable biological material that was
2256 collected as part of the criminal investigation or may reasonably
2257 be used to incriminate or exculpate any person for the offense.
2258 This definition applies whether that material is catalogued
2259 separately, such as on a slide, swab or in a test tube, or is
2260 present on other evidence, including, but not limited to,
2261 clothing, ligatures, bedding or other household material, drinking
2262 cups, cigarettes or other items;

2263 (b) "DNA" means deoxyribonucleic acid.

2264 **SECTION 47.** Section 99-39-27, Mississippi Code of 1972, is
2265 brought forward as follows:

2266 99-39-27. (1) The application for leave to proceed in the
2267 trial court filed with the Supreme Court under Section 99-39-7
2268 shall name the State of Mississippi as the respondent.

2269 (2) The application shall contain the original and two (2)
2270 executed copies of the motion proposed to be filed in the trial
2271 court together with such other supporting pleadings and
2272 documentation as the Supreme Court by rule may require.

2273 (3) The prisoner shall serve an executed copy of the
2274 application upon the Attorney General simultaneously with the
2275 filing of the application with the court.

2276 (4) The original motion, together with all files, records,
2277 transcripts and correspondence relating to the judgment under
2278 attack, shall promptly be examined by the court.



2279 (5) Unless it appears from the face of the application,
2280 motion, exhibits and the prior record that the claims presented by
2281 those documents are not procedurally barred under Section 99-39-21
2282 and that they further present a substantial showing of the denial
2283 of a state or federal right, the court shall by appropriate order
2284 deny the application. The court may, in its discretion, require
2285 the Attorney General upon sufficient notice to respond to the
2286 application.

2287 (6) The court, upon satisfaction of the standards set forth
2288 in this article, is empowered to grant the application.

2289 (7) In granting the application the court, in its
2290 discretion, may:

2291 (a) Where sufficient facts exist from the face of the
2292 application, motion, exhibits, the prior record and the state's
2293 response, together with any exhibits submitted with those
2294 documents, or upon stipulation of the parties, grant or deny any
2295 or all relief requested in the attached motion.

2296 (b) Allow the filing of the motion in the trial court
2297 for further proceedings under Sections 99-39-13 through 99-39-23.

2298 (8) No application or relief shall be granted without the
2299 Attorney General being given at least five (5) days to respond.

2300 (9) The dismissal or denial of an application under this
2301 section is a final judgment and shall be a bar to a second or
2302 successive application under this article. Excepted from this
2303 prohibition is an application filed under Section 99-19-57(2),



2304 raising the issue of the offender's supervening mental illness
2305 before the execution of a sentence of death. A dismissal or
2306 denial of an application relating to mental illness under Section
2307 99-19-57(2) shall be res judicata on the issue and shall likewise
2308 bar any second or successive applications on the issue. Likewise
2309 excepted from this prohibition are those cases in which the
2310 prisoner can demonstrate either that there has been an intervening
2311 decision of the Supreme Court of either the State of Mississippi
2312 or the United States that would have actually adversely affected
2313 the outcome of his conviction or sentence or that he has evidence,
2314 not reasonably discoverable at the time of trial, that is of such
2315 nature that it would be practically conclusive that, if it had
2316 been introduced at trial, it would have caused a different result
2317 in the conviction or sentence. Likewise exempted are those cases
2318 in which the prisoner claims that his sentence has expired or his
2319 probation, parole or conditional release has been unlawfully
2320 revoked.

2321 (10) Proceedings under this section shall be subject to the
2322 provisions of Section 99-19-42.

2323 (11) Post-conviction proceedings in which the defendant is
2324 under sentence of death shall be governed by rules established by
2325 the Supreme Court as well as the provisions of this section.

2326 **SECTION 48.** Section 41-29-153, Mississippi Code of 1972, is
2327 brought forward as follows:

2328 41-29-153. (a) The following are subject to forfeiture:



2329 (1) All controlled substances which have been
2330 manufactured, distributed, dispensed or acquired in violation of
2331 this article or in violation of Article 5 of this chapter;

2332 (2) All raw materials, products and equipment of any
2333 kind which are used, or intended for use, in manufacturing,
2334 compounding, processing, delivering, importing, or exporting any
2335 controlled substance in violation of this article or in violation
2336 of Article 5 of this chapter;

2337 (3) All property which is used, or intended for use, as
2338 a container for property described in paragraph (1) or (2) of this
2339 subsection;

2340 (4) All conveyances, including aircraft, vehicles or
2341 vessels, which are used, or intended for use, to transport, or in
2342 any manner to facilitate the transportation, sale, receipt,
2343 possession or concealment of property described in paragraph (1)
2344 or (2) of this subsection, however:

2345 A. No conveyance used by any person as a common
2346 carrier in the transaction of business as a common carrier is
2347 subject to forfeiture under this section unless it appears that
2348 the owner or other person in charge of the conveyance is a
2349 consenting party or privy to a violation of this article;

2350 B. No conveyance is subject to forfeiture under
2351 this section by reason of any act or omission proved by the owner
2352 thereof to have been committed or omitted without his knowledge or
2353 consent; if the confiscating authority has reason to believe that



2354 the conveyance is a leased or rented conveyance, then the
2355 confiscating authority shall notify the owner of the conveyance
2356 within five (5) days of the confiscation;

2357 C. A forfeiture of a conveyance encumbered by a
2358 bona fide security interest is subject to the interest of the
2359 secured party if he neither had knowledge of nor consented to the
2360 act or omission;

2361 D. A conveyance is not subject to forfeiture for a
2362 violation of Section 41-29-139(c) (2) (A) 1, 2 or (B)1 or (C)1, 2,
2363 3;

2364 (5) All money, deadly weapons, books, records, and
2365 research products and materials, including formulas, microfilm,
2366 tapes and data which are used, or intended for use, in violation
2367 of this article or in violation of Article 5 of this chapter;

2368 (6) All drug paraphernalia as defined in Section
2369 41-29-105(v); and

2370 (7) Everything of value, including real estate,
2371 furnished, or intended to be furnished, in exchange for a
2372 controlled substance in violation of this article, all proceeds
2373 traceable to such an exchange, and all monies, negotiable
2374 instruments, businesses or business investments, securities, and
2375 other things of value used, or intended to be used, to facilitate
2376 any violation of this article. All monies, coin and currency
2377 found in close proximity to forfeitable controlled substances, to
2378 forfeitable drug manufacturing or distributing paraphernalia, or



2379 to forfeitable records of the importation, manufacture or
2380 distribution of controlled substances are presumed to be
2381 forfeitable under this paragraph; the burden of proof is upon
2382 claimants of the property to rebut this presumption.

2383 A. No property shall be forfeited under the
2384 provisions of subsection (a) (7) of this section, to the extent of
2385 the interest of an owner, by reason of any act or omission
2386 established by him to have been committed or omitted without his
2387 knowledge or consent.

2388 B. Neither personal property encumbered by a bona
2389 fide security interest nor real estate encumbered by a bona fide
2390 mortgage, deed of trust, lien or encumbrance shall be forfeited
2391 under the provisions of subsection (a) (7) of this section, to the
2392 extent of the interest of the secured party or the interest of the
2393 mortgagee, holder of a deed of trust, lien or encumbrance by
2394 reason of any act or omission established by him to have been
2395 committed or omitted without his knowledge or consent.

2396 (b) Property subject to forfeiture may be seized by the
2397 bureau, local law enforcement officers, enforcement officers of
2398 the Mississippi Department of Transportation, highway patrolmen,
2399 the board, or the State Board of Pharmacy upon process issued by
2400 any appropriate court having jurisdiction over the property.
2401 Seizure without process may be made if:



2402 (1) The seizure is incident to an arrest or a search
2403 under a search warrant or an inspection under an administrative
2404 inspection warrant;

2405 (2) The property subject to seizure has been the
2406 subject of a prior judgment in favor of the state in a criminal
2407 injunction or forfeiture proceeding based upon this article;

2408 (3) The bureau, the board, local law enforcement
2409 officers, enforcement officers of the Mississippi Department of
2410 Transportation, or highway patrolmen, or the State Board of
2411 Pharmacy have probable cause to believe that the property is
2412 directly or indirectly dangerous to health or safety;

2413 (4) The bureau, local law enforcement officers,
2414 enforcement officers of the Mississippi Department of
2415 Transportation, highway patrolmen, the board, or the State Board
2416 of Pharmacy have probable cause to believe that the property was
2417 used or is intended to be used in violation of this article; or

2418 (5) The seizing law enforcement agency obtained a
2419 seizure warrant as described in paragraph (f) of this section.

2420 (c) Controlled substances listed in Schedule I of Section
2421 41-29-113 that are possessed, transferred, sold, or offered for
2422 sale in violation of this article are contraband and shall be
2423 seized and summarily forfeited to the state. Controlled
2424 substances listed in the said Schedule I, which are seized or come
2425 into the possession of the state, the owners of which are unknown,
2426 are contraband and shall be summarily forfeited to the state.



2427 (d) Species of plants from which controlled substances in
2428 Schedules I and II of Sections 41-29-113 and 41-29-115 may be
2429 derived which have been planted or cultivated in violation of this
2430 article, or of which the owners or cultivators are unknown, or
2431 which are wild growths, may be seized and summarily forfeited to
2432 the state.

2433 (e) The failure, upon demand by the bureau and/or local law
2434 enforcement officers, or their authorized agents, or highway
2435 patrolmen designated by the bureau, the board, or the State Board
2436 of Pharmacy, of the person in occupancy or in control of land or
2437 premises upon which the species of plants are growing or being
2438 stored, to produce an appropriate registration, or proof that he
2439 is the holder thereof, constitutes authority for the seizure and
2440 forfeiture of the plants.

2441 (f) (1) When any property is seized under the Uniform
2442 Controlled Substances Law, except as otherwise provided in
2443 paragraph (3) of this subsection, by a law enforcement agency with
2444 the intent to be forfeited, the law enforcement agency that seized
2445 the property shall obtain a seizure warrant from the county or
2446 circuit court having jurisdiction of such property within
2447 seventy-two (72) hours of any seizure, excluding weekends and
2448 holidays. Any law enforcement agency that fails to obtain a
2449 seizure warrant within seventy-two (72) hours as required by this
2450 section shall notify the person from whom the property was seized
2451 that it will not be forfeited and shall provide written



2452 instructions advising the person how to retrieve the seized
2453 property.

2454 (2) A circuit or county judge having jurisdiction of
2455 any property other than a controlled substance, raw material or
2456 paraphernalia, may issue a seizure warrant upon proper oath or
2457 affirmation from a law enforcement agency. The law enforcement
2458 agency that is seeking a seizure warrant shall provide the
2459 following information to the judge:

2460 A. Probable cause to believe that the property was
2461 used or intended to be used in violation of this article;

2462 B. The name of the person from whom the property
2463 was seized; and

2464 C. A detailed description of the property which is
2465 seized, including the value of the property.

2466 (3) This subsection does not apply to seizures
2467 performed pursuant to Section 41-29-157 when property is
2468 specifically set forth in a search and seizure warrant.

2469 **SECTION 49.** Section 41-29-154, Mississippi Code of 1972, is
2470 brought forward as follows:

2471 41-29-154. Any controlled substance or paraphernalia seized
2472 under the authority of this article or any other law of
2473 Mississippi or of the United States, shall be destroyed,
2474 adulterated and disposed of or otherwise rendered harmless and
2475 disposed of, upon written authorization of the director, after
2476 such substance or paraphernalia has served its usefulness as



2477 evidence or after such substance or paraphernalia is no longer
2478 useful for training or demonstration purposes.

2479 A record of the disposition of such substances and
2480 paraphernalia and the method of destruction or adulteration
2481 employed along with the names of witnesses to such destruction or
2482 adulteration shall be retained by the director.

2483 No substance or paraphernalia shall be disposed of, destroyed
2484 or rendered harmless under the authority of this section without
2485 an order from the director and without at least two (2) officers
2486 or agents of the bureau present as witnesses.

2487 **SECTION 50.** Section 41-29-155, Mississippi Code of 1972, is
2488 brought forward as follows:

2489 41-29-155. The trial courts of this state shall have
2490 jurisdiction to restrain or enjoin violations of this article.

2491 The defendant may demand trial by jury for an alleged
2492 violation of an injunction or restraining order under this
2493 section.

2494 **SECTION 51.** Section 41-29-157, Mississippi Code of 1972, is
2495 brought forward as follows:

2496 41-29-157. (a) Except as otherwise provided in Section
2497 41-29-107.1, issuance and execution of administrative inspection
2498 warrants and search warrants shall be as follows, except as
2499 provided in subsection (c) of this section:

2500 (1) A judge of any state court of record, or any
2501 justice court judge within his jurisdiction, and upon proper oath



2502 or affirmation showing probable cause, may issue warrants for the
2503 purpose of conducting administrative inspections authorized by
2504 this article or rules thereunder, and seizures of property
2505 appropriate to the inspections. For purposes of the issuance of
2506 administrative inspection warrants, probable cause exists upon
2507 showing a valid public interest in the effective enforcement of
2508 this article or rules thereunder, sufficient to justify
2509 administrative inspection of the area, premises, building or
2510 conveyance in the circumstances specified in the application for
2511 the warrant. All such warrants shall be served during normal
2512 business hours;

2513 (2) A search warrant shall issue only upon an affidavit
2514 of a person having knowledge or information of the facts alleged,
2515 sworn to before the judge or justice court judge and establishing
2516 the grounds for issuing the warrant. If the judge or justice
2517 court judge is satisfied that grounds for the application exist or
2518 that there is probable cause to believe they exist, he shall issue
2519 a warrant identifying the area, premises, building or conveyance
2520 to be searched, the purpose of the search, and, if appropriate,
2521 the type of property to be searched, if any. The warrant shall:

2522 (A) State the grounds for its issuance and the
2523 name of each person whose affidavit has been taken in support
2524 thereof;

2525 (B) Be directed to a person authorized by Section
2526 41-29-159 to execute it;



2527 (C) Command the person to whom it is directed to
2528 inspect the area, premises, building or conveyance identified for
2529 the purpose specified, and if appropriate, direct the seizure of
2530 the property specified;

2531 (D) Identify the item or types of property to be
2532 seized, if any;

2533 (E) Direct that it be served and designate the
2534 judge or magistrate to whom it shall be returned;

2535 (3) A warrant issued pursuant to this section must be
2536 executed and returned within ten (10) days of its date unless,
2537 upon a showing of a need for additional time, the court orders
2538 otherwise. If property is seized pursuant to a warrant, a copy
2539 shall be given to the person from whom or from whose premises the
2540 property is taken, together with a receipt for the property taken.
2541 The return of the warrant shall be made promptly, accompanied by a
2542 written inventory of any property taken. The inventory shall be
2543 made in the presence of the person executing the warrant and of
2544 the person from whose possession or premises the property was
2545 taken, if present, or in the presence of at least one (1) credible
2546 person other than the person executing the warrant. A copy of the
2547 inventory shall be delivered to the person from whom or from whose
2548 premises the property was taken and to the applicant for the
2549 warrant;

2550 (4) The judge or justice court judge who has issued a
2551 warrant shall attach thereto a copy of the return and all papers



2552 returnable in connection therewith and file them with the clerk of
2553 the appropriate state court for the judicial district in which the
2554 inspection was made.

2555 (b) The Mississippi Bureau of Narcotics, the State Board of
2556 Pharmacy, the State Board of Medical Licensure, the State Board of
2557 Dental Examiners, the Mississippi Board of Nursing or the State
2558 Board of Optometry may make administrative inspections of
2559 controlled premises in accordance with the following provisions:

2560 (1) For purposes of this section only, "controlled
2561 premises" means:

2562 (A) Places where persons registered or exempted
2563 from registration requirements under this article are required to
2564 keep records; and

2565 (B) Places including factories, warehouses,
2566 establishments and conveyances in which persons registered or
2567 exempted from registration requirements under this article are
2568 permitted to hold, manufacture, compound, process, sell, deliver,
2569 or otherwise dispose of any controlled substance.

2570 (2) When authorized by an administrative inspection
2571 warrant issued in accordance with the conditions imposed in this
2572 section, an officer or employee designated by the Mississippi
2573 Bureau of Narcotics, the State Board of Pharmacy, the State Board
2574 of Medical Licensure, the State Board of Dental Examiners, the
2575 Mississippi Board of Nursing or the State Board of Optometry, upon
2576 presenting the warrant and appropriate credentials to the owner,



2577 operator or agent in charge, may enter controlled premises for the
2578 purpose of conducting an administrative inspection.

2579 (3) When authorized by an administrative inspection
2580 warrant, an officer or employee designated by the Mississippi
2581 Bureau of Narcotics, the State Board of Pharmacy, the State Board
2582 of Medical Licensure, the State Board of Dental Examiners, the
2583 Mississippi Board of Nursing or the State Board of Optometry may:

2584 (A) Inspect and copy records required by this
2585 article to be kept;

2586 (B) Inspect, within reasonable limits and in a
2587 reasonable manner, controlled premises and all pertinent
2588 equipment, finished and unfinished material, containers and
2589 labeling found therein, and, except as provided in paragraph (5)
2590 of this subsection, all other things therein, including records,
2591 files, papers, processes, controls and facilities bearing on
2592 violation of this article; and

2593 (C) Inventory any stock of any controlled
2594 substance therein and obtain samples thereof.

2595 (4) This section does not prevent the inspection
2596 without a warrant of books and records pursuant to an
2597 administrative subpoena, nor does it prevent entries and
2598 administrative inspections, including seizures of property,
2599 without a warrant:

2600 (A) If the owner, operator or agent in charge of
2601 the controlled premises consents;



2602 (B) In situations presenting imminent danger to
2603 health or safety;

2604 (C) In situations involving inspection of
2605 conveyances if there is reasonable cause to believe that the
2606 mobility of the conveyance makes it impracticable to obtain a
2607 warrant;

2608 (D) In any other exceptional or emergency
2609 circumstance where time or opportunity to apply for a warrant is
2610 lacking; or

2611 (E) In all other situations in which a warrant is
2612 not constitutionally required.

2613 (5) An inspection authorized by this section shall not
2614 extend to financial data, sales data, other than shipment data, or
2615 pricing data unless the owner, operator or agent in charge of the
2616 controlled premises consents in writing.

2617 (c) Any agent of the bureau authorized to execute a search
2618 warrant involving controlled substances, the penalty for which is
2619 imprisonment for more than one (1) year, may, without notice of
2620 his authority and purpose, break open an outer door or inner door,
2621 or window of a building, or any part of the building, if the judge
2622 issuing the warrant:

2623 (1) Is satisfied that there is probable cause to
2624 believe that:

2625 (A) The property sought may, and, if such notice
2626 is given, will be easily and quickly destroyed or disposed of; or



2627 (B) The giving of such notice will immediately
2628 endanger the life or safety of the executing officer or another
2629 person; and

2630 (2) Has included in the warrant a direction that the
2631 officer executing the warrant shall not be required to give such
2632 notice.

2633 Any officer acting under such warrant shall, as soon as
2634 practical, after entering the premises, identify himself and give
2635 the reasons and authority for his entrance upon the premises.

2636 Search warrants which include the instruction that the
2637 executing officer shall not be required to give notice of
2638 authority and purpose as authorized by this subsection shall be
2639 issued only by the county court or county judge in vacation,
2640 chancery court or by the chancellor in vacation, by the circuit
2641 court or circuit judge in vacation, or by a justice of the
2642 Mississippi Supreme Court.

2643 This subsection shall expire and stand repealed from and
2644 after July 1, 1974, except that the repeal shall not affect the
2645 validity or legality of any search authorized under this
2646 subsection and conducted prior to July 1, 1974.

2647 **SECTION 52.** Section 99-15-103, Mississippi Code of 1972, is
2648 brought forward as follows:

2649 99-15-103. For purposes of Sections 99-15-101 through
2650 99-15-127, the following words shall have the meaning ascribed
2651 herein unless the context shall otherwise require:



2652 (a) "Prosecutorial discretion" means the power of the
2653 district attorney to consider all circumstances of criminal
2654 proceedings and to determine whether any legal action is to be
2655 taken and, if so taken, of what kind and degree and to what
2656 conclusion.

2657 (b) "Noncriminal disposition" means the dismissal of a
2658 criminal charge without prejudice to the state to reinstate
2659 criminal proceedings on motion of the district attorney.

2660 **SECTION 53.** Section 99-15-105, Mississippi Code of 1972, is
2661 brought forward as follows:

2662 99-15-105. (1) Each district attorney, with the consent of
2663 a circuit court judge of his district, shall have the
2664 prosecutorial discretion as defined herein and may as a matter of
2665 such prosecutorial discretion establish a pretrial intervention
2666 program in the circuit court districts.

2667 (2) A pretrial intervention program shall be under the
2668 direct supervision and control of the district attorney.

2669 (3) An offender must make application to an intervention
2670 program within the time prescribed by the district attorney.

2671 **SECTION 54.** Section 99-15-107, Mississippi Code of 1972, is
2672 brought forward as follows:

2673 99-15-107. A person shall not be eligible for the
2674 intervention program provided by Sections 99-15-101 through
2675 99-15-127 if the person has been charged with:

2676 (a) Any crime of violence listed in Section 97-3-2;



2677 (b) Any offense pertaining to trafficking in a
2678 controlled substance, as provided in Section 41-29-139(f); or

2679 (c) Any crime of fraud or embezzlement committed in a
2680 public office pursuant to Section 97-7-11 or 97-11-31, amounting
2681 to or exceeding Ten Thousand Dollars (\$10,000.00).

2682 **SECTION 55.** Section 99-15-109, Mississippi Code of 1972, is
2683 brought forward as follows:

2684 99-15-109. (1) Intervention shall be appropriate only when:

2685 (a) The offender is eighteen (18) years of age or
2686 older;

2687 (b) There is substantial likelihood that justice will
2688 be served if the offender is placed in an intervention program;

2689 (c) It is determined that the needs of the offender and
2690 the state can better be met outside the traditional criminal
2691 justice process;

2692 (d) It is apparent that the offender poses no threat to
2693 the community;

2694 (e) It appears that the offender is unlikely to be
2695 involved in further criminal activity;

2696 (f) The offender, in those cases where it is required,
2697 is likely to respond quickly to rehabilitative treatment;

2698 (g) The offender has no significant history of prior
2699 delinquency or criminal activity;

2700 (h) The offender has been indicted and is represented
2701 by an attorney; and



2702 (i) The court has determined that the office of
2703 district attorney or the Department of Corrections has sufficient
2704 support staff to administer such intervention program.

2705 (2) When jurisdiction in a case involving a child is
2706 acquired by the circuit court pursuant to a transfer from the
2707 youth court, the provision of subsection (1)(a) of this section
2708 shall not be applicable.

2709 (3) Notwithstanding any other provision of this section, in
2710 all criminal cases wherein an offender has been held in contempt
2711 of court for failure to pay fines or restitution, the offender may
2712 be placed in pretrial intervention for the purpose of collecting
2713 unpaid restitution and fines regardless of any prior criminal
2714 conviction, whether felony or misdemeanor.

2715 **SECTION 56.** Section 99-15-111, Mississippi Code of 1972, is
2716 brought forward as follows:

2717 99-15-111. Prior to admittance of an offender into an
2718 intervention program, the district attorney may require the
2719 offender to furnish information concerning the offender's past
2720 criminal record, education and work record, family history,
2721 medical or psychiatric treatment or care received, psychological
2722 tests taken and other information which, in the district
2723 attorney's opinion, bears on the decision as to whether the
2724 offender should be admitted.

2725 **SECTION 57.** Section 99-15-113, Mississippi Code of 1972, is
2726 brought forward as follows:



2727 99-15-113. Prior to any person's admittance to a pretrial
2728 intervention program the victim, if any, of the crime for which
2729 the applicant is charged and the law enforcement agency employing
2730 the arresting officer shall be asked to comment in writing as to
2731 whether or not the applicant should be allowed to enter an
2732 intervention program. In each case involving admission to an
2733 intervention program, the district attorney and a circuit court
2734 judge of his district shall consider the recommendations of the
2735 law enforcement agency and the victim, if any, in making a
2736 decision.

2737 **SECTION 58.** Section 99-15-115, Mississippi Code of 1972, is
2738 brought forward as follows:

2739 99-15-115. An offender who enters an intervention program
2740 shall:

2741 (a) Waive, in writing and contingent upon his
2742 successful completion of the program, his or her right to a speedy
2743 trial;

2744 (b) Agree, in writing, to the tolling while in the
2745 program of all periods of limitation established by statutes or
2746 rules of court;

2747 (c) Agree, in writing, to the conditions of the
2748 intervention program established by the district attorney which
2749 shall not require or include a guilty plea;

2750 (d) In the event there is a victim of the crime, agree,
2751 in writing, to make restitution to the victim within a specified



2752 period of time and in an amount to be determined by the district
2753 attorney and approved by the court; and

2754 (e) Agree, in writing, to waive extradition.

2755 **SECTION 59.** Section 99-15-117, Mississippi Code of 1972, is
2756 brought forward as follows:

2757 99-15-117. In any case in which an offender agrees to an
2758 intervention program, a specific agreement shall be made between
2759 the district attorney and the offender. This agreement shall
2760 include the terms of the intervention program, the length of the
2761 program, which shall not exceed three (3) years, and a section
2762 therein stating the period of time after which the prosecutor will
2763 either dismiss the charge or seek a conviction based upon that
2764 charge. The agreement shall be signed by the offender and his or
2765 her counsel and filed in the district attorney's office. Before an
2766 offender is admitted to an intervention program, the court having
2767 jurisdiction of the charge must approve of the offender's
2768 admission to the program and the terms of the agreement.

2769 **SECTION 60.** Section 99-15-119, Mississippi Code of 1972, is
2770 brought forward as follows:

2771 99-15-119. In all cases where an offender is accepted for
2772 intervention a written report shall be made and retained on file
2773 in the district attorney's office, regardless of whether or not
2774 the offender successfully completes the intervention program. The
2775 district attorney shall furnish to the Mississippi Justice
2776 Information Center personal identification information on each



2777 person accepted for intervention. This information shall only be
2778 released by the Mississippi Justice Information Center in those
2779 cases where a district attorney inquires as to whether a person
2780 has previously been accepted into an intervention program.

2781 **SECTION 61.** Section 99-15-121, Mississippi Code of 1972, is
2782 brought forward as follows:

2783 99-15-121. Prior to the completion of the pretrial
2784 intervention program the offender shall make restitution, as
2785 determined by the district attorney and approved by the court, to
2786 the victim, if any, and shall pay any expenses to the
2787 administrator of this program which are incurred as a result of
2788 his participation in the program. The amount of such expenses
2789 shall be determined by the district attorney and made part of the
2790 initial agreement between the district attorney and the offender.

2791 **SECTION 62.** Section 99-15-123, Mississippi Code of 1972, is
2792 brought forward as follows:

2793 99-15-123. (1) In the event an offender successfully
2794 completes a pretrial intervention program, the court shall make a
2795 noncriminal disposition of the charge or charges pending against
2796 the offender.

2797 (2) In the event the offender violates the conditions of the
2798 program agreement: (a) the district attorney may terminate the
2799 offender's participation in the program, (b) the waiver executed
2800 pursuant to Section 99-15-115 shall be void on the date the
2801 offender is removed from the program for the violation, and (c)



2802 the prosecution of pending criminal charges against the offender
2803 shall be resumed by the district attorney.

2804 (3) Upon petition therefor, the court shall expunge the
2805 record of any case in which an arrest was made, the person
2806 arrested was released and the case was dismissed or the charges
2807 were dropped or there was no disposition of such case.

2808 **SECTION 63.** Section 99-15-125, Mississippi Code of 1972, is
2809 brought forward as follows:

2810 99-15-125. No law enforcement officer shall refer to,
2811 mention and/or offer participation in this program as an
2812 inducement to any statement, confession or waiver of any
2813 constitutional rights of any person accused of a crime except
2814 those enumerated in Section 99-15-115.

2815 **SECTION 64.** Section 99-15-127, Mississippi Code of 1972, is
2816 brought forward as follows:

2817 99-15-127. The Department of Corrections, Division of
2818 Community Corrections, is directed to support Sections 99-15-101
2819 through 99-15-127 to the extent that field support personnel are
2820 available in circuit court districts, and the Commissioner of
2821 Corrections shall certify to the court that the Division of
2822 Community Corrections has sufficient field parole officers to
2823 supervise and oversee those individuals who may be placed in this
2824 program by the court.

2825 **SECTION 65.** Section 9-23-5, Mississippi Code of 1972, is
2826 brought forward as follows:



2827 9-23-5. For the purposes of this chapter, the following
2828 words and phrases shall have the meanings ascribed unless the
2829 context clearly requires otherwise:

2830 (a) "Chemical" tests means the analysis of an
2831 individual's: (i) blood, (ii) breath, (iii) hair, (iv) sweat, (v)
2832 saliva, (vi) urine, or (vii) other bodily substance to determine
2833 the presence of alcohol or a controlled substance.

2834 (b) "Crime of violence" means an offense listed in
2835 Section 97-3-2.

2836 (c) "Intervention court" means a drug court, mental
2837 health court, veterans court or problem-solving court that
2838 utilizes an immediate and highly structured intervention process
2839 for eligible defendants or juveniles that brings together mental
2840 health professionals, substance abuse professionals, local social
2841 programs and intensive judicial monitoring.

2842 (d) "Evidence-based practices" means supervision
2843 policies, procedures and practices that scientific research
2844 demonstrates reduce recidivism.

2845 (e) "Risk and needs assessment" means the use of an
2846 actuarial assessment tool validated on a Mississippi corrections
2847 population to determine a person's risk to reoffend and the
2848 characteristics that, if addressed, reduce the risk to reoffend.

2849 **SECTION 66.** Section 9-23-7, Mississippi Code of 1972, is
2850 brought forward as follows:



2851 9-23-7. The Administrative Office of Courts shall be
2852 responsible for certification and monitoring of local intervention
2853 courts according to standards promulgated by the State
2854 Intervention Courts Advisory Committee.

2855 **SECTION 67.** Section 9-23-9, Mississippi Code of 1972, is
2856 brought forward as follows:

2857 9-23-9. (1) The State Intervention Courts Advisory
2858 Committee is established to develop and periodically update
2859 proposed statewide evaluation plans and models for monitoring all
2860 critical aspects of intervention courts. The committee must
2861 provide the proposed evaluation plans to the Chief Justice and the
2862 Administrative Office of Courts. The committee shall be chaired
2863 by the Director of the Administrative Office of Courts or a
2864 designee of the director and shall consist of eleven (11) members
2865 all of whom shall be appointed by the Supreme Court. The members
2866 shall be broadly representative of the courts, mental health,
2867 veterans affairs, law enforcement, corrections, criminal defense
2868 bar, prosecutors association, juvenile justice, child protective
2869 services and substance abuse treatment communities.

2870 (2) The State Intervention Courts Advisory Committee may
2871 also make recommendations to the Chief Justice, the Director of
2872 the Administrative Office of Courts and state officials concerning
2873 improvements to intervention court policies and procedures
2874 including the intervention court certification process. The
2875 committee may make suggestions as to the criteria for eligibility,



2876 and other procedural and substantive guidelines for intervention
2877 court operation.

2878 (3) The State Intervention Courts Advisory Committee shall
2879 act as arbiter of disputes arising out of the operation of
2880 intervention courts established under this chapter and make
2881 recommendations to improve the intervention courts; it shall also
2882 make recommendations to the Supreme Court necessary and incident
2883 to compliance with established rules.

2884 (4) The State Intervention Courts Advisory Committee shall
2885 establish through rules and regulations a viable and fiscally
2886 responsible plan to expand the number of adult and juvenile
2887 intervention court programs operating in Mississippi. These rules
2888 and regulations shall include plans to increase participation in
2889 existing and future programs while maintaining their voluntary
2890 nature.

2891 (5) The State Intervention Courts Advisory Committee shall
2892 receive and review the monthly reports submitted to the
2893 Administrative Office of Courts by each certified intervention
2894 court and provide comments and make recommendations, as necessary,
2895 to the Chief Justice and the Director of the Administrative Office
2896 of Courts.

2897 **SECTION 68.** Section 9-23-11, Mississippi Code of 1972, is
2898 brought forward as follows:

2899 9-23-11. (1) The Administrative Office of Courts shall
2900 establish, implement and operate a uniform certification process



2901 for all intervention courts and other problem-solving courts
2902 including juvenile courts, veterans courts or any other court
2903 designed to adjudicate criminal actions involving an identified
2904 classification of criminal defendant to ensure funding for
2905 intervention courts supports effective and proven practices that
2906 reduce recidivism and substance dependency among their
2907 participants.

2908 (2) The Administrative Office of Courts shall establish a
2909 certification process that ensures any new or existing
2910 intervention court meets minimum standards for intervention court
2911 operation.

2912 (a) These standards shall include, but are not limited
2913 to:

2914 (i) The use of evidence-based practices including,
2915 but not limited to, the use of a valid and reliable risk and needs
2916 assessment tool to identify participants and deliver appropriate
2917 interventions;

2918 (ii) Targeting medium to high-risk offenders for
2919 participation;

2920 (iii) The use of current, evidence-based
2921 interventions proven to reduce dependency on drugs or alcohol, or
2922 both;

2923 (iv) Frequent testing for alcohol or drugs;



2924 (v) Coordinated strategy between all intervention
2925 court program personnel involving the use of graduated clinical
2926 interventions;

2927 (vi) Ongoing judicial interaction with each
2928 participant; and

2929 (vii) Monitoring and evaluation of intervention
2930 court program implementation and outcomes through data collection
2931 and reporting.

2932 (b) Intervention court certification applications shall
2933 include:

2934 (i) A description of the need for the intervention
2935 court;

2936 (ii) The targeted population for the intervention
2937 court;

2938 (iii) The eligibility criteria for intervention
2939 court participants;

2940 (iv) A description of the process for identifying
2941 appropriate participants including the use of a risk and needs
2942 assessment and a clinical assessment;

2943 (v) A description of the intervention court
2944 intervention components, including anticipated budget and
2945 implementation plan;

2946 (vi) The data collection plan which shall include
2947 collecting the following data:

2948 1. Total number of participants;



- 2949 2. Total number of successful participants;
2950 3. Total number of unsuccessful participants
2951 and the reason why each participant did not complete the program;
2952 4. Total number of participants who were
2953 arrested for a new criminal offense while in the intervention
2954 court program;
2955 5. Total number of participants who were
2956 convicted of a new felony or misdemeanor offense while in the
2957 intervention court program;
2958 6. Total number of participants who committed
2959 at least one (1) violation while in the intervention court program
2960 and the resulting sanction(s);
2961 7. Results of the initial risk and needs
2962 assessment or other clinical assessment conducted on each
2963 participant; and
2964 8. Total number of applications for screening
2965 by race, gender, offenses charged, indigence and, if not accepted,
2966 the reason for nonacceptance; and
2967 9. Any other data or information as required
2968 by the Administrative Office of Courts.

2969 (c) Every intervention court shall be certified under
2970 the following schedule:

2971 (i) An intervention court application submitted
2972 after July 1, 2014, shall require certification of the
2973 intervention court based on the proposed drug court plan.



2974 (ii) An intervention court initially established
2975 and certified after July 1, 2014, shall be recertified after its
2976 second year of funded operation on a time frame consistent with
2977 the other certified courts of its type.

2978 (iii) A certified adult felony intervention court
2979 in existence on December 31, 2018, must submit a recertification
2980 petition by July 1, 2019, and be recertified under the
2981 requirements of this section on or before December 31, 2019; after
2982 the recertification, all certified adult felony intervention
2983 courts must submit a recertification petition every two (2) years
2984 to the Administrative Office of Courts. The recertification
2985 process must be completed by December 31st of every odd calendar
2986 year.

2987 (iv) A certified youth, family, misdemeanor or
2988 chancery intervention court in existence on December 31, 2018,
2989 must submit a recertification petition by July 31, 2020, and be
2990 recertified under the requirements of this section by December 31,
2991 2020. After the recertification, all certified youth, family,
2992 misdemeanor and chancery intervention courts must submit a
2993 recertification petition every two (2) years to the Administrative
2994 Office of Courts. The recertification process must be completed
2995 by December 31st of every even calendar year.

2996 (3) All certified intervention courts shall measure
2997 successful completion of the drug court based on those



2998 participants who complete the program without a new criminal
2999 conviction.

3000 (4) (a) All certified drug courts must collect and submit
3001 to the Administrative Office of Courts each month, the following
3002 data:

3003 (i) Total number of participants at the beginning
3004 of the month;

3005 (ii) Total number of participants at the end of
3006 the month;

3007 (iii) Total number of participants who began the
3008 program in the month;

3009 (iv) Total number of participants who successfully
3010 completed the intervention court in the month;

3011 (v) Total number of participants who left the
3012 program in the month;

3013 (vi) Total number of participants who were
3014 arrested for a new criminal offense while in the intervention
3015 court program in the month;

3016 (vii) Total number of participants who were
3017 convicted for a new criminal arrest while in the intervention
3018 court program in the month; and

3019 (viii) Total number of participants who committed
3020 at least one (1) violation while in the intervention court program
3021 and any resulting sanction(s).



3022 (b) By August 1, 2015, and each year thereafter, the
3023 Administrative Office of Courts shall report to the PEER Committee
3024 the information in subsection (4)(a) of this section in a
3025 sortable, electronic format.

3026 (5) All certified intervention courts may individually
3027 establish rules and may make special orders and rules as necessary
3028 that do not conflict with the rules promulgated by the Supreme
3029 Court or the Administrative Office of Courts.

3030 (6) A certified intervention court may appoint the full- or
3031 part-time employees it deems necessary for the work of the
3032 intervention court and shall fix the compensation of those
3033 employees. Such employees shall serve at the will and pleasure of
3034 the judge or the judge's designee.

3035 (7) The Administrative Office of Courts shall promulgate
3036 rules and regulations to carry out the certification and
3037 re-certification process and make any other policies not
3038 inconsistent with this section to carry out this process.

3039 (8) A certified intervention court established under this
3040 chapter is subject to the regulatory powers of the Administrative
3041 Office of Courts as set forth in Section 9-23-17.

3042 **SECTION 69.** Section 9-23-13, Mississippi Code of 1972, is
3043 brought forward as follows:

3044 9-23-13. (1) An intervention court's alcohol and drug
3045 intervention component shall provide for eligible individuals,
3046 either directly or through referrals, a range of necessary court



3047 intervention services, including, but not limited to, the
3048 following:

3049 (a) Screening using a valid and reliable assessment
3050 tool effective for identifying alcohol and drug dependent persons
3051 for eligibility and appropriate services;

3052 (b) Clinical assessment; for a DUI offense, if the
3053 person has two (2) or more DUI convictions, the court shall order
3054 the person to undergo an assessment that uses a standardized
3055 evidence-based instrument performed by a physician to determine
3056 whether the person has a diagnosis for alcohol and/or drug
3057 dependence and would likely benefit from a court-approved
3058 medication-assisted treatment indicated and approved for the
3059 treatment of alcohol and/or drug dependence by the United States
3060 Food and Drug Administration, as specified in the most recent
3061 Diagnostic and Statistical Manual of Mental Disorders published by
3062 the American Psychiatric Association. Upon considering the
3063 results of the assessment, the court may refer the person to a
3064 rehabilitative program that offers one or more forms of
3065 court-approved medications that are approved for the treatment of
3066 alcohol and/or drug dependence by the United States Food and Drug
3067 Administration;

3068 (c) Education;

3069 (d) Referral;

3070 (e) Service coordination and case management; and

3071 (f) Counseling and rehabilitative care.



3072 (2) Any inpatient treatment or inpatient detoxification
3073 program ordered by the court shall be certified by the Department
3074 of Mental Health, other appropriate state agency or the equivalent
3075 agency of another state.

3076 (3) All intervention courts shall make available the option
3077 for participants to use court-approved medication-assisted
3078 treatment while participating in the programs of the court in
3079 accordance with the recommendations of the National Drug Court
3080 Institute.

3081 **SECTION 70.** Section 9-23-15, Mississippi Code of 1972, is
3082 brought forward as follows:

3083 9-23-15. (1) In order to be eligible for alternative
3084 sentencing through a local intervention court, the participant
3085 must satisfy each of the following criteria:

3086 (a) The participant cannot have any felony convictions
3087 for any offenses that are crimes of violence as defined in Section
3088 97-3-2 within the previous ten (10) years.

3089 (b) The crime before the court cannot be a crime of
3090 violence as defined in Section 97-3-2.

3091 (c) Other criminal proceedings alleging commission of a
3092 crime of violence cannot be pending against the participant.

3093 (d) The participant cannot be charged with burglary of
3094 a dwelling under Section 97-17-23(2) or 97-17-37.



3095 (e) The crime before the court cannot be a charge of
3096 driving under the influence of alcohol or any other drug or drugs
3097 that resulted in the death of a person.

3098 (f) The crime charged cannot be one of trafficking in
3099 controlled substances under Section 41-29-139(f), nor can the
3100 participant have a prior conviction for same.

3101 (2) Participation in the services of an alcohol and drug
3102 intervention component shall be open only to the individuals over
3103 whom the court has jurisdiction, except that the court may agree
3104 to provide the services for individuals referred from another
3105 intervention court. In cases transferred from another
3106 jurisdiction, the receiving judge shall act as a special master
3107 and make recommendations to the sentencing judge.

3108 (3) (a) As a condition of participation in an intervention
3109 court, a participant may be required to undergo a chemical test or
3110 a series of chemical tests as specified by the intervention court.
3111 A participant is liable for the costs of all chemical tests
3112 required under this section, regardless of whether the costs are
3113 paid to the intervention court or the laboratory; however, if
3114 testing is available from other sources or the program itself, the
3115 judge may waive any fees for testing. The judge may waive all
3116 fees if the applicant is determined to be indigent.

3117 (b) A laboratory that performs a chemical test under
3118 this section shall report the results of the test to the
3119 intervention court.



3120 (4) A person does not have a right to participate in
3121 intervention court under this chapter. The court having
3122 jurisdiction over a person for a matter before the court shall
3123 have the final determination about whether the person may
3124 participate in intervention court under this chapter. However,
3125 any person meeting the eligibility criteria in subsection (1) of
3126 this section shall, upon request, be screened for admission to
3127 intervention court.

3128 **SECTION 71.** Section 9-23-17, Mississippi Code of 1972, is
3129 brought forward as follows:

3130 9-23-17. With regard to any intervention court, the
3131 Administrative Office of Courts shall do the following:

3132 (a) Certify and re-certify intervention court
3133 applications that meet standards established by the Administrative
3134 Office of Courts in accordance with this chapter.

3135 (b) Ensure that the structure of the intervention
3136 component complies with rules adopted under this section and
3137 applicable federal regulations.

3138 (c) Revoke the authorization of a program upon a
3139 determination that the program does not comply with rules adopted
3140 under this section and applicable federal regulations.

3141 (d) Make agreements and contracts to effectuate the
3142 purposes of this chapter with:

3143 (i) Another department, authority or agency of the
3144 state;



3145 (ii) Another state;
3146 (iii) The federal government;
3147 (iv) A state-supported or private university; or
3148 (v) A public or private agency, foundation,
3149 corporation or individual.

3150 (e) Directly, or by contract, approve and certify any
3151 intervention component established under this chapter.

3152 (f) Require, as a condition of operation, that each
3153 intervention court created or funded under this chapter be
3154 certified by the Administrative Office of Courts.

3155 (g) Collect monthly data reports submitted by all
3156 certified intervention courts, provide those reports to the State
3157 Intervention Courts Advisory Committee, compile an annual report
3158 summarizing the data collected and the outcomes achieved by all
3159 certified intervention courts and submit the annual report to the
3160 Oversight Task Force.

3161 (h) Every three (3) years contract with an external
3162 evaluator to conduct an evaluation of the effectiveness of the
3163 intervention court program, both statewide and individual
3164 intervention court programs, in complying with the key components
3165 of the intervention courts adopted by the National Association of
3166 Drug Court Professionals.

3167 (i) Adopt rules to implement this chapter.

3168 **SECTION 72.** Section 9-23-19, Mississippi Code of 1972, is
3169 brought forward as follows:



3170 9-23-19. (1) All monies received from any source by the
3171 intervention court shall be accumulated in a fund to be used only
3172 for intervention court purposes. Any funds remaining in this fund
3173 at the end of a fiscal year shall not lapse into any general fund,
3174 but shall be retained in the Intervention Court Fund for the
3175 funding of further activities by the intervention court.

3176 (2) An intervention court may apply for and receive the
3177 following:

3178 (a) Gifts, bequests and donations from private sources.

3179 (b) Grant and contract money from governmental sources.

3180 (c) Other forms of financial assistance approved by the
3181 court to supplement the budget of the intervention court.

3182 (3) The costs of participation in an alcohol and drug
3183 intervention program required by the certified intervention court
3184 may be paid by the participant or out of user fees or such other
3185 state, federal or private funds that may, from time to time, be
3186 made available.

3187 (4) The court may assess such reasonable and appropriate
3188 fees to be paid to the local Intervention Court Fund for
3189 participation in an alcohol or drug intervention program; however,
3190 all fees may be waived if the applicant is determined to be
3191 indigent.

3192 **SECTION 73.** Section 9-23-21, Mississippi Code of 1972, is
3193 brought forward as follows:



3194 9-23-21. The director and members of the professional and
3195 administrative staff of the intervention court who perform duties
3196 in good faith under this chapter are immune from civil liability
3197 for:

3198 (a) Acts or omissions in providing services under this
3199 chapter; and

3200 (b) The reasonable exercise of discretion in
3201 determining eligibility to participate in the intervention court.

3202 **SECTION 74.** Section 9-23-23, Mississippi Code of 1972, is
3203 brought forward as follows:

3204 9-23-23. If the participant completes all requirements
3205 imposed upon him by the intervention court, including the payment
3206 of fines and fees assessed and not waived by the court, the charge
3207 and prosecution shall be dismissed. If the defendant or
3208 participant was sentenced at the time of entry of plea of guilty,
3209 the successful completion of the intervention court order and
3210 other requirements of probation or suspension of sentence will
3211 result in the record of the criminal conviction or adjudication
3212 being expunged. However, no expunction of any implied consent
3213 violation shall be allowed.

3214 **SECTION 75.** This act shall take effect and be in force from
3215 and after July 1, 2022.

