

By: Representative Ford

To: Penitentiary

HOUSE BILL NO. 780  
(As Passed the House)

1 AN ACT TO REENACT SECTIONS 47-5-1001 THROUGH 47-5-1013,  
2 MISSISSIPPI CODE OF 1972, WHICH PERMITS A COURT TO PLACE AN  
3 OFFENDER IN THE INTENSIVE SUPERVISION PROGRAM AS AN ALTERNATIVE TO  
4 INCARCERATION, ESTABLISHES RULES AND GUIDELINES FOR OPERATION OF  
5 THE INTENSIVE SUPERVISION PROGRAM AND PROVIDES FOR PAYMENT OF FEES  
6 BY PARTICIPANTS IN THE INTENSIVE SUPERVISION PROGRAM; TO REENACT  
7 AND AMEND SECTION 47-5-1015, MISSISSIPPI CODE OF 1972, TO EXTEND  
8 THE REPEALER DATE ON THE REENACTED CODE SECTIONS FROM JUNE 30,  
9 2003, TO JUNE 30, 2004; AND FOR RELATED PURPOSES.

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

11 **SECTION 1.** Section 47-5-1001, Mississippi Code of 1972, is  
12 reenacted as follows:

13 47-5-1001. For purposes of Sections 47-5-1001 through  
14 47-5-1015, the following words shall have the meaning ascribed  
15 herein unless the context shall otherwise require:

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

20 (b) "Correctional field officer" means the supervising  
21 probation and parole officer in charge of supervising the  
22 offender.

23 (c) "Court" means a circuit court having jurisdiction  
24 to place an offender to the intensive supervision program.

25 (d) "Department" means the Department of Corrections.

26 (e) "House arrest" means the confinement of a person  
27 convicted or charged with a crime to his place of residence under  
28 the terms and conditions established by the department or court.

29 (f) "Operating capacity" means the total number of  
30 state offenders which can be safely and reasonably housed in



31 facilities operated by the department and in local or county jails  
32 or other facilities authorized to house state offenders as  
33 certified by the department, subject to applicable federal and  
34 state laws and rules and regulations.

35 (g) "Participant" means an offender placed into an  
36 intensive supervision program.

37 **SECTION 2.** Section 47-5-1003, Mississippi Code of 1972, is  
38 reenacted as follows:

39 47-5-1003. (1) An intensive supervision program may be used  
40 as an alternative to incarceration for offenders who are low risk  
41 and nonviolent as selected by the department or court. Any  
42 offender convicted of a sex crime or a felony violation of Section  
43 41-29-139(a)(1) shall not be placed in the program.

44 (2) The court placing an offender in the intensive  
45 supervision program may, acting upon the advice and consent of the  
46 commissioner and not later than one (1) year after the defendant  
47 has been delivered to the custody of the department, suspend the  
48 further execution of the sentence and place the defendant on  
49 intensive supervision, except when a death sentence or life  
50 imprisonment is the maximum penalty which may be imposed or if the  
51 defendant has been confined for the conviction of a felony on a  
52 previous occasion in any court or courts of the United States and  
53 of any state or territories thereof or has been convicted of a  
54 felony involving the use of a deadly weapon.

55 (3) To protect and to ensure the safety of the state's  
56 citizens, any offender who violates an order or condition of the  
57 intensive supervision program shall be arrested by the  
58 correctional field officer and placed in the actual custody of the  
59 Department of Corrections. Such offender is under the full and  
60 complete jurisdiction of the department and subject to removal  
61 from the program by the classification hearing officer.

62 (4) When any circuit or county court places an offender in  
63 an intensive supervision program, the court shall give notice to



64 the Mississippi Department of Corrections within fifteen (15) days  
65 of the court's decision to place the offender in an intensive  
66 supervision program. Notice shall be delivered to the central  
67 office of the Mississippi Department of Corrections and to the  
68 regional office of the department which will be providing  
69 supervision to the offender in an intensive supervision program.

70 The courts may not require an offender to complete the  
71 intensive supervision program as a condition of probation or  
72 post-release supervision.

73 **SECTION 3.** Section 47-5-1005, Mississippi Code of 1972, is  
74 reenacted as follows:

75 47-5-1005. (1) The department shall promulgate rules that  
76 prescribe reasonable guidelines under which an intensive  
77 supervision program shall operate. These rules shall include, but  
78 not be limited to, the following:

79 (a) The participant shall remain within the interior  
80 premises or within the property boundaries of his or her residence  
81 at all times during the hours designated by the correctional field  
82 officer.

83 (b) Approved absences from the home may include, but  
84 are not limited to, the following:

85 (i) Working or employment approved by the court or  
86 department and traveling to or from approved employment;

87 (ii) Unemployed and seeking employment approved  
88 for the participant by the court or department;

89 (iii) Undergoing medical, psychiatric, mental  
90 health treatment, counseling or other treatment programs approved  
91 for the participant by the court or department;

92 (iv) Attending an educational institution or a  
93 program approved for the participant by the court or department;

94 (v) Participating in community work release or  
95 community service program approved for the participant by the  
96 court or department; or



97 (vi) For another compelling reason consistent with  
98 the public interest, as approved by the court or department.

99 (2) The department shall select and approve all electronic  
100 monitoring devices used under Sections 47-5-1001 through  
101 47-5-1015.

102 (3) The department may lease the equipment necessary to  
103 implement the intensive supervision program and to contract for  
104 the monitoring of such devices. The department is authorized to  
105 select the lowest price and best source in contracting for these  
106 services.

107 **SECTION 4.** Section 47-5-1007, Mississippi Code of 1972, is  
108 reenacted as follows:

109 47-5-1007. (1) Any participant in the intensive supervision  
110 program who engages in employment shall pay a monthly fee to the  
111 department for each month such person is enrolled in the program.  
112 The department may waive the monthly fee if the offender is a  
113 full-time student or is engaged in vocational training. Money  
114 received by the department from participants in the program shall  
115 be deposited into a special fund which is hereby created in the  
116 State Treasury. It shall be used, upon appropriation by the  
117 Legislature, for the purpose of helping to defray the costs  
118 involved in administering and supervising such program.  
119 Unexpended amounts remaining in such special fund at the end of a  
120 fiscal year shall not lapse into the State General Fund, and any  
121 interest earned on amounts in such special fund shall be deposited  
122 to the credit of the special fund.

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

126 (3) The participant shall make the necessary arrangements to  
127 allow for correctional officers to visit the participant's place  
128 of education or employment at any time, based upon the approval of  
129 the educational institution or employer, for the purpose of



130 verifying the participant's compliance with the conditions of his  
131 detention.

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

136 (5) The participant shall be responsible for and shall  
137 maintain the following:

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

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

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

143 (6) The participant shall obtain approval from the  
144 correctional field officer before the participant changes  
145 residence.

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

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

151 (9) The participant shall abide by other conditions as set  
152 by the department.

153 **SECTION 5.** Section 47-5-1009, Mississippi Code of 1972, is  
154 reenacted as follows:

155 47-5-1009. (1) The department shall have absolute immunity  
156 from liability for any injury resulting from a determination by a  
157 judge or correctional officer that an offender shall be allowed to  
158 participate in the electronic home detention program.

159 (2) The Department of Audit shall annually audit the records  
160 of the department to ensure compliance with Sections 47-5-1001  
161 through 47-5-1015.



162           **SECTION 6.** Section 47-5-1011, Mississippi Code of 1972, is  
163 reenacted as follows:

164           47-5-1011. (1) Before entering an order for commitment for  
165 electronic house arrest, the department shall inform the  
166 participant and other persons residing in the home of the nature  
167 and extent of the approved electronic monitoring devices by doing  
168 the following:

169                   (a) Securing the written consent of the participant in  
170 the program to comply with the rules and regulations of the  
171 program.

172                   (b) Advising adult persons residing in the home of the  
173 participant at the time an order or commitment for electronic  
174 house arrest is entered and asking such persons to acknowledge the  
175 nature and extent of approved electronic monitoring devices.

176                   (c) Insuring that the approved electronic devices are  
177 minimally intrusive upon the privacy of other persons residing in  
178 the home while remaining in compliance with Sections 47-5-1001  
179 through 47-5-1015.

180           (2) The participant shall be responsible for the cost of  
181 equipment and any damage to such equipment. Any intentional  
182 damage, any attempt to defeat monitoring, any committing of a  
183 criminal offense or any associating with felons or known  
184 criminals, shall constitute a violation of the program.

185           (3) Any person whose residence is utilized in the program  
186 shall agree to keep the home drug and alcohol free and to exclude  
187 known felons and criminals in order to provide a noncriminal  
188 environment.

189           **SECTION 7.** Section 47-5-1013, Mississippi Code of 1972, is  
190 reenacted as follows:

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

193                   (a) Maintain employment if physically able, or  
194 full-time student status at an approved school or vocational



195 trade, and make progress deemed satisfactory to the correctional  
196 field officer, or both, or be involved in supervised job searches.

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

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

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

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

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

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

221 **SECTION 8.** Section 47-5-1015, Mississippi Code of 1972, is  
222 reenacted and amended as follows:

223 47-5-1015. Sections 47-5-1001 through 47-5-1015 shall stand  
224 repealed after June 30, 2004.

225 **SECTION 9.** This act shall take effect and be in force from  
226 and after its passage.

