

By: Representatives Scott, Banks, Blackmon,
Buck, Burnett, Clarke, Coleman (65th),
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To: Juvenile Justice;
Appropriations

HOUSE BILL NO. 1645

1 AN ACT TO CREATE AN INTENSIVE SUPERVISION PROGRAM TO BE KNOWN
2 AS THE "HOME DETENTION FOR JUVENILES PROGRAM" FOR THE PLACEMENT OF
3 JUVENILES UNDER HOUSE ARREST; TO REQUIRE THE DEPARTMENT OF HUMAN
4 SERVICES TO ESTABLISH THE PROGRAM AS A DISPOSITIONAL ALTERNATIVE
5 IN DELINQUENCY CASES AND TO PROMULGATE RULES FOR PARTICIPATION IN
6 THE PROGRAM; TO REQUIRE PARTICIPANTS TO PAY A MONTHLY FEE TO HELP
7 DEFRAY THE COSTS OF THE PROGRAM; TO AMEND SECTION 43-21-605,
8 MISSISSIPPI CODE OF 1972, TO ESTABLISH PLACEMENT IN THE INTENSIVE
9 SUPERVISION PROGRAM AS A DISPOSITIONAL ALTERNATIVE IN DELINQUENCY
10 CASES; AND FOR RELATED PURPOSES.

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

12 **SECTION 1.** (1) For purposes of this section, the following
13 words and phrases shall have the meaning ascribed in this
14 subsection, unless the context requires otherwise:

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

19 (b) "Court" means any court of this state having
20 jurisdiction to place a juvenile offender in the Home Detention
21 for Juveniles Program.

22 (c) "Department" means the Department of Human
23 Services.

24 (d) "Home Detention for Juveniles Program" means the
25 intensive supervision program operated by the department for the
26 placement of certain juveniles under house arrest.

27 (e) "House arrest" means the confinement of a juvenile,
28 as a dispositional alternative in a delinquency case, to his place
29 of residence under the terms and conditions established by the
30 department or court.

31 (f) "Participant" means a juvenile placed into the Home
32 Detention for Juveniles Program.

33 (2) The Department of Human Services, Office of Youth
34 Services, shall establish an intensive supervision program that
35 may be used as a dispositional alternative in delinquency cases
36 for children who are low risk and nonviolent as selected by the
37 department or court. The program shall accommodate no less than
38 one thousand five hundred (1,500) children. Any child convicted
39 of a sex crime may not be placed in the program.

40 (3) The department shall promulgate rules that participants
41 enrolled in the intensive supervision program shall be required to
42 follow. The rules shall include, but not be limited to, the
43 following:

44 (a) Each child referred to the program must take an
45 alcohol and drug test before being placed in the program. The
46 department shall assess the child or the child's legal guardian a
47 fee of Ten Dollars (\$10.00) to apply toward the cost of the test.
48 If the test results are positive, the child must receive alcohol
49 and drug treatment during his participation in the program.

50 (b) A participant must remain within the interior
51 premises or within the property boundaries of his or her residence
52 at all time during the hours designated by the department.

53 (c) Approved absences from the home shall include, but
54 are not limited to:

55 (i) Attendance on a full-time basis at an approved
56 school or in an alternative school program;

57 (ii) Attendance at an inpatient or outpatient
58 treatment facility for alcohol and drug dependence; and

59 (iii) Attendance at an educational facility for
60 the purpose of preparing to take the General Educational
61 Development (GED) test.

62 (d) No child shall be placed in the program for a
63 period of less than six (6) months.

64 (e) A participant must meet any other condition imposed
65 by the court to meet the needs of the participant and to limit the
66 risks to the community.

67 (4) The department shall select and approve all electronic
68 monitoring devices used under this section. The department may
69 lease the equipment necessary to implement the intensive
70 supervision program and may contract for the monitoring of such
71 devices. The department shall select the best source and price in
72 contracting for such services.

73 (5) Each participant in the intensive supervision program
74 shall pay a monthly fee to the department for each month such
75 person is enrolled in the program. The fee shall be no less than
76 Ten Dollars (\$10.00) and not more than Fifty Dollars (\$50.00) per
77 month, as determined by the department on a sliding scale using
78 the standard of need for each family that is used to calculate
79 TANF benefits. The fee shall be in addition to any criminal or
80 civil fines assessed against the offender. Money received by the
81 department from participants shall be used for the purpose of
82 helping to defray the costs involved in administering and
83 supervising the program.

84 (6) If any participant violates the terms or conditions of
85 his or her participation in the intensive supervision program, the
86 court may amend the disposition order to impose any disposition
87 alternative under Section 43-21-605 which the court could have
88 originally ordered.

89 **SECTION 2.** Section 43-21-605, Mississippi Code of 1972, is
90 amended as follows:

91 43-21-605. (1) In delinquency cases, the disposition order
92 may include any of the following alternatives:

93 (a) Release the child without further action;

94 (b) Place the child in the custody of the parents, a
95 relative or other persons subject to any conditions and

96 limitations, including restitution, as the youth court may
97 prescribe;

98 (c) Place the child on probation subject to any
99 reasonable and appropriate conditions and limitations, including
100 restitution, as the youth court may prescribe;

101 (d) Order terms of treatment calculated to assist the
102 child and the child's parents or guardian which are within the
103 ability of the parent or guardian to perform;

104 (e) Order terms of supervision which may include
105 participation in a constructive program of service or education or
106 civil fines not in excess of Five Hundred Dollars (\$500.00), or
107 restitution not in excess of actual damages caused by the child to
108 be paid out of his own assets or by performance of services
109 acceptable to the victims and approved by the youth court and
110 reasonably capable of performance within one (1) year;

111 (f) Suspend the child's driver's license by taking and
112 keeping it in custody of the court for not more than one (1) year;

113 (g) Give legal custody of the child to any of the
114 following:

115 (i) The Department of Human Services for
116 appropriate placement; or

117 (ii) Any public or private organization,
118 preferably community-based, able to assume the education, care and
119 maintenance of the child, which has been found suitable by the
120 court; or

121 (iii) The Department of Human Services for
122 placement in a wilderness training program or a state-supported
123 training school, except that no child under the age of ten (10)
124 years shall be committed to a state training school. The training
125 school may retain custody of the child until the child's twentieth
126 birthday but for no longer. The superintendent of a state
127 training school may parole a child at any time he may deem it in
128 the best interest and welfare of such child. Twenty (20) days

129 prior to such parole, the training school shall notify the
130 committing court of the pending release. The youth court may then
131 arrange subsequent placement after a reconvened disposition
132 hearing except that the youth court may not recommit the child to
133 the training school or any other secure facility without an
134 adjudication of a new offense or probation or parole violation.
135 Prior to assigning the custody of any child to any private
136 institution or agency, the youth court through its designee shall
137 first inspect the physical facilities to determine that they
138 provide a reasonable standard of health and safety for the child.
139 The youth court shall not place a child in the custody of a state
140 training school for truancy, unless such child has been
141 adjudicated to have committed an act of delinquency in addition to
142 truancy; or

143 (iv) The Department of Human Services for
144 placement in the Home Detention for Juveniles Program created
145 under Section 1 of this act;

146 (h) Recommend to the child and the child's parents or
147 guardian that the child attend and participate in the Youth
148 Challenge Program under the Mississippi National Guard, as created
149 in Section 43-27-203, subject to the selection of the child for
150 the program by the National Guard; however, the child must
151 volunteer to participate in the program. The youth court may not
152 order any child to apply or attend the program;

153 (i) (i) Adjudicate the juvenile to the Statewide
154 Juvenile Work Program if the program is established in the court's
155 jurisdiction. The juvenile and his parents or guardians must sign
156 a waiver of liability in order to participate in the work program.
157 The judge will coordinate with the youth services counselors as to
158 placing participants in the work program;

159 (ii) The severity of the crime, whether or not the
160 juvenile is a repeat offender or is a felony offender will be
161 taken into consideration by the judge when adjudicating a juvenile

162 to the work program. The juveniles adjudicated to the work
163 program will be supervised by police officers or reserve officers.
164 The term of service will be from twenty-four (24) to one hundred
165 twenty (120) hours of community service. A juvenile will work the
166 hours to which he was adjudicated on the weekends during school
167 and week days during the summer. Parents are responsible for a
168 juvenile reporting for work. Noncompliance with an order to
169 perform community service will result in a heavier adjudication.
170 A juvenile may be adjudicated to the community service program
171 only two (2) times;

172 (iii) The judge shall assess an additional fine on
173 the juvenile which will be used to pay the costs of implementation
174 of the program and to pay for supervision by police officers and
175 reserve officers. The amount of the fine will be based on the
176 number of hours to which the juvenile has been adjudicated;

177 (j) Order the child to participate in a youth court
178 work program as provided in Section 43-21-627; or

179 (k) Order the child into a juvenile detention center
180 operated by the county or into a juvenile detention center
181 operated by any county with which the county in which the court is
182 located has entered into a contract for the purpose of housing
183 delinquents. The time period for such detention cannot exceed
184 ninety (90) days. The youth court judge may order that the number
185 of days specified in the detention order be served either
186 throughout the week or on weekends only.

187 (2) In addition to any of the disposition alternatives
188 authorized under subsection (1) of this section, the disposition
189 order in any case in which the child is adjudicated delinquent for
190 an offense under Section 63-11-30 shall include an order denying
191 the driver's license and driving privileges of the child as
192 required under subsection (8) of Section 63-11-30.

193 (3) Fines levied under this chapter shall be paid into the
194 general fund of the county but, in those counties wherein the

195 youth court is a branch of the municipal government, it shall be
196 paid into the municipal treasury.

197 (4) Any institution or agency to which a child has been
198 committed shall give to the youth court any information concerning
199 the child as the youth court may at any time require.

200 (5) The youth court shall not place a child in another
201 school district who has been expelled from a school district for
202 the commission of a violent act. For the purpose of this
203 subsection, "violent act" means any action which results in death
204 or physical harm to another or an attempt to cause death or
205 physical harm to another.

206 (6) The youth court may require drug testing as part of a
207 disposition order. If a child tests positive, the court may
208 require treatment, counseling and random testing, as it deems
209 appropriate. The costs of such tests shall be paid by the parent,
210 guardian or custodian of the child unless the court specifically
211 finds that the parent, guardian or custodian is unable to pay.

212 **SECTION 3.** This act shall take effect and be in force from
213 and after July 1, 2004.