

By: Senator(s) Sparks, Suber

To: Corrections

SENATE BILL NO. 2359

1 AN ACT TO BRING FORWARD SECTIONS 47-7-2, 47-7-37, 47-7-37.1,
2 47-7-38 and 47-7-38.1, MISSISSIPPI CODE OF 1972, WHICH ARE
3 PROVISIONS OF LAW RELATED TO PAROLE, PROBATION AND POST-RELEASE
4 SUPERVISION, FOR THE PURPOSES OF POSSIBLE AMENDMENT; AND FOR
5 RELATED PURPOSES.

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

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

9 47-7-2. For purposes of this chapter, the following words
10 shall have the meaning ascribed herein unless the context shall
11 otherwise require:

12 (a) "Adult" means a person who is seventeen (17) years
13 of age or older, or any person convicted of any crime not subject
14 to the provisions of the youth court law, or any person
15 "certified" to be tried as an adult by any youth court in the
16 state.

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

18 (c) "Parole case plan" means an individualized, written
19 accountability and behavior change strategy developed by the



20 department in collaboration with the parole board to prepare
21 offenders for release on parole at the parole eligibility date.
22 The case plan shall focus on the offender's criminal risk factors
23 that, if addressed, reduce the likelihood of reoffending.

24 (d) "Commissioner" means the Commissioner of
25 Corrections.

26 (e) "Correctional system" means the facilities,
27 institutions, programs and personnel of the department utilized
28 for adult offenders who are committed to the custody of the
29 department.

30 (f) "Criminal risk factors" means characteristics that
31 increase a person's likelihood of reoffending. These
32 characteristics include: antisocial behavior; antisocial
33 personality; criminal thinking; criminal associates; dysfunctional
34 family; low levels of employment or education; poor use of leisure
35 and recreation; and substance abuse.

36 (g) "Department" means the Mississippi Department of
37 Corrections.

38 (h) "Detention" means the temporary care of juveniles
39 and adults who require secure custody for their own or the
40 community's protection in a physically restricting facility prior
41 to adjudication, or retention in a physically restricting facility
42 upon being taken into custody after an alleged parole or probation
43 violation.



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

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

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

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

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

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

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



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

74 (q) "Technical violation" means an act or omission by
75 the probationer that violates a condition or conditions of
76 probation placed on the probationer by the court or the probation
77 officer.

78 (r) "Transitional reentry center" means a
79 state-operated or state-contracted facility used to house
80 offenders leaving the physical custody of the Department of
81 Corrections on parole, probation or post-release supervision who
82 are in need of temporary housing and services that reduce their
83 risk to reoffend.

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

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

91 **SECTION 2.** Section 47-7-37, Mississippi Code of 1972, is
92 brought forward as follows:



93 47-7-37. (1) The period of probation shall be fixed by the
94 court, and may at any time be extended or terminated by the court,
95 or judge in vacation. Such period with any extension thereof
96 shall not exceed five (5) years, except that in cases of desertion
97 and/or failure to support minor children, the period of probation
98 may be fixed and/or extended by the court for so long as the duty
99 to support such minor children exists. The time served on
100 probation or post-release supervision may be reduced pursuant to
101 Section 47-7-40.

102 (2) At any time during the period of probation, the court,
103 or judge in vacation, may issue a warrant for violating any of the
104 conditions of probation or suspension of sentence and cause the
105 probationer to be arrested. Any probation and parole officer may
106 arrest a probationer without a warrant, or may deputize any other
107 officer with power of arrest to do so by giving him a written
108 statement setting forth that the probationer has, in the judgment
109 of the probation and parole officer, violated the conditions of
110 probation. Such written statement delivered with the probationer
111 by the arresting officer to the official in charge of a county
112 jail or other place of detention shall be sufficient warrant for
113 the detention of the probationer.

114 (3) Whenever an offender is arrested on a warrant for an
115 alleged violation of probation as herein provided, the department
116 shall hold an informal preliminary hearing within seventy-two (72)
117 hours of the arrest to determine whether there is reasonable cause



to believe the person has violated a condition of probation. A preliminary hearing shall not be required when the offender is not under arrest on a warrant or the offender signed a waiver of a preliminary hearing. The preliminary hearing may be conducted electronically. If reasonable cause is found, the offender may be confined no more than twenty-one (21) days from the admission to detention until a revocation hearing is held. If the revocation hearing is not held within twenty-one (21) days, the probationer shall be released from custody and returned to probation status.

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



143 that the offender or probationer will engage again in a criminal
144 course of conduct; the weight of the evidence against the offender
145 or probationer; and any other facts the court considers relevant.

146 (5) (a) The probation and parole officer after making an
147 arrest shall present to the detaining authorities a similar
148 statement of the circumstances of violation. The probation and
149 parole officer shall at once notify the court of the arrest and
150 detention of the probationer and shall submit a report in writing
151 showing in what manner the probationer has violated the conditions
152 of probation. Within twenty-one (21) days of arrest and detention
153 by warrant as herein provided, the court shall cause the
154 probationer to be brought before it and may continue or revoke all
155 or any part of the probation or the suspension of sentence. If
156 the court revokes probation for one or more technical violations,
157 the court shall impose a period of imprisonment to be served in
158 either a technical violation center or a restitution center not to
159 exceed ninety (90) days for the first revocation and not to exceed
160 one hundred twenty (120) days for the second revocation. For the
161 third revocation, the court may impose a period of imprisonment to
162 be served in either a technical violation center or a restitution
163 center for up to one hundred eighty (180) days or the court may
164 impose the remainder of the suspended portion of the sentence.
165 For the fourth and any subsequent revocation, the court may impose
166 up to the remainder of the suspended portion of the sentence. The



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

169 (b) If the offender is not detained as a result of the
170 warrant, the court shall cause the probationer to be brought
171 before it within a reasonable time and may continue or revoke all
172 or any part of the probation or the suspension of sentence, and
173 may cause the sentence imposed to be executed or may impose any
174 part of the sentence which might have been imposed at the time of
175 conviction. If the court revokes probation for one or more
176 technical violations, the court shall impose a period of
177 imprisonment to be served in either a technical violation center
178 or a restitution center not to exceed ninety (90) days for the
179 first revocation and not to exceed one hundred twenty (120) days
180 for the second revocation. For the third revocation, the court
181 may impose a period of imprisonment to be served in either a
182 technical violation center or a restitution center for up to one
183 hundred eighty (180) days or the court may impose the remainder of
184 the suspended portion of the sentence. For the fourth and any
185 subsequent revocation, the court may impose up to the remainder of
186 the suspended portion of the sentence. The period of imprisonment
187 in a technical violation center imposed under this section shall
188 not be reduced in any manner.

189 (c) If the court does not hold a hearing or does not
190 take action on the violation within the twenty-one-day period, the
191 offender shall be released from detention and shall return to



192 probation status. The court may subsequently hold a hearing and
193 may revoke probation or may continue probation and modify the
194 terms and conditions of probation. If the court revokes probation
195 for one or more technical violations, the court shall impose a
196 period of imprisonment to be served in either a technical
197 violation center operated by the department or a restitution
198 center not to exceed ninety (90) days for the first revocation and
199 not to exceed one hundred twenty (120) days for the second
200 revocation. For the third revocation, the court may impose a
201 period of imprisonment to be served in either a technical
202 violation center or a restitution center for up to one hundred
203 eighty (180) days or the court may impose the remainder of the
204 suspended portion of the sentence. For the fourth and any
205 subsequent revocation, the court may impose up to the remainder of
206 the suspended portion of the sentence. The period of imprisonment
207 in a technical violation center imposed under this section shall
208 not be reduced in any manner.

209 (d) For an offender charged with a technical violation
210 who has not been detained awaiting the revocation hearing, the
211 court may hold a hearing within a reasonable time. The court may
212 revoke probation or may continue probation and modify the terms
213 and conditions of probation. If the court revokes probation for
214 one or more technical violations the court shall impose a period
215 of imprisonment to be served in either a technical violation
216 center operated by the department or a restitution center not to



217 exceed ninety (90) days for the first revocation and not to exceed
218 one hundred twenty (120) days for the second revocation. For the
219 third revocation, the court may impose a period of imprisonment to
220 be served in either a technical violation center or a restitution
221 center for up to one hundred eighty (180) days or the court may
222 impose the remainder of the suspended portion of the sentence.
223 For the fourth and any subsequent revocation, the court may impose
224 up to the remainder of the suspended portion of the sentence. The
225 period of imprisonment in a technical violation center imposed
226 under this section shall not be reduced in any manner.

227 (6) If the probationer is arrested in a circuit court
228 district in the State of Mississippi other than that in which he
229 was convicted, the probation and parole officer, upon the written
230 request of the sentencing judge, shall furnish to the circuit
231 court or the county court of the county in which the arrest is
232 made, or to the judge of such court, a report concerning the
233 probationer, and such court or the judge in vacation shall have
234 authority, after a hearing, to continue or revoke all or any part
235 of probation or all or any part of the suspension of sentence, and
236 may in case of revocation proceed to deal with the case as if
237 there had been no probation. In such case, the clerk of the court
238 in which the order of revocation is issued shall forward a
239 transcript of such order to the clerk of the court of original
240 jurisdiction, and the clerk of that court shall proceed as if the
241 order of revocation had been issued by the court of original



jurisdiction. Upon the revocation of probation or suspension of sentence of any offender, such offender shall be placed in the legal custody of the State Department of Corrections and shall be subject to the requirements thereof.

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

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

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

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

(11) The Department of Corrections shall provide semiannually to the Oversight Task Force the number of warrants



issued for an alleged violation of probation or post-release supervision, the average time between detention on a warrant and preliminary hearing, the average time between detention on a warrant and revocation hearing, the number of ninety-day sentences in a technical violation center issued by the court, the number of one-hundred-twenty-day sentences in a technical violation center issued by the court, the number of one-hundred-eighty-day sentences issued by the court, and the number and average length of the suspended sentences imposed by the court in response to a violation.

SECTION 3. Section 47-7-37.1, Mississippi Code of 1972, is brought forward as follows:

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

SECTION 4. Section 47-7-38, Mississippi Code of 1972, is brought forward as follows:

47-7-38. (1) The department shall have the authority to impose graduated sanctions as an alternative to judicial modification or revocation, as provided in Sections 47-7-27 and



47-7-37, for offenders on probation, parole, or post-release supervision who commit technical violations of the conditions of supervision as defined by Section 47-7-2.

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

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

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

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



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

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

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

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

SECTION 5. Section 47-7-38.1, Mississippi Code of 1972, is brought forward as follows:



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

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

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

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

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

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



367 technical violation centers, and the average time served in the
368 technical violation centers.

369 **SECTION 6.** This act shall take effect and be in force from
370 and after July 1, 2025.

