

By: Senator(s) Smith, Posey

To: Corrections;
Appropriations

SENATE BILL NO. 2743

1 AN ACT TO CREATE THE MISSISSIPPI DEPARTMENT OF PROBATION AND
2 PAROLE; TO TRANSFER PROBATION AND PAROLE DUTIES, FUNCTIONS,
3 PERSONNEL AND INVENTORY FROM THE DEPARTMENT OF CORRECTIONS TO THE
4 MISSISSIPPI DEPARTMENT OF PROBATION AND PAROLE; TO AMEND SECTIONS
5 47-5-26, 47-7-9, 47-7-34, 47-7-41, 47-7-49, 99-15-127, 99-15-45
6 AND 99-19-48, MISSISSIPPI CODE OF 1972, TO CONFORM; AND FOR
7 RELATED PURPOSES.

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

9 **SECTION 1.** (1) The Mississippi Department of Probation and
10 Parole is hereby established and full power is vested in the
11 department to manage, control, supervise, enforce and direct any
12 matters pertaining to probation and parole formally under the
13 jurisdiction of the Mississippi Department of Corrections. The
14 Department of Corrections shall transfer all powers, duties,
15 employees, equipment, buildings, facilities, inventory and
16 resources of the Division of Community Corrections related to
17 probation and parole to the Department of Probation and Parole.

18 (2) The Executive Director of the Department of Probation
19 and Parole shall have the authority to internally reorganize the
20 Department of Probation and Parole with persons meeting
21 established qualifications for comparable positions of duty and
22 responsibility and to carry out the duties of the department. The
23 organizational chart of the department shall be presented annually
24 with the department's budget request for review by the
25 Legislature.

26 **SECTION 2.** (1) The Department of Probation and Parole and
27 the Department of Corrections shall comply with Sections 5-11-1
28 through 5-11-5 in the transfer of the probation and parole
29 functions.



30 (2) (a) All personnel actions initiated as a result of the
31 transfer of probation and parole officers shall be subject to the
32 State Personnel Board rules, regulations and procedures.

33 (b) The transfer of personnel shall be commensurate
34 with the number and classification of positions (PINS) allocated
35 to the probation and parole function on July 1, 2003. The
36 transfer shall also include direct support, clerical, data
37 processing, and communications PINS and resources.

38 **SECTION 3.** The Mississippi Department of Probation and
39 Parole shall be under the policy direction of the Governor. The
40 department shall be headed by an executive director. The
41 executive director shall be appointed by the Governor with the
42 advice and consent of the Senate.

43 **SECTION 4.** Section 47-5-26, Mississippi Code of 1972, is
44 amended as follows:

45 47-5-26. (1) The commissioner shall employ the following
46 personnel:

47 (a) A Deputy Commissioner for Administration and
48 Finance, who shall supervise and implement all fiscal policies and
49 programs within the department, supervise and implement all hiring
50 and personnel matters within the department, supervise the
51 department's personnel director, supervise and implement all
52 purchasing within the department and supervise and implement all
53 data processing activities within the department, and who shall
54 serve as the Chief Executive Officer of the Division of
55 Administration and Finance. He shall possess either:

56 (i) A master's degree from an accredited four-year
57 college or university in public or business administration,
58 accounting, economics or a directly related field, and four (4)
59 years of experience in work related to the above-described duties,
60 one (1) year of which must have included line or functional
61 supervision; or



62 (ii) A bachelor's degree from an accredited
63 four-year college or university in public or business
64 administration, accounting, economics or a directly related field,
65 and six (6) years of experience in work related to the
66 above-described duties, one (1) year of which must have included
67 line or functional supervision. Certification by the State of
68 Mississippi as a certified public accountant may be substituted
69 for one (1) year of the required experience.

70 (b) A Deputy Commissioner for Community Corrections,
71 who shall initiate and administer programs, including, but not
72 limited to, * * * counseling, community-based treatment,
73 interstate compact administration and enforcement, prevention
74 programs, halfway houses and group homes, and restitution
75 centers, * * * and shall serve as the Chief Executive Officer of
76 the Division of Community Services. * * * After a plea or verdict
77 of guilty to a felony is entered against a person and before he is
78 sentenced, the Deputy Commissioner for Community Corrections shall
79 procure from any available source and shall file in the
80 presentence records any information regarding any criminal history
81 of the person such as fingerprints, dates of arrests, complaints,
82 civil and criminal charges, investigative reports of arresting and
83 prosecuting agencies, reports of the National Crime Information
84 Center, the nature and character of each offense, noting all
85 particular circumstances thereof and any similar data about the
86 person. The Deputy Commissioner for Community Corrections shall
87 keep an accurate and complete duplicate record of this file and
88 shall furnish the duplicate to the department. This file shall be
89 placed in and shall constitute a part of the inmate's master file.
90 The Deputy Commissioner for Community Corrections shall furnish
91 this file to the State Parole Board when the file is needed in the
92 course of its official duties. He shall possess either: (i) a
93 master's degree in counseling, corrections psychology, guidance,
94 social work, criminal justice or some related field and at least



95 four (4) years' full-time experience in such field, including at
96 least one (1) year of supervisory experience; or (ii) a bachelor's
97 degree in a field described in subparagraph (i) of this paragraph
98 and at least six (6) years' full-time work in corrections, one (1)
99 year of which shall have been at the supervisory level.

100 (c) A Deputy Commissioner for Institutions, who shall
101 administer institutions, reception and diagnostic centers,
102 prerelease centers and other facilities and programs provided
103 therein, and shall serve as the chief executive officer of the
104 division of institutions. He shall possess either: (i) a
105 master's degree in counseling, criminal justice, psychology,
106 guidance, social work, business or some related field, and at
107 least four (4) years' full-time experience in corrections,
108 including at least one (1) year of correctional management
109 experience; or (ii) a bachelor's degree in a field described in
110 subparagraph (i) of this paragraph and at least six (6) years'
111 full-time work in corrections, four (4) years of which shall have
112 been at the correctional management level.

113 (2) The commissioner shall employ an administrative
114 assistant for parole matters, who shall be an employee of the
115 department assigned to the State Parole Board and who shall work
116 under the guidance and supervision of the board and who shall be
117 liaison between the department and the Department of Parole and
118 Probation.

119 (3) The administrative assistant for parole matters shall
120 receive an annual salary to be established by the Legislature.
121 The salaries of department employees not established by the
122 Legislature shall receive an annual salary established by the
123 State Personnel Board.

124 (4) The commissioner shall employ a superintendent for the
125 Parchman facility, Central Mississippi Correctional Facility and
126 South Mississippi Correctional Institution of the Department of
127 Corrections. The superintendent of the Mississippi State



128 Penitentiary shall reside on the grounds of the Parchman facility.
129 Each superintendent shall appoint an officer in charge when he is
130 absent.

131 Each superintendent shall develop and implement a plan for
132 the prevention and control of an inmate riot and shall file a
133 report with the Chairman of the Senate Corrections Committee and
134 the Chairman of the House Penitentiary Committee on the first day
135 of each regular session of the Legislature regarding the status of
136 the plan.

137 In order that the grievances and complaints of inmates,
138 employees and visitors at each facility may be heard in a timely
139 and orderly manner, each superintendent shall appoint or designate
140 an employee at the facility to hear grievances and complaints and
141 to report grievances and complaints to the superintendent. Each
142 superintendent shall institute procedures as are necessary to
143 provide confidentiality to those who file grievances and
144 complaints.

145 **SECTION 5.** Section 47-7-9, Mississippi Code of 1972, is
146 amended as follows:

147 47-7-9. (1) The circuit judges and county judges in the
148 districts to which Department of Probation and Parole personnel
149 have been assigned shall have the power to request of the
150 department transfer or removal of the * * * personnel from their
151 court.

152 (2) (a) Such personnel shall investigate all cases referred
153 to them for investigation by the board, the division or by any
154 court in which they are authorized to serve. They shall furnish
155 to each person released under their supervision a written
156 statement of the conditions of probation, parole, earned-release
157 supervision, post-release supervision or suspension and shall
158 instruct him regarding the same. They shall keep informed
159 concerning the conduct and conditions of persons under their
160 supervision and use all suitable methods to aid and encourage them



161 and to bring about improvements in their conduct and condition.
162 They shall keep detailed records of their work and shall make such
163 reports in writing as the court or the board may require.

164 (b) The * * * personnel duly assigned to court
165 districts are hereby vested with all the powers of police officers
166 or sheriffs to make arrests or perform any other duties required
167 of policemen or sheriffs which may be incident to the probation
168 and parole personnel responsibilities. All probation and parole
169 officers hired on or after July 1, 1994, will be placed in the Law
170 Enforcement Officers' Training Program and will be required to
171 meet the standards outlined by that program.

172 (c) It is the intention of the Legislature that insofar
173 as practicable the case load of each probation and parole
174 personnel supervising offenders in the community (hereinafter
175 field supervisor) shall not exceed the number of cases that may be
176 adequately handled.

177 (3) * * * Probation and parole personnel shall be provided
178 to perform investigation for the court as provided in this
179 subsection. Probation and parole personnel shall conduct
180 presentence investigations on all persons convicted of a felony in
181 any circuit court of the state, prior to sentencing and at the
182 request of the circuit court judge of the court of conviction.
183 The presentence evaluation report shall consist of a complete
184 record of the offender's criminal history, educational level,
185 employment history, psychological condition and such other
186 information as the department or judge may deem necessary.
187 Probation and parole personnel shall also prepare written victim
188 impact statements at the request of the sentencing judge as
189 provided in Section 99-19-157.

190 * * *

191 **SECTION 6.** Section 47-7-34, Mississippi Code of 1972, is
192 amended as follows:



193 47-7-34. (1) When a court imposes a sentence upon a
194 conviction for any felony committed after June 30, 1995, the
195 court, in addition to any other punishment imposed if the other
196 punishment includes a term of incarceration in a state or local
197 correctional facility, may impose a term of post-release
198 supervision. However, the total number of years of incarceration
199 plus the total number of years of post-release supervision shall
200 not exceed the maximum sentence authorized to be imposed by law
201 for the felony committed. The defendant shall be placed under
202 post-release supervision upon release from the term of
203 incarceration. The period of supervision shall be established by
204 the court.

205 (2) The period of post-release supervision shall be
206 conducted in the same manner as a like period of supervised
207 probation, including a requirement that the defendant shall abide
208 by any terms and conditions as the court may establish. Failure
209 to successfully abide by the terms and conditions shall be grounds
210 to terminate the period of post-release supervision and to
211 recommit the defendant to the correctional facility from which he
212 was previously released. Procedures for termination and
213 recommitment shall be conducted in the same manner as procedures
214 for the revocation of probation and imposition of a suspended
215 sentence.

216 (3) Post-release supervision programs shall be operated
217 through the Department of Probation and Parole * * *. The maximum
218 amount of time that the Mississippi Department of Corrections may
219 supervise an offender on the post-release supervision program is
220 five (5) years.

221 **SECTION 7.** Section 47-7-41, Mississippi Code of 1972, is
222 amended as follows:

223 47-7-41. When a probationer shall be discharged from
224 probation by the court of original jurisdiction, the field
225 supervisor, upon receiving a written request from the probationer,



226 shall forward a written report of the record of the probationer to
227 the Department of Probation and Parole, which shall present a copy
228 of this report to the Governor. The Governor may, in his
229 discretion, at any time thereafter by appropriate executive order
230 restore any civil rights lost by the probationer by virtue of his
231 conviction or plea of guilty in the court of original
232 jurisdiction.

233 **SECTION 8.** Section 47-7-49, Mississippi Code of 1972, is
234 amended as follows:

235 47-7-49. (1) Any offender on probation, parole,
236 earned-release supervision, post-release supervision, earned
237 probation or any other offender under the field supervision of the
238 Department of Probation and Parole shall pay to the department the
239 sum of Thirty Dollars (\$30.00) per month by certified check or
240 money order unless a hardship waiver is granted. A hardship
241 waiver may be granted by the sentencing court or the Department of
242 Probation and Parole. A hardship waiver may not be granted for a
243 period of time exceeding ninety (90) days. The executive
244 director, or his designee, shall deposit Twenty-five Dollars
245 (\$25.00) of the payments received into a special fund in the State
246 Treasury, which is hereby created, to be known as the Probation
247 and Parole Service Revolving Fund. Expenditures from this fund
248 shall be made for: (a) the establishment of restitution and
249 satellite centers; and (b) the establishment, administration and
250 operation of the department's Drug Identification Program and the
251 intensive and field supervision program. The Twenty-five Dollars
252 (\$25.00) may be used for salaries and to purchase equipment,
253 supplies and vehicles to be used by the Department of Probation
254 and Parole in the performance of its duties. Expenditures for the
255 purposes established in this section may be made from the fund
256 upon requisition by the executive director, or his designee.

257 Of the remaining amount, Three Dollars (\$3.00) of the
258 payments shall be deposited in the Crime Victims' Compensation



259 Fund created in Section 99-41-29, Two Dollars (\$2.00) shall be
260 deposited into the Training Revolving Fund created pursuant to
261 Section 47-7-51. When a person is convicted of a felony in this
262 state, in addition to any other sentence it may impose, the court
263 may, in its discretion, order the offender to pay a state
264 assessment not to exceed the greater of One Thousand Dollars
265 (\$1,000.00) or the maximum fine that may be imposed for the
266 offense, into the Crime Victims' Compensation Fund created
267 pursuant to Section 99-41-29.

268 Any federal funds made available to the department for
269 training or for training facilities, equipment or services shall
270 be deposited in the Correctional Training Revolving Fund created
271 in Section 47-7-51. The funds deposited in this account shall be
272 used to support an expansion of the department's training program
273 to include the renovation of facilities for training purposes,
274 purchase of equipment and contracting of training services with
275 community colleges in the state.

276 No offender shall be required to make this payment for a
277 period of time longer than ten (10) years.

278 (2) The offender may be imprisoned until the payments are
279 made if the offender is financially able to make the payments and
280 the court in the county where the offender resides so finds,
281 subject to the limitations hereinafter set out. The offender
282 shall not be imprisoned if the offender is financially unable to
283 make the payments and so states to the court in writing, under
284 oath, and the court so finds.

285 (3) This section shall stand repealed from and after June
286 30, 2004.

287 **SECTION 9.** Section 99-15-127, Mississippi Code of 1972, is
288 amended as follows:

289 99-15-127. The Department of Probation and Parole is
290 directed to support Sections 99-15-101 through 99-15-127 to the
291 extent that field support personnel are available in circuit court



292 districts, and the Executive Director of the Department of
293 Probation and Parole shall certify to the court that the
294 department has sufficient field parole officers to supervise and
295 oversee those individuals who may be placed in this program by the
296 court.

297 **SECTION 10.** Section 99-19-45, Mississippi Code of 1972, is
298 amended as follows:

299 99-19-45. The clerks of the circuit court of the counties in
300 the State of Mississippi shall furnish the Mississippi Department
301 of Corrections, within five (5) days after adjournment of court, a
302 commitment paper showing the name of the person convicted, the
303 crime, term of sentence, date of sentence, sex, race, and a brief
304 history of the crime committed.

305 The clerks shall also furnish the Department of Probation and
306 Parole, within five (5) days after adjournment of such court, a
307 certified copy of the probation order of an individual who is
308 placed on probation under the supervision * * * of the department.
309 Such order shall provide the name of the person placed on
310 probation, the crime, term of sentence, date of sentence, period
311 of probation, sex, race, and a brief history of the crime
312 committed.

313 As compensation for such services they shall receive the sum
314 of Fifty Cents (50¢) for each transcript, and the sum shall be
315 paid out of the treasury of the county, with the approval of the
316 board of supervisors, on the filing of a bill for such service.

317 **SECTION 11.** Section 99-19-48, Mississippi Code of 1972, is
318 amended as follows:

319 99-19-48. The following form, to be furnished by the county,
320 shall be used in transmitting the required data for any individual
321 placed on probation under the supervision * * * of the Department
322 of Probation and Parole:

323 "Circuit Court, County of _____.

324 To the Mississippi Department of Probation and Parole:



325 You are hereby notified that at the _____ term, 2____, of
326 the circuit court, Judge _____ presiding, the following
327 named person was tried, convicted and sentenced to a term in the
328 State Penitentiary. The sentence was suspended and the person was
329 placed on probation:

330 Name _____ Alias _____

331 Date of sentence _____ Crime _____

332 Term of sentence _____ Sex _____

333 Race _____ Appealed _____

334 Remarks: Give brief summary of crime committed. _____

335 _____

336 _____

337 _____

338 Dated _____, 2____. _____ Clerk."

339 **SECTION 12.** This act shall take effect and be in force from
340 and after July 1, 2003.

