

By: Representatives Scott (80th), Bailey,
Blackmon, Broomfield, Clark, Coleman (65th),
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To: Juvenile Justice;
Appropriations

HOUSE BILL NO. 1395

1 AN ACT TO CREATE AN INTENSIVE SUPERVISION PROGRAM TO BE KNOWN
2 AS THE "HOME DETENTION FOR JUVENILES PROGRAM" FOR THE PLACEMENT OF
3 JUVENILES UNDER HOUSE ARREST; TO REQUIRE THE DEPARTMENT OF HUMAN
4 SERVICES TO ESTABLISH THE PROGRAM AS A DISPOSITION ALTERNATIVE IN
5 DELINQUENCY CASES AND TO PROMULGATE RULES FOR PARTICIPATION IN THE
6 PROGRAM; TO REQUIRE PARTICIPANTS TO PAY A MONTHLY FEE TO HELP
7 DEFRAY THE COSTS OF THE PROGRAM; TO AMEND SECTION 43-21-605,
8 MISSISSIPPI CODE OF 1972, TO ESTABLISH PLACEMENT IN THE INTENSIVE
9 SUPERVISION PROGRAM AS A DISPOSITION ALTERNATIVE IN DELINQUENCY
10 CASES; AND FOR RELATED PURPOSES.

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

12 SECTION 1. (1) For purposes of this section, the following
13 words and phrases shall have the meaning ascribed in this
14 subsection unless the context requires otherwise:

15 (a) "Approved electronic monitoring device" means a
16 device approved by the department which is primarily intended to
17 record and transmit information regarding the child's presence or
18 nonpresence in the home.

19 (b) "Court" means any court of this state having
20 jurisdiction to place a juvenile offender in the Home Detention
21 for Juveniles Program.

22 (c) "Department" means the Department of Human
23 Services.

24 (d) "Home Detention for Juveniles Program" means the
25 intensive supervision program operated by the department for the
26 placement of certain juveniles under house arrest.

27 (e) "House arrest" means the confinement of a juvenile,
28 as a disposition alternative in a delinquency case, to his place
29 of residence under the terms and conditions established by the
30 department or court.

31 (f) "Participant" means a juvenile placed into the Home
32 Detention for Juveniles Program.

33 (2) The Department of Human Services, Division of Youth
34 Services, shall establish an intensive supervision program that
35 may be used as a disposition alternative in delinquency cases for
36 children who are low risk and nonviolent as selected by the
37 department or court. The program shall accommodate no less than
38 one thousand five hundred (1,500) children. Any child convicted
39 of a sex crime may not be placed in the program.

40 (3) The department shall promulgate rules that participants
41 enrolled in the intensive supervision program shall be required to
42 follow. The rules shall include, but not be limited to, the
43 following:

44 (a) Each child referred to the program must take an
45 alcohol and drug test before being placed in the program. The
46 department shall assess the child or the child's legal guardian a
47 fee of Ten Dollars (\$10.00) to apply toward the cost of the test.

48 If the test results are positive, the child must receive alcohol
49 and drug treatment during his participation in the program.

50 (b) A participant must remain within the interior
51 premises or within the property boundaries of his or her residence
52 at all time during the hours designated by the department.

53 (c) Approved absences from the home shall include, but
54 are not limited to:

55 (i) Attendance on a full-time basis at an approved
56 school or in an alternative school program;

57 (ii) Attendance at an inpatient or outpatient
58 treatment facility for alcohol and drug dependence; and

59 (iii) Attendance at an educational facility for
60 the purpose of preparing to take the General Educational
61 Development (GED) test.

62 (d) No child shall be placed in the program for a
63 period of less than six (6) months.

64
65 (e) A participant must meet any other condition imposed
66 by the court to meet the needs of the participant and to limit the
67 risks to the community.

68 (4) The department shall select and approve all electronic
69 monitoring devices used under this section. The department may
70 lease the equipment necessary to implement the intensive
71 supervision program and may contract for the monitoring of such
72 devices. The department shall select the best source and price in
73 contracting for such services.

74 (5) Each participant in the intensive supervision program
75 shall pay a monthly fee to the department for each month such
76 person is enrolled in the program. The fee shall be no less than
77 Ten Dollars (\$10.00) and not more than Fifty Dollars (\$50.00) per
78 month, as determined by the department on a sliding scale using
79 the standard of need for each family that is used to calculate
80 TANF benefits. The fee shall be in addition to any criminal or
81 civil fines assessed against the offender. Money received by the
82 department from participants shall be used for the purpose of
83 helping to defray the costs involved in administering and
84 supervising such program.

85 (6) If any participant violates the terms or conditions of
86 his or her participation in the intensive supervision program, the
87 court may amend the disposition order to impose any disposition
88 alternative under Section 43-21-605 which the court could have
89 originally ordered.

90 SECTION 2. Section 43-21-605, Mississippi Code of 1972, is
91 amended as follows:

92 43-21-605. (1) In delinquency cases, the disposition order
93 may include any of the following alternatives or combination of
94 the following alternatives, giving precedence in the following
95 sequence:

96 (a) Release the child without further action;

97 (b) Place the child in the custody of the parents, a
98 relative or other persons subject to any conditions and
99 limitations, including restitution, as the youth court may
100 prescribe;

101 (c) Place the child on probation subject to any
102 reasonable and appropriate conditions and limitations, including
103 restitution, as the youth court may prescribe;

104 (d) Order terms of treatment calculated to assist the
105 child and the child's parents or guardian which are within the
106 ability of the parent or guardian to perform;

107 (e) Order terms of supervision which may include
108 participation in a constructive program of service or education or
109 civil fines not in excess of Five Hundred Dollars (\$500.00), or
110 restitution not in excess of actual damages caused by the child to
111 be paid out of his own assets or by performance of services
112 acceptable to the victims and approved by the youth court and
113 reasonably capable of performance within one (1) year;

114 (f) Suspend the child's driver's license by taking and
115 keeping it in custody of the court for not more than one (1) year;

116 (g) Give legal custody of the child to any of the
117 following:

118 (i) The Department of Human Services for
119 appropriate placement; or

120 (ii) Any public or private organization,
121 preferably community-based, able to assume the education, care and
122 maintenance of the child, which has been found suitable by the
123 court; or

124 (iii) The Department of Human Services for
125 placement in a wilderness training program or a state-supported
126 training school, except that no child under the age of ten (10)
127 years shall be committed to a state training school. The training
128 school may retain custody of the child until the child's twentieth
129 birthday but for no longer. The superintendent of a state

130 training school may parole a child at any time he may deem it in
131 the best interest and welfare of such child. Twenty (20) days
132 prior to such parole, the training school shall notify the
133 committing court of the pending release. The youth court may then
134 arrange subsequent placement after a reconvened disposition
135 hearing except that the youth court may not recommit the child to
136 the training school or any other secure facility without an
137 adjudication of a new offense or probation or parole violation.
138 Prior to assigning the custody of any child to any private
139 institution or agency, the youth court through its designee shall
140 first inspect the physical facilities to determine that they
141 provide a reasonable standard of health and safety for the child.
142 The youth court shall not place a child in the custody of a state
143 training school for truancy, unless such child has been
144 adjudicated to have committed an act of delinquency in addition to
145 truancy; or

146 (iv) The Department of Human Services for
147 placement in the Home Detention for Juveniles Program created
148 under Section 1 of House Bill No. _____, 1999 Regular Session;

149 (h) Recommend to the child and the child's parents or
150 guardian that the child attend and participate in the Youth
151 Challenge Program under the Mississippi National Guard, as created
152 in Section 43-27-203, subject to the selection of the child for
153 the program by the National Guard; however, the child must
154 volunteer to participate in the program. The youth court may not
155 order any child to apply or attend the program;

156 (i) (i) Adjudicate the juvenile to the Statewide
157 Juvenile Work Program if the program is established in the court's
158 jurisdiction. The juvenile and his parents or guardians must sign
159 a waiver of liability in order to participate in the work program.
160 The judge will coordinate with the youth services counselors as to
161 placing participants in the work program;

162 (ii) The severity of the crime, whether or not the

163 juvenile is a repeat offender or is a felony offender will be
164 taken into consideration by the judge when adjudicating a juvenile
165 to the work program. The juveniles adjudicated to the work
166 program will be supervised by police officers or reserve officers.
167 The term of service will be from twenty-four (24) to one hundred
168 twenty (120) hours of community service. A juvenile will work the
169 hours to which he was adjudicated on the weekends during school
170 and week days during the summer. Parents are responsible for a
171 juvenile reporting for work. Noncompliance with an order to
172 perform community service will result in a heavier adjudication.
173 A juvenile may be adjudicated to the community service program
174 only two (2) times;

175 (iii) The judge shall assess an additional fine on
176 the juvenile which will be used to pay the costs of implementation
177 of the program and to pay for supervision by police officers and
178 reserve officers. The amount of the fine will be based on the
179 number of hours to which the juvenile has been adjudicated; or

180 (j) Order the child to participate in a youth court
181 work program as provided in Section 43-21-627.

182 (2) In addition to any of the disposition alternatives
183 authorized under subsection (1) of this section, the disposition
184 order in any case in which the child is adjudicated delinquent for
185 an offense under Section 63-11-30 shall include an order denying
186 the driver's license and driving privileges of the child as
187 required under subsection (8) of Section 63-11-30.

188 (3) Fines levied under this chapter shall be paid into the
189 general fund of the county but, in those counties wherein the
190 youth court is a branch of the municipal government, it shall be
191 paid into the municipal treasury.

192 (4) Any institution or agency to which a child has been
193 committed shall give to the youth court any information concerning
194 the child as the youth court may at any time require.

195 (5) The youth court shall not place a child in another

196 school district who has been expelled from a school district for
197 the commission of a violent act. For the purpose of this
198 subsection, "violent act" means any action which results in death
199 or physical harm to another or an attempt to cause death or
200 physical harm to another.

201 SECTION 3. This act shall take effect and be in force from
202 and after July 1, 1999.