

By: Representative Malone

To: Penitentiary

HOUSE BILL NO. 1189
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 99-37-19, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE QUALIFICATIONS THAT OFFENDERS MUST MEET IN ORDER TO BE
3 ELIGIBLE FOR PLACEMENT IN MISSISSIPPI DEPARTMENT OF CORRECTIONS
4 RESTITUTION CENTERS; TO AMEND SECTION 47-5-110, MISSISSIPPI CODE
5 OF 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 99-37-19, Mississippi Code of 1972, is
8 amended as follows:

9 99-37-19. The boards of supervisors of the several counties
10 and the governing authorities of municipalities are hereby
11 authorized to cooperate with the Department of Corrections in the
12 establishment of restitution centers. Such centers may house both
13 probationers referred by the circuit courts as well as inmates
14 transferred from other facilities of the Department of Corrections
15 as provided in Section 47-5-110. In order to qualify for
16 placement in a restitution center, an offender must: (a) be
17 convicted of a nonviolent offense that constitutes a felony, (b)
18 not be convicted of a sex crime and (c) not have drug, alcohol,
19 emotional or physical problems so serious that the offender
20 appears unlikely to meet obligations of the restitution program.
21 Such centers shall be operated by the Department of Corrections.
22 County or municipal property may be utilized with the approval of
23 the board of supervisors or municipal governing authority for the
24 construction, renovation and maintenance of facilities owned by
25 the state or a local political subdivision. Such facility may be
26 leased to the Department of Corrections for a period of time for
27 use as a restitution center.



28 It is the intent of this section that county and local
29 governments contribute only to the establishment, renovation and
30 maintenance of the physical plant of a restitution center and that
31 the Department of Corrections support the operation of, and have
32 sole jurisdiction over and responsibility for offenders in, such
33 restitution program.

34 This section shall stand repealed on July 1, 2005.

35 **SECTION 2.** Section 47-5-110, Mississippi Code of 1972, is
36 amended as follows:

37 47-5-110. (1) Commitment to any institution or facility
38 within the jurisdiction of the department shall be to the
39 department, not to a particular institution or facility. The
40 commissioner shall assign a newly committed offender to an
41 appropriate facility consistent with public safety; provided,
42 however, that any offender who, in the opinion of the sentencing
43 judge, requires confinement in a maximum security unit shall be
44 assigned, upon initial commitment, to the Parchman facility. The
45 commissioner may extend the place of confinement of eligible
46 offenders as provided under subsection (2) of this section. He
47 may transfer an offender from one institution to another,
48 consistent with the commitment and in accordance with treatment,
49 training and security needs. The commissioner shall have the
50 authority to transfer inmates from the various correctional
51 facilities of the department to restitution centers if such
52 inmates meet the qualifications prescribed in Section 99-37-19.
53 The commissioner shall prepare appropriate standards of
54 eligibility for such transfers of offenders from one institution
55 to another institution and transfers of offenders who meet the
56 qualifications for placement in restitution centers. The
57 commissioner shall have the authority to remove the offenders from
58 restitution centers and to transfer them to other facilities of
59 the department. The commissioner shall obtain the approval of the
60 sentencing court before transferring an offender committed to the



61 department to a restitution center. On the request of the chief
62 executive officer of the affected unit of local government, the
63 commissioner may transfer a person detained in a local facility to
64 a state facility. The commissioner shall determine the cost of
65 care for that person to be borne by the unit of local government.
66 The commissioner may assign to a community work center, any
67 offender who is convicted under the Mississippi Implied Consent
68 Law and who is sentenced to the custody of the Department of
69 Corrections, except that if a death or a serious maiming has
70 occurred during the commission of the violation of the Mississippi
71 Implied Consent Law, then the offender so convicted may not be
72 assigned to a community work center.

73 (2) The department may establish by rule or policy and
74 procedure a community pre-release program which shall be subject
75 to the following requirements:

76 (a) The commissioner may extend the limits of
77 confinement of offenders serving sentences for violent or
78 nonviolent crimes who have six (6) months or less remaining before
79 release on parole, conditional release or discharge to participate
80 in the program. Parole violators may be allowed to participate in
81 the program.

82 (b) Any offender who is referred to the program shall
83 remain an offender of the department and shall be subject to rules
84 and regulations of the department pertaining to offenders of the
85 department until discharged or released on parole or conditional
86 release by the State Parole Board.

87 (c) The department shall require the offender to
88 participate in work or educational or vocational programs and
89 other activities that may be necessary for the supervision and
90 treatment of the offender.

91 (d) An offender assigned to the program shall be
92 authorized to leave a community pre-release center only for the



93 purpose and time necessary to participate in the program and
94 activities authorized in paragraph (c) of this subsection.

95 (3) The commissioner shall have absolute immunity from
96 liability for any injury resulting from a determination by the
97 commissioner that an offender shall be allowed to participate in
98 the community pre-release program.

99 (4) (a) The department may by rule or policy and procedure
100 provide the regimented inmate discipline program and pre-release
101 service for offenders at each of its major correctional
102 facilities: Mississippi State Penitentiary, Central Mississippi
103 Correctional Institution and South Mississippi Correctional
104 Institution.

105 (b) The commissioner may establish regimented inmate
106 discipline and pre-release programs at the South Mississippi
107 Correctional Institution. Offenders assigned to this facility may
108 receive the services provided by the regimented inmate discipline
109 program. The pre-release program may be located on the grounds of
110 this facility or another facility designated by the commissioner.

111 (5) This section shall stand repealed on July 1, 2005.

112 **SECTION 3.** This act shall take effect and be in force from
113 and after July 1, 2003.

