

By: Representatives Malone, Coleman (29th)

To: Penitentiary

HOUSE BILL NO. 982

1 AN ACT TO AMEND SECTION 47-7-47, MISSISSIPPI CODE OF 1972, TO
2 REVISE THE RESTRICTIONS FOR PLACEMENT OF INMATES IN THE EARNED
3 PROBATION PROGRAM; AND FOR RELATED PURPOSES.

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

5 SECTION 1. Section 47-7-47, Mississippi Code of 1972, is
6 amended as follows:

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

12 (2) (a) Any circuit court or county court may, upon its own
13 motion, acting upon the advice and consent of the
14 commissioner * * * not earlier than thirty (30) days nor later
15 than one (1) year after the defendant has been delivered to the
16 custody of the department, to which he has been sentenced, suspend
17 the further execution of the sentence and place the defendant on
18 earned probation, except when a death sentence or life
19 imprisonment is the maximum penalty which may be imposed or if the
20 defendant has been confined two (2) or more times for the
21 conviction of a felony on a previous occasion in any court or
22 courts of the United States and of any state or territories
23 thereof or has been convicted of a felony involving the use of a
24 deadly weapon.

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

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

33 (3) When any circuit or county court places an offender on
34 earned probation, the court shall give notice to the Mississippi
35 Department of Corrections within fifteen (15) days of the court's
36 decision to place the offender on earned probation. Notice shall
37 be delivered to the central office of the Mississippi Department
38 of Corrections and to the regional office of the department which
39 will be providing supervision to the offender on earned probation.

40 (4) If the court places any person on probation or earned
41 probation, the court may order the person, as a condition of
42 probation, to a period of confinement and treatment at a private
43 or public agency or institution, either within or without the
44 state, which treats emotional, mental or drug-related problems.
45 Any person who, as a condition of probation, is confined for
46 treatment at an out-of-state facility shall be supervised pursuant
47 to Section 47-7-71, and any person confined at a private agency
48 shall not be confined at public expense. Time served in any such
49 agency or institution may be counted as time required to meet the
50 criteria of subsection (2)(a).

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

55 (6) If the court places any person on probation or earned
56 probation, the court may order the person, as a condition of
57 probation, to submit, as provided in Section 47-5-601, to any type
58 of breath, saliva or urine chemical analysis test, the purpose of
59 which is to detect the possible presence of alcohol or a substance

60 prohibited or controlled by any law of the State of Mississippi or
61 the United States.

62 SECTION 2. This act shall take effect and be in force from
63 and after July 1, 2001.