

By: Representative Malone

To: Penitentiary

HOUSE BILL NO. 1164

1 AN ACT TO CREATE NEW SECTION 47-5-183, MISSISSIPPI CODE OF  
2 1972, TO AUTHORIZE THE COMMISSIONER OF THE MISSISSIPPI DEPARTMENT  
3 OF CORRECTIONS TO TRANSFER TERMINALLY ILL OFFENDERS TO THE  
4 COMMUNITY CORRECTIONS DIVISION OF THE DEPARTMENT; TO AMEND  
5 SECTIONS 47-5-20 AND 47-5-28, MISSISSIPPI CODE OF 1972, IN  
6 CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

8 **SECTION 1.** The following shall be codified as Section  
9 47-5-183, Mississippi Code of 1972:

10 47-5-183. The Commissioner of Corrections is authorized to  
11 transfer terminally ill offenders to the Community Corrections  
12 Division of the Mississippi Department of Corrections when the  
13 medical director for the department has reviewed and investigated  
14 cases where offenders have been diagnosed with a serious illness.  
15 If the medical director certifies to the Commissioner of  
16 Corrections that an offender is suffering from a terminal illness,  
17 the Commissioner may release the offender and direct that the  
18 Division of Community Corrections shall supervise the offender for  
19 the remainder of his or her sentence. The offender shall be under  
20 the full and complete jurisdiction of the department and subject  
21 to being returned and placed in the actual custody of the  
22 department by the classification committee for violating an order  
23 or condition of the terminally ill offender's release. For  
24 purposes of this section, "terminally ill" means a medical  
25 prognosis of limited expected survival, of one (1) year or less  
26 of an offender who is experiencing an illness for which  
27 therapeutic strategies directed toward cure and control of the  
28 disease alone outside the context of symptom control are no longer  
29 appropriate.



30           **SECTION 2.** Section 47-5-20, Mississippi Code of 1972, is  
31 amended as follows:

32           47-5-20. In addition to the powers and duties enumerated in  
33 Section 47-5-28, the commissioner shall have the following powers  
34 and duties:

35                   (a) To establish the general policy of the department;

36                   (b) To approve proposals for the location of new  
37 facilities, for major renovation activities, and for the creation  
38 of new programs and divisions within the department as well as for  
39 the abolition of the same; provided, however, that the  
40 commissioner shall approve the location of no new facility unless  
41 the board of supervisors of the county or the governing  
42 authorities of the municipality in which the new facility is to be  
43 located shall have had the opportunity with at least sixty (60)  
44 days' prior notice to disapprove the location of the proposed  
45 facility. If either the board of supervisors or the governing  
46 authorities shall disapprove the facility, it shall not be located  
47 in that county or municipality. Said notice shall be made by  
48 certified mail, return receipt requested, to the members of the  
49 board or governing authorities and to the clerk thereof;

50                   (c) Except as otherwise provided or required by law, to  
51 open bids and approve the sale of any products or manufactured  
52 goods by the department according to applicable provisions of law  
53 regarding bidding and sale of state property, and according to  
54 rules and regulations established by the State Fiscal Management  
55 Board; \* \* \*

56                   (d) To adopt administrative rules and regulations  
57 including, but not limited to, offender transfer procedures, award  
58 of administrative earned time, personnel procedures, employment  
59 practices; and

60                   (e) To authorize the transfer of terminally ill  
61 offenders to the Community Corrections Division of the Mississippi  
62 Department of Corrections.



63           **SECTION 3.** Section 47-5-28, Mississippi Code of 1972, is  
64 amended as follows:

65           47-5-28. In addition to the powers and duties enumerated in  
66 Section 47-5-20, the commissioner shall have the following powers  
67 and duties:

68           (a) To implement and administer laws and policy  
69 relating to corrections and coordinate the efforts of the  
70 department with those of the federal government and other state  
71 departments and agencies, county governments, municipal  
72 governments, and private agencies concerned with providing  
73 offender services;

74           (b) To establish standards, in cooperation with other  
75 state agencies having responsibility as provided by law, provide  
76 technical assistance, and exercise the requisite supervision as it  
77 relates to correctional programs over all state-supported adult  
78 correctional facilities and community-based programs;

79           (c) To promulgate and publish such rules, regulations  
80 and policies of the department as are needed for the efficient  
81 government and maintenance of all facilities and programs in  
82 accord insofar as possible with currently accepted standards of  
83 adult offender care and treatment;

84           (d) To provide the Parole Board with suitable and  
85 sufficient office space and support resources and staff necessary  
86 to conducting Parole Board business under the guidance of the  
87 Chairman of the Parole Board;

88           (e) To make an annual report to the Governor and the  
89 Legislature reflecting the activities of the department and make  
90 recommendations for improvement of the services to be performed by  
91 the department;

92           (f) To cooperate fully with periodic independent  
93 internal investigations of the department and to file the report  
94 with the Governor and the Legislature;



95 (g) To perform such other duties necessary to  
96 effectively and efficiently carry out the purposes of the  
97 department as may be directed by the Governor;

98 (h) To authorize the transfer of terminally ill  
99 offenders to the Community Corrections Division of the Mississippi  
100 Department of Corrections.

101 **SECTION 4.** This act shall take effect and be in force from  
102 and after July 1, 2003.

