

By: Representative Scott (80th)

To: Juvenile Justice

HOUSE BILL NO. 1150

1 AN ACT TO AMEND SECTION 43-21-605, MISSISSIPPI CODE OF 1972,  
 2 TO PROVIDE THAT JUVENILE OFFENDERS MAY BE SENTENCED TO THE  
 3 INTENSIVE SUPERVISION PROGRAM ADMINISTERED BY THE DEPARTMENT OF  
 4 CORRECTIONS; TO PROVIDE THAT THE MINIMUM SENTENCE UNDER THIS  
 5 PROGRAM SHALL BE SIX MONTHS FOR JUVENILE OFFENDERS; TO REQUIRE  
 6 JUVENILE OFFENDERS TO BE TESTED FOR ALCOHOL AND DRUGS; TO REQUIRE  
 7 JUVENILE OFFENDERS TO PAY TEN DOLLARS FOR THE TEST; TO PROVIDE  
 8 THAT IF A JUVENILE OFFENDER TESTS POSITIVE FOR ALCOHOL OR DRUGS,  
 9 HE SHALL BE REQUIRED TO ATTEND AN ALCOHOL AND DRUG REHABILITATION  
 10 PROGRAM; TO AMEND SECTION 47-5-1007, MISSISSIPPI CODE OF 1972, TO  
 11 PROVIDE THAT JUVENILE OFFENDERS SENTENCED TO THE INTENSIVE  
 12 SUPERVISION PROGRAM SHALL PAY A MONTHLY FEE TO OFFSET THE COST OF  
 13 THE INTENSIVE SUPERVISION PROGRAM; TO AMEND SECTION 47-5-1013,  
 14 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT JUVENILE OFFENDERS SHALL  
 15 NOT PAY A PROGRAM FEE; TO AMEND SECTION 47-5-1003, MISSISSIPPI  
 16 CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

18 SECTION 1. Section 43-21-605, Mississippi Code of 1972, is  
 19 amended as follows:

20 43-21-605. (1) In delinquency cases, the disposition order  
 21 may include any of the following alternatives:

- 22 (a) Release the child without further action;
- 23 (b) Place the child in the custody of the parents, a  
 24 relative or other persons subject to any conditions and  
 25 limitations, including restitution, as the youth court may  
 26 prescribe;
- 27 (c) Place the child on probation subject to any  
 28 reasonable and appropriate conditions and limitations, including  
 29 restitution, as the youth court may prescribe;
- 30 (d) Order terms of treatment calculated to assist the  
 31 child and the child's parents or guardian which are within the  
 32 ability of the parent or guardian to perform;

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

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

42           (g) Give legal custody of the child to any of the  
43 following:

44                 (i) The Department of Human Services for  
45 appropriate placement; or

46                 (ii) Any public or private organization,  
47 preferably community-based, able to assume the education, care and  
48 maintenance of the child, which has been found suitable by the  
49 court; or

50                 (iii) The Department of Human Services for  
51 placement in a wilderness training program or a state-supported  
52 training school, except that no child under the age of ten (10)  
53 years shall be committed to a state training school. The training  
54 school may retain custody of the child until the child's twentieth  
55 birthday but for no longer. The superintendent of a state  
56 training school may parole a child at any time he may deem it in  
57 the best interest and welfare of such child. Twenty (20) days  
58 before the such parole, the training school shall notify the  
59 committing court of the pending release. The youth court may then  
60 arrange subsequent placement after a reconvened disposition  
61 hearing except that the youth court may not recommit the child to  
62 the training school or any other secure facility without an  
63 adjudication of a new offense or probation or parole violation.  
64 Before assigning the custody of any child to any private  
65 institution or agency, the youth court through its designee shall

66 first inspect the physical facilities to determine that they  
67 provide a reasonable standard of health and safety for the child.  
68 The youth court shall not place a child in the custody of a state  
69 training school for truancy, unless such child has been  
70 adjudicated to have committed an act of delinquency in addition to  
71 truancy;

72 (h) Recommend to the child and the child's parents or  
73 guardian that the child attend and participate in the Youth  
74 Challenge Program under the Mississippi National Guard, as created  
75 in Section 43-27-203, subject to the selection of the child for  
76 the program by the National Guard; however, the child must  
77 volunteer to participate in the program. The youth court may not  
78 order any child to apply or attend the program;

79 (i) (i) Adjudicate the juvenile to the Statewide  
80 Juvenile Work Program if the program is established in the court's  
81 jurisdiction. The juvenile and his parents or guardians must sign  
82 a waiver of liability in order to participate in the work program.  
83 The judge will coordinate with the youth services counselors as to  
84 placing participants in the work program;

85 (ii) The severity of the crime, whether or not the  
86 juvenile is a repeat offender or is a felony offender will be  
87 taken into consideration by the judge when adjudicating a juvenile  
88 to the work program. The juveniles adjudicated to the work  
89 program will be supervised by police officers or reserve officers.  
90 The term of service will be from twenty-four (24) to one hundred  
91 twenty (120) hours of community service. A juvenile will work the  
92 hours to which he was adjudicated on the weekends during school  
93 and week days during the summer. Parents are responsible for a  
94 juvenile reporting for work. Noncompliance with an order to  
95 perform community service will result in a heavier adjudication.  
96 A juvenile may be adjudicated to the community service program  
97 only two (2) times;

98                   (iii) The judge shall assess an additional fine on  
99 the juvenile which will be used to pay the costs of implementation  
100 of the program and to pay for supervision by police officers and  
101 reserve officers. The amount of the fine will be based on the  
102 number of hours to which the juvenile has been adjudicated;

103                   (j) Order the child to participate in a youth court  
104 work program as provided in Section 43-21-627; or

105                   (k) Order terms of house arrest under the intensive  
106 supervision program as created in Sections 47-5-1001 through  
107 47-5-1015. The Department of Corrections shall take bids for the  
108 program provided by this act. The Department of Youth Services  
109 shall promulgate rules regarding the supervision of juveniles  
110 placed in the intensive supervision program. There shall be  
111 fifteen hundred (1,500) slots created in the intensive supervision  
112 program for juveniles. Any juvenile sentenced to house arrest  
113 shall be tested for alcohol and drugs, and if the juvenile tests  
114 positive for alcohol or drugs, the juvenile shall be ordered to  
115 participate in an alcohol and drug rehabilitation program. The  
116 juvenile shall pay Ten Dollars (\$10.00) to offset the cost of  
117 administering the alcohol and drug test. The juveniles must  
118 attend school, alternative school or be in the process of working  
119 towards a general educational development (GED) certificate.

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

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

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

133 (5) The youth court shall not place a child in another  
134 school district who has been expelled from a school district for  
135 the commission of a violent act. For the purpose of this  
136 subsection, "violent act" means any action which results in death  
137 or physical harm to another or an attempt to cause death or  
138 physical harm to another.

139 SECTION 2. Section 47-5-1007, Mississippi Code of 1972, is  
140 amended as follows:

141 47-5-1007. (1) Any participant in the intensive supervision  
142 program who engages in employment shall pay a monthly fee to the  
143 department for each month such person is enrolled in the program.  
144 The department may waive the monthly fee if the offender is a  
145 full-time student or is engaged in vocational training. Juvenile  
146 offenders shall pay a monthly fee of not less than Ten Dollars  
147 (\$10.00) but not more than Fifty Dollars (\$50.00) based on a  
148 sliding scale using the standard of need for each family that is  
149 used to calculate TANF benefits. Money received by the department  
150 from participants in the program shall be deposited into a special  
151 fund which is hereby created in the State Treasury. It shall be  
152 used, upon appropriation by the Legislature, for the purpose of  
153 helping to defray the costs involved in administering and  
154 supervising the program. Unexpended amounts remaining in the  
155 special fund at the end of a fiscal year shall not lapse into the  
156 State General Fund, and any interest earned on amounts in the  
157 special fund shall be deposited to the credit of the special fund.

158 (2) The participant shall admit any correctional officer  
159 into his residence at any time for purposes of verifying the  
160 participant's compliance with the conditions of his detention.

161 (3) The participant shall make the necessary arrangements to  
162 allow for correctional officers to visit the participant's place

163 of education or employment at any time, based upon the approval of  
164 the educational institution or employer, for the purpose of  
165 verifying the participant's compliance with the conditions of his  
166 detention.

167 (4) The participant shall acknowledge and participate with  
168 the approved electronic monitoring device as designated by the  
169 department at any time for the purpose of verifying the  
170 participant's compliance with the conditions of his detention.

171 (5) The participant shall be responsible for and shall  
172 maintain the following:

173 (a) A working telephone line in the participant's home;

174 (b) A monitoring device in the participant's home, or  
175 on the participant's person or both; and

176 (c) A monitoring device in the participant's home and  
177 on the participant's person in the absence of a telephone.

178 (6) The participant shall obtain approval from the  
179 correctional field officer before the participant changes  
180 residence.

181 (7) The participant shall not commit another crime during  
182 the period of home detention ordered by the court or department.

183 (8) Notice shall be given to the participant that violation  
184 of the order of home detention shall subject the participant to  
185 prosecution for the crime of escape as a felony.

186 (9) The participant shall abide by other conditions as set  
187 by the department.

188 SECTION 3. Section 47-5-1013, Mississippi Code of 1972, is  
189 amended as follows:

190 47-5-1013. Participants enrolled in an intensive supervision  
191 program shall be required to:

192 (a) Maintain employment if physically able, or  
193 full-time student status at an approved school or vocational  
194 trade, and make progress deemed satisfactory to the correctional  
195 field officer, or both, or be involved in supervised job searches.

196 (b) Pay restitution and program fees as directed by the  
197 department. Program fees shall not be less than Fifty Dollars  
198 (\$50.00) nor more than the actual cost of the program. The  
199 sentencing judge may charge a program fee of less than Fifty  
200 Dollars (\$50.00) in cases of extreme financial hardship, when such  
201 judge determines that the offender's participation in the program  
202 would provide a benefit to his community. Juvenile offenders  
203 shall not pay a program fee, but shall pay a monthly fee as  
204 provided in Section 47-5-1007. Program fees shall be deposited in  
205 the special fund created in Section 47-5-1007.

206 (c) Establish a place of residence at a place approved  
207 by the correctional field officer, and not change his residence  
208 without the officer's approval. The correctional officer shall be  
209 allowed to inspect the place of residence for alcoholic beverages,  
210 controlled substances and drug paraphernalia.

211 (d) Remain at his place of residence at all times  
212 except to go to work, to attend school, to perform community  
213 service and as specifically allowed in each instance by the  
214 correctional field officer.

215 (e) Allow administration of drug and alcohol tests as  
216 requested by the field officer.

217 (f) Perform not less than ten (10) hours of community  
218 service each month.

219 (g) Meet any other conditions imposed by the court to  
220 meet the needs of the offender and limit the risks to the  
221 community.

222 SECTION 4. Section 47-5-1003, Mississippi Code of 1972, is  
223 amended as follows:

224 47-5-1003. (1) An intensive supervision program may be used  
225 as an alternative to incarceration for offenders who are low risk  
226 and nonviolent as selected by the department or court and for  
227 juvenile offenders as provided in Section 43-21-605(k). Any  
228 offender convicted of a sex crime or a felony for the sale or

229 manufacture of a controlled substance under the uniform controlled  
230 substances law shall not be placed in the program.

231 (2) The court placing an offender in the intensive  
232 supervision program may, acting upon the advice and consent of the  
233 commissioner at the time of the initial sentencing only, and not  
234 later than one (1) year after the defendant has been delivered to  
235 the custody of the department, suspend the further execution of  
236 the sentence and place the defendant on intensive supervision,  
237 except when a death sentence or life imprisonment is the maximum  
238 penalty which may be imposed or if the defendant has been confined  
239 for the conviction of a felony on a previous occasion in any court  
240 or courts of the United States and of any state or territories  
241 thereof or has been convicted of a felony involving the use of a  
242 deadly weapon.

243 (3) To protect and to ensure the safety of the state's  
244 citizens, any offender who violates an order or condition of the  
245 intensive supervision program shall be arrested by the  
246 correctional field officer and placed in the actual custody of the  
247 Department of Corrections. Such offender is under the full and  
248 complete jurisdiction of the department and subject to removal  
249 from the program by the classification committee.

250 (4) When any circuit or county court places an offender in an  
251 intensive supervision program, the court shall give notice to the  
252 Mississippi Department of Corrections within fifteen (15) days of  
253 the court's decision to place the offender in an intensive  
254 supervision program. Notice shall be delivered to the central  
255 office of the Mississippi Department of Corrections and to the  
256 regional office of the department which will be providing  
257 supervision to the offender in an intensive supervision program.

258 The courts may not require an offender to complete the  
259 intensive supervision program as a condition of probation or  
260 post-release supervision.



261 SECTION 5. This act shall take effect and be in force from  
262 and after July 1, 2001.