

By: Senator(s) Thames

To: Judiciary

## SENATE BILL NO. 2728

1 AN ACT TO CREATE THE "JUVENILE CRIME PREVENTION PROGRAM" AND  
2 THE "RECIDIVISM REDUCTION PROGRAM" FOR THE PURPOSE OF PREVENTING  
3 HIGH-RISK CHILDREN FROM BECOMING INCARCERATED AND REDUCING INMATE  
4 POPULATION AND RECIDIVISM; TO PRESCRIBE THE CRITERIA FOR PLACEMENT  
5 INTO THE PROGRAMS; TO PROVIDE FOR THE EXPUNCTION OF THE  
6 PARTICIPANT'S CRIMINAL RECORD UPON SUCCESSFUL PARTICIPATION IN THE  
7 RECIDIVISM REDUCTION PROGRAM; TO CREATE THE PARTNERSHIP ON  
8 PREVENTION AND RECIDIVISM REDUCTION AND PROVIDE THAT SUCH PROGRAMS  
9 SHALL BE ADMINISTERED BY THE PARTNERSHIP; TO AMEND SECTION  
10 47-7-47, MISSISSIPPI CODE OF 1972, IN CONFORMITY; TO AMEND SECTION  
11 25-9-120, MISSISSIPPI CODE OF 1972, TO EXEMPT FROM REVIEW BY THE  
12 PERSONAL SERVICE CONTRACT REVIEW BOARD ANY PERSONAL SERVICES  
13 CONTRACTS ENTERED INTO BY AGENCIES PARTICIPATING IN THE JUVENILE  
14 CRIME PREVENTION PROGRAM OR THE RECIDIVISM REDUCTION PROGRAM FOR  
15 THE PURPOSES OF SUCH PROGRAMS; TO REQUIRE THE PARTNERSHIP ON  
16 PREVENTION AND RECIDIVISM REDUCTION TO FILE WITH THE LEGISLATURE  
17 AN ACCOUNTABILITY/ASSESSMENT REPORT ON THE PROGRAMS; AND FOR  
18 RELATED PURPOSES.

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

20 **SECTION 1.** (1) There is hereby created the "Recidivism  
21 Reduction Program" for the purpose of reducing recidivism and  
22 equipping inmates with the necessary skills for reintegration into  
23 the community. The program shall be administered by the  
24 Partnership on Prevention and Recidivism Reduction created in  
25 Section 3 of this act. Existing resources should be used to  
26 provide program and services whenever possible. Any state agency  
27 involved in the Recidivism Reduction Program shall be designated  
28 as the sole source for the purpose of soliciting and use of  
29 federal and/or foundation dollars for support of the program's  
30 services and activities, and any federal funds received for such  
31 purpose shall be exempt from the Department of Finance and  
32 Administration's federal clearinghouse review. Each participating  
33 agency, within the constraints of its program and funding  
34 regulations, shall support efforts of the program through the use



35 of existing resources, the reallocation of existing funds and/or  
36 funds appropriated specifically for the purpose of the program.

37 (2) The persons eligible for placement into the Recidivism  
38 Reduction Program shall be low-risk nonviolent offenders, ages  
39 sixteen (16) or older, who are sentenced to the custody of the  
40 Department of Corrections. The Department of Corrections shall  
41 select the participants and shall strongly consider a  
42 recommendation by the sentencing court in determining eligibility  
43 for the program. The sentencing court is authorized to modify the  
44 sentence of any defendant that was recommended by the court for  
45 the Recidivism Reduction Program but not selected by the  
46 department to participate. The department, in its sole  
47 discretion, shall ensure that the sentencing courts adhere to the  
48 intent of this act and may reject from participation in the  
49 program any offender it determines does not meet the intent. Only  
50 offenders sentenced on or after July 1, 2003, who have not  
51 previously served time in the custody of the Department of  
52 Corrections and who are sentenced to a term of incarceration not  
53 less than three (3) years shall be eligible for placement in the  
54 program. All participants shall retain inmate status throughout  
55 all three (3) phases of the Recidivism Reduction Program. The  
56 Department of Corrections shall require every participant to sign  
57 an agreement before his acceptance and classification into the  
58 program wherein the participant explicitly agrees to put forth his  
59 best efforts in the program and to any other demands the  
60 department deems necessary. If the participant fails to abide by  
61 the rules or guidelines of all three phases of the program, he may  
62 be removed from the program and required to serve his original  
63 sentence imposed by the court.

64 (3) Phase One of the Recidivism Reduction Program shall be  
65 placement in a Regimented Inmate Discipline Program similar to the  
66 one operated pursuant to Section 47-7-47, Mississippi Code of  
67 1972.



68           (4) Subsequent to successful completion of Phase One, the  
69 participant may be placed in an adult educational or vocational  
70 program operated in conjunction with the Board for Community and  
71 Junior Colleges and the Department of Education. Other services  
72 which may be offered during Phase Two are classes for drug and/or  
73 alcohol rehabilitation, self-discipline, parenting, character  
74 development, family responsibilities and values, counseling and  
75 life coping skills.

76           (5) The participant in Phase Three shall be matched with a  
77 private sector or government job prior to conditional discharge;  
78 the job shall be one that will enable the participant to earn a  
79 living wage. The Department of Human Services shall make  
80 available child care and transportation services to participants  
81 during this phase, provided any funds are available for such  
82 purposes. Consideration should be given to identifying employers  
83 who would assume certain responsibilities related to the aftercare  
84 process which might include assigning a mentor to the inmate  
85 employee. The Partnership on Prevention and Recidivism Reduction  
86 shall encourage the use of the Work-force Investment Act and any  
87 other financial incentives available on behalf of employers who  
88 choose to participate in Phase Three of the program.

89           (6) (a) Upon one (1) year of successful participation in  
90 Phase Three of the Recidivism Reduction Program, the field officer  
91 assigned to the participant shall petition the committing court  
92 for expunction of the participant's criminal record of the crime  
93 for which convicted and placed in the program. For purposes of  
94 this subsection, the term "field officer" means a person as  
95 defined by the Partnership on Prevention and Recidivism Reduction  
96 who possesses social work skills and may be familiar with the  
97 assigned participant's performance throughout all phases of the  
98 program.

99           (b) The court shall enter an order to expunge the  
100 conviction from all public records, except that the Department of



101 Corrections shall maintain a nonpublic record solely for the  
102 purpose of determining whether such person has previously  
103 participated in the program. The effect of the expunction shall  
104 be to restore the participant, in the contemplation of the law, to  
105 the status he occupied before arrest. No person as to whom an  
106 order of expunction has been entered shall be held thereafter  
107 under any provision of law to be guilty of perjury or to have  
108 otherwise given a false statement by reason of his failure to  
109 recite or acknowledge such arrest or conviction in response to any  
110 inquiry made of him for any purpose, except for the purpose of  
111 determining in any subsequent proceeding the person's status as a  
112 first offender.

113       **SECTION 2.** (1) The Partnership on Prevention and Recidivism  
114 Reduction shall develop a comprehensive well-coordinated program  
115 designed to prevent Mississippi youth from engaging in behavior  
116 that involves illegal activities and lead to incarceration. The  
117 Juvenile Crime Prevention Program shall be delivered primarily  
118 through the public schools, but may also consider opportunities  
119 provided through other community-based organizations. The program  
120 shall be administered by the Partnership on Prevention and  
121 Recidivism Reduction created in Section 3 of this act. The  
122 program shall be operated in whatever school district or districts  
123 as the partnership determines to be advisable and most conducive  
124 to accomplishing the goals of the program within the parameters  
125 established for the program. Existing resources should be used to  
126 provide program and services whenever possible. Any state agency  
127 involved in the Juvenile Crime Prevention Program shall be  
128 designated as the sole source for the purpose of soliciting and  
129 use of federal and/or foundation dollars for support of the  
130 program's services and activities, and any federal funds received  
131 for such purpose shall be exempt from the Department of Finance  
132 and Administration's federal clearinghouse review. Each  
133 participating agency, within the constraints of its program and



funding regulations, shall support efforts of the program through the use of existing resources, the reallocation of existing funds and/or funds appropriated specifically for the purpose of the program. Intervention shall be accomplished through a variety of available programs and services at the earliest possible state of a child's life. A menu of services shall be created with assignments being made to children based on determined needs. Such menu of services shall include, but not be limited to: components related to education (academic and/or vocational/technical skills training), counseling services, drug and/or alcohol prevention and rehabilitation, self-discipline skills, parenting skills (if applicable), character development, family responsibilities and values, life coping skills, job placement services and work employability. An aftercare component for the delinquent child may also be offered as part of the program.

(2) In designing the Juvenile Crime Prevention Program, the partnership shall give consideration to the following areas: intervention activities for high-risk children, targeting parenting skills for high-risk children, providing counseling and socialization development for high-risk children/students, crafting programs to build self-esteem, creating specific educational opportunities and options which will increase the likelihood of academic success, development of training programs for educators designed to deal with at-risk students, assurance of meaningful coordination of existing services, and development of community intervention teams consisting of representatives from the Department of Human Services, the Department of Mental Health, local school districts (including attendance officers), the Department of Rehabilitation Services, the Department of Health, the Office of Attorney General and others as needed.

(3) The persons eligible for placement into the Juvenile Crime Prevention Program shall be any Mississippi child, from



birth to eighteen (18) years of age. Prevention measures may be provided for children through hospitals and doctors' offices from birth throughout their lives. A number of services will be available specifically for children and youth that are considered to be at high-risk. The term "high-risk" may include, but not be limited to, the following circumstances: the child is not living in a two-parent family; the household head is a high school dropout; the family income is below the poverty level; the child is living with parents who do not have steady full-time employment; the family is receiving welfare benefits; the child does not have health insurance; the child has or is experiencing drug or alcohol problems, is pregnant or is a parent under the age of eighteen (18), has come into contact with the juvenile justice system in the past, is at least one (1) year behind the expected grade level for his age, has limited-English proficiency, is a gang member, has dropped out of school in the past and/or has high absenteeism rate at school.

(4) The agency administering the Juvenile Crime Prevention Program at the local level shall have the discretion to seek parent or guardian involvement in the participants' completion of the program. Such agency shall have the option to require parent or guardian participation, and, if the parent or guardian fails to adequately participate, then the agency may seek youth court intervention to require participation.

**SECTION 3.** (1) There is hereby created a Partnership on Prevention and Recidivism Reduction, hereinafter referred to as the "partnership," charged with the responsibility of designing a multi-agency prevention, rehabilitative, educational and employment program for the purposes of preventing high-risk youth from becoming inmates, reducing recidivism and equipping offenders with the necessary skills for successful reintegration into the community.



(2) The partnership shall be composed of the following members:

(a) The Commissioner of Corrections;

(b) The Executive Director of the State Board of Community and Junior Colleges;

(c) The Executive Director of the Employment Security Commission;

(d) The Executive Director of the Department of Human Services;

(e) The Executive Director of the Department of Mental Health;

(f) The State Superintendent of Education; and

(g) The Attorney General.

(3) The Commissioner of Corrections shall serve as chairman of the partnership. Members of the partnership shall not receive any compensation or per diem, but may receive travel reimbursement as provided in Section 25-3-41. The partnership shall elect a vice chairman by a majority vote of the partnership.

(4) The partnership is authorized to adopt policies and bylaws to carry out the purposes of Sections 1 and 2 of this act. The Department of Corrections shall be the fiscal agent and day-to-day management authority for the Recidivism Reduction Program and shall carry out the policies set by the partnership. The Office of the Attorney General shall be the fiscal agent and day-to-day management authority for the Juvenile Crime Prevention Program consistent with the policies set by the partnership. Under no circumstances shall the scope of authority of the partnership exceed the purposes and authority provided herein for the Juvenile Crime Prevention Program and Recidivism Reduction Program.

**SECTION 4.** Section 47-7-47, Mississippi Code of 1972, is amended as follows:



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

(2) (a) Any circuit court or county court may, upon its own motion, acting upon the advice and consent of the commissioner not earlier than thirty (30) days nor later than one (1) year after the defendant has been delivered to the custody of the department, to which he has been sentenced, suspend the further execution of the sentence and place the defendant on earned probation, except when a death sentence or life imprisonment is the maximum penalty which may be imposed or if the defendant has been confined two (2) or more times for the conviction of a felony on a previous occasion in any court or courts of the United States and of any state or territories thereof or has been convicted of a felony involving the use of a deadly weapon. However, for a defendant placed in the Recidivism Reduction Program, the court may retain jurisdiction for a period not to exceed four (4) years after the defendant has been delivered to the custody of the Department of Corrections.

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

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

(3) When any circuit or county court places an offender on earned probation, the court shall give notice to the Mississippi Department of Corrections within fifteen (15) days of the court's decision to place the offender on earned probation. Notice shall





be delivered to the central office of the Mississippi Department of Corrections and to the regional office of the department which will be providing supervision to the offender on earned probation.

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

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

(6) If the court places any person on probation or earned probation, the court may order the person, as a condition of probation, to submit, as provided in Section 47-5-601, to any type of breath, saliva or urine chemical analysis test, the purpose of which is to detect the possible presence of alcohol or a substance prohibited or controlled by any law of the State of Mississippi or the United States.

(7) The court in its sentence may recommend placement of the person thereby convicted in the Recidivism Reduction Program created under Section 1 of Senate Bill No. 2728, 2003 Regular Session.

**SECTION 5.** Section 25-9-120, Mississippi Code of 1972, is amended as follows:

25-9-120. (1) Contract personnel, whether classified as contract workers or independent contractors shall not be deemed



297 state service or nonstate service employees of the State of  
298 Mississippi, and shall not be eligible to participate in the  
299 Public Employees' Retirement System, or the state employee health  
300 plan, nor be allowed credit for personal and sick leave and other  
301 leave benefits as employees of the State of Mississippi,  
302 notwithstanding Sections 25-3-91 through 25-3-101; 25-9-101  
303 through 25-9-151; 25-11-1 through 25-11-126; 25-11-128 through  
304 25-11-131; 25-15-1 through 25-15-23 and for the purpose set forth  
305 herein. Contract workers, i.e., contract personnel who do not  
306 meet the criteria of independent contractors, shall be subject to  
307 the provisions of Section 25-11-127.

308       (2) There is hereby created the Personal Service Contract  
309 Review Board, which shall be composed of the State Personnel  
310 Director, the Executive Director of the Department of Finance and  
311 Administration, or his designee, the Commissioner of Corrections,  
312 or his designee, the Executive Director of the Mississippi  
313 Department of Wildlife and Fisheries, or his designee, and the  
314 Executive Director of the Department of Environmental Quality, or  
315 his designee. The State Personnel Director shall be chairman and  
316 shall preside over the meetings of the board. The board shall  
317 annually elect a vice chairman, who shall serve in the absence of  
318 the chairman. No business shall be transacted, including adoption  
319 of rules of procedure, without the presence of a quorum of the  
320 board. Three (3) members shall be a quorum. No action shall be  
321 valid unless approved by the chairman and two (2) other of those  
322 members present and voting, entered upon the minutes of the board  
323 and signed by the chairman. Necessary clerical and administrative  
324 support for the board shall be provided by the State Personnel  
325 Board. Minutes shall be kept of the proceedings of each meeting,  
326 copies of which shall be filed on a monthly basis with the  
327 Legislative Budget Office.

328       (3) The Personal Service Contract Review Board shall have  
329 the following powers and responsibilities:



(a) Promulgate rules and regulations governing the solicitation and selection of contractual services personnel including personal and professional services contracts for any form of consulting, policy analysis, public relations, marketing, public affairs, legislative advocacy services or any other contract that the board deems appropriate for oversight, with the exception of any personal service contracts entered into for computer or information technology-related services governed by the Mississippi Department of Information Technology Services, any personal service contracts entered into by the Mississippi Department of Transportation, any personal service contracts entered into by agencies participating in the Juvenile Crime Prevention Program or the Recidivism Reduction Program created in Sections 1 and 2 of Senate Bill No. 2728, 2003 Regular Session, for the purposes of such programs, and any contract for attorney, accountant, auditor, physician, dentist, architect, engineer, veterinarian and utility rate expert services. Any such rules and regulations shall provide for maintaining continuous internal audit covering the activities of such agency affecting its revenue and expenditures as required under Section 7-7-3(6)(d), Mississippi Code of 1972;

(b) Approve all personal and professional services contracts involving the expenditures of funds in excess of One Hundred Thousand Dollars (\$100,000.00);

(c) Develop standards with respect to contractual services personnel which require invitations for public bid, requests for proposals, record keeping and financial responsibility of contractors. The Personal Service Contract Review Board may, in its discretion, require the agency involved to advertise such contract for public bid, and may reserve the right to reject any or all bids;

(d) Prescribe certain circumstances whereby agency heads may enter into contracts for personal and professional



363 services without receiving prior approval from the Personal  
364 Service Contract Review Board. The Personal Service Contract  
365 Review Board may establish a pre-approved list of providers of  
366 various personal and professional services for set prices with  
367 which state agencies may contract without bidding or prior  
368 approval from the board;

369 (e) To provide standards for the issuance of requests  
370 for proposals, the evaluation of proposals received, consideration  
371 of costs and quality of services proposed, contract negotiations,  
372 the administrative monitoring of contract performance by the  
373 agency and successful steps in terminating a contract;

374 (f) To present recommendations for governmental  
375 privatization and to evaluate privatization proposals submitted by  
376 any state agency;

377 (g) To authorize personal and professional service  
378 contracts to be effective for more than one (1) year provided a  
379 funding condition is included in any such multiple year contract,  
380 except the State Board of Education, which shall have the  
381 authority to enter into contractual agreements for student  
382 assessment for a period up to ten (10) years. The State Board of  
383 Education shall procure these services in accordance with the  
384 Personal Service Contract Review Board procurement regulations;

385 (h) To request the State Auditor to conduct a  
386 performance audit on any personal or professional service  
387 contract; and

388 (i) Prepare an annual report to the Legislature  
389 concerning the issuance of personal service contracts during the  
390 previous year, collecting any necessary information from state  
391 agencies in making such report.

392 (4) No member of the Personal Service Contract Review Board  
393 shall use his official authority or influence to coerce, by threat  
394 of discharge from employment, or otherwise, the purchase of



395 commodities or the contracting for personal or professional  
396 services under this section.

397       **SECTION 6.** On or before January 1, 2006, the Partnership on  
398 Prevention and Recidivism Reduction shall file with the  
399 Legislature an accountability/assessment report on the Recidivism  
400 Reduction Program and the Juvenile Crime Prevention Program  
401 showing the cost savings to the State of Mississippi and the  
402 contribution of each agency to the programs.

403       **SECTION 7.** This act shall take effect and be in force from  
404 and after July 1, 2003.

