

By: Representative Snowden

To: Corrections

## HOUSE BILL NO. 910

1 AN ACT TO REENACT SECTIONS 47-5-1001, 47-5-1003, 47-5-1005,  
2 47-5-1007, 47-5-1009, 47-5-1011, 47-5-1013 AND 47-5-1015,  
3 MISSISSIPPI CODE OF 1972, WHICH ESTABLISH THE INTENSIVE  
4 SUPERVISION PROGRAM AND PERMIT A COURT TO PLACE AN OFFENDER IN THE  
5 PROGRAM AS AN ALTERNATIVE TO INCARCERATION, PROVIDE RULES AND  
6 GUIDELINES FOR OPERATION OF THE PROGRAM, PROVIDE PAYMENT OF FEES  
7 BY PARTICIPANTS OF THE PROGRAM AND WHICH WERE REPEALED BY  
8 OPERATION OF LAW ON JULY 1, 2004; TO AMEND REENACTED SECTION  
9 47-5-1003, MISSISSIPPI CODE OF 1972, TO REVISE THE ELIGIBILITY  
10 REQUIREMENTS FOR THE INTENSIVE SUPERVISION PROGRAM; TO REMOVE  
11 AUTHORITY OF THE DEPARTMENT OF CORRECTIONS TO SELECT OFFENDERS TO  
12 BE PLACED IN THE PROGRAM; TO AMEND REENACTED SECTIONS 47-5-1009  
13 AND 47-5-1011, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; TO  
14 AMEND REENACTED SECTION 47-5-1015, MISSISSIPPI CODE OF 1972, TO  
15 EXTEND THE DATE OF REPEAL ON THE REENACTED SECTIONS FROM JUNE 30,  
16 2004, TO JUNE 30, 2006; AND FOR RELATED PURPOSES.

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

18 **SECTION 1.** Section 47-5-1001, Mississippi Code of 1972, is  
19 reenacted as follows:

20 47-5-1001. For purposes of Sections 47-5-1001 through  
21 47-5-1015, the following words shall have the meaning ascribed  
22 herein unless the context shall otherwise require:

23 (a) "Approved electronic monitoring device" means a  
24 device approved by the department which is primarily intended to  
25 record and transmit information regarding the offender's presence  
26 or nonpresence in the home.

27 (b) "Correctional field officer" means the supervising  
28 probation and parole officer in charge of supervising the  
29 offender.

30 (c) "Court" means a circuit court having jurisdiction  
31 to place an offender to the intensive supervision program.

32 (d) "Department" means the Department of Corrections.

33 (e) "House arrest" means the confinement of a person  
34 convicted or charged with a crime to his place of residence under  
35 the terms and conditions established by the department or court.

36 (f) "Operating capacity" means the total number of  
37 state offenders which can be safely and reasonably housed in  
38 facilities operated by the department and in local or county jails  
39 or other facilities authorized to house state offenders as  
40 certified by the department, subject to applicable federal and  
41 state laws and rules and regulations.

42 (g) "Participant" means an offender placed into an  
43 intensive supervision program.

44 **SECTION 2.** Section 47-5-1003, Mississippi Code of 1972, is  
45 reenacted and amended as follows:

46 47-5-1003. (1) An intensive supervision program may be used  
47 as an alternative to incarceration for offenders who are low risk  
48 and nonviolent as sentenced by the \* \* \* court. Any offender  
49 convicted of a sex crime or a felony violation of Section  
50 41-29-139(a)(1) shall not be placed in the program. Any offender  
51 who has ever been previously convicted of any felony, regardless  
52 of whether the crime for which he might be eligible for placement  
53 under this section is a felony, shall not be placed in the  
54 program. Any offender who has ever been sentenced as an habitual  
55 offender shall not be placed in the program.

56 (2) The court placing an offender in the intensive  
57 supervision program may, acting upon the advice and consent of the  
58 commissioner and not later than one (1) year after the defendant  
59 has been delivered to the custody of the department, suspend the  
60 further execution of the sentence and place the defendant on  
61 intensive supervision, except when a death sentence or life  
62 imprisonment is the maximum penalty which may be imposed or if the  
63 defendant has been confined for the conviction of a felony on a  
64 previous occasion in any court or courts of the United States and

65 of any state or territories thereof or has been convicted of a  
66 felony involving the use of a deadly weapon.

67 (3) To protect and to ensure the safety of the state's  
68 citizens, any offender who violates an order or condition of the  
69 intensive supervision program shall be arrested by the  
70 correctional field officer and placed in the actual custody of the  
71 Department of Corrections. Such offender is under the full and  
72 complete jurisdiction of the department and subject to removal  
73 from the program by the classification hearing officer.

74 (4) When any circuit or county court places an offender in  
75 an intensive supervision program, the court shall give notice to  
76 the Mississippi Department of Corrections within fifteen (15) days  
77 of the court's decision to place the offender in an intensive  
78 supervision program. Notice shall be delivered to the central  
79 office of the Mississippi Department of Corrections and to the  
80 regional office of the department which will be providing  
81 supervision to the offender in an intensive supervision program.

82 The courts may not require an offender to complete the  
83 intensive supervision program as a condition of probation or  
84 post-release supervision.

85 **SECTION 3.** Section 47-5-1005, Mississippi Code of 1972, is  
86 reenacted as follows:

87 47-5-1005. (1) The department shall promulgate rules that  
88 prescribe reasonable guidelines under which an intensive  
89 supervision program shall operate. These rules shall include, but  
90 not be limited to, the following:

91 (a) The participant shall remain within the interior  
92 premises or within the property boundaries of his or her residence  
93 at all times during the hours designated by the correctional field  
94 officer.

95 (b) Approved absences from the home may include, but  
96 are not limited to, the following:

97 (i) Working or employment approved by the court or  
98 department and traveling to or from approved employment;

99 (ii) Unemployed and seeking employment approved  
100 for the participant by the court or department;

101 (iii) Undergoing medical, psychiatric, mental  
102 health treatment, counseling or other treatment programs approved  
103 for the participant by the court or department;

104 (iv) Attending an educational institution or a  
105 program approved for the participant by the court or department;

106 (v) Participating in community work release or  
107 community service program approved for the participant by the  
108 court or department; or

109 (vi) For another compelling reason consistent with  
110 the public interest, as approved by the court or department.

111 (2) The department shall select and approve all electronic  
112 monitoring devices used under Sections 47-5-1001 through  
113 47-5-1015.

114 (3) The department may lease the equipment necessary to  
115 implement the intensive supervision program and to contract for  
116 the monitoring of such devices. The department is authorized to  
117 select the lowest price and best source in contracting for these  
118 services.

119 **SECTION 4.** Section 47-5-1007, Mississippi Code of 1972, is  
120 reenacted as follows:

121 47-5-1007. (1) Any participant in the intensive supervision  
122 program who engages in employment shall pay a monthly fee to the  
123 department for each month such person is enrolled in the program.  
124 The department may waive the monthly fee if the offender is a  
125 full-time student or is engaged in vocational training. Money  
126 received by the department from participants in the program shall  
127 be deposited into a special fund which is hereby created in the  
128 State Treasury. It shall be used, upon appropriation by the  
129 Legislature, for the purpose of helping to defray the costs

130 involved in administering and supervising such program.  
131 Unexpended amounts remaining in such special fund at the end of a  
132 fiscal year shall not lapse into the State General Fund, and any  
133 interest earned on amounts in such special fund shall be deposited  
134 to the credit of the special fund.

135 (2) The participant shall admit any correctional officer  
136 into his residence at any time for purposes of verifying the  
137 participant's compliance with the conditions of his detention.

138 (3) The participant shall make the necessary arrangements to  
139 allow for correctional officers to visit the participant's place  
140 of education or employment at any time, based upon the approval of  
141 the educational institution or employer, for the purpose of  
142 verifying the participant's compliance with the conditions of his  
143 detention.

144 (4) The participant shall acknowledge and participate with  
145 the approved electronic monitoring device as designated by the  
146 department at any time for the purpose of verifying the  
147 participant's compliance with the conditions of his detention.

148 (5) The participant shall be responsible for and shall  
149 maintain the following:

150 (a) A working telephone line in the participant's home;

151 (b) A monitoring device in the participant's home, or  
152 on the participant's person or both; and

153 (c) A monitoring device in the participant's home and  
154 on the participant's person in the absence of a telephone.

155 (6) The participant shall obtain approval from the  
156 correctional field officer before the participant changes  
157 residence.

158 (7) The participant shall not commit another crime during  
159 the period of home detention ordered by the court or department.

160 (8) Notice shall be given to the participant that violation  
161 of the order of home detention shall subject the participant to  
162 prosecution for the crime of escape as a felony.

163 (9) The participant shall abide by other conditions as set  
164 by the department.

165 **SECTION 5.** Section 47-5-1009, Mississippi Code of 1972, is  
166 reenacted and amended as follows:

167 47-5-1009. (1) The department shall have absolute immunity  
168 from liability for any injury resulting from a determination by a  
169 judge \* \* \* that an offender shall be allowed to participate in  
170 the electronic home detention program.

171 (2) The Department of Audit shall annually audit the records  
172 of the department to ensure compliance with Sections 47-5-1001  
173 through 47-5-1015.

174 **SECTION 6.** Section 47-5-1011, Mississippi Code of 1972, is  
175 reenacted and amended as follows:

176 47-5-1011. (1) Before entering an order for commitment for  
177 electronic house arrest, the sentencing court shall inform the  
178 participant and other persons residing in the home of the nature  
179 and extent of the approved electronic monitoring devices by doing  
180 the following:

181 (a) Securing the written consent of the participant in  
182 the program to comply with the rules and regulations of the  
183 program.

184 (b) Advising adult persons residing in the home of the  
185 participant at the time an order or commitment for electronic  
186 house arrest is entered and asking such persons to acknowledge the  
187 nature and extent of approved electronic monitoring devices.

188 (c) Insuring that the approved electronic devices are  
189 minimally intrusive upon the privacy of other persons residing in  
190 the home while remaining in compliance with Sections 47-5-1001  
191 through 47-5-1015.

192 (2) The participant shall be responsible for the cost of  
193 equipment and any damage to such equipment. Any intentional  
194 damage, any attempt to defeat monitoring, any committing of a

195 criminal offense or any associating with felons or known  
196 criminals, shall constitute a violation of the program.

197 (3) Any person whose residence is utilized in the program  
198 shall agree to keep the home drug and alcohol free and to exclude  
199 known felons and criminals in order to provide a noncriminal  
200 environment.

201 **SECTION 7.** Section 47-5-1013, Mississippi Code of 1972, is  
202 reenacted as follows:

203 47-5-1013. Participants enrolled in an intensive supervision  
204 program shall be required to:

205 (a) Maintain employment if physically able, or  
206 full-time student status at an approved school or vocational  
207 trade, and make progress deemed satisfactory to the correctional  
208 field officer, or both, or be involved in supervised job searches.

209 (b) Pay restitution and program fees as directed by the  
210 department. Program fees shall not be less than Fifty Dollars  
211 (\$50.00) nor more than the actual cost of the program. The  
212 sentencing judge may charge a program fee of less than Fifty  
213 Dollars (\$50.00) in cases of extreme financial hardship, when such  
214 judge determines that the offender's participation in the program  
215 would provide a benefit to his community. Program fees shall be  
216 deposited in the special fund created in Section 47-5-1007.

217 (c) Establish a place of residence at a place approved  
218 by the correctional field officer, and not change his residence  
219 without the officer's approval. The correctional officer shall be  
220 allowed to inspect the place of residence for alcoholic beverages,  
221 controlled substances and drug paraphernalia.

222 (d) Remain at his place of residence at all times  
223 except to go to work, to attend school, to perform community  
224 service and as specifically allowed in each instance by the  
225 correctional field officer.

226 (e) Allow administration of drug and alcohol tests as  
227 requested by the field officer.

228           (f) Perform not less than ten (10) hours of community  
229 service each month.

230           (g) Meet any other conditions imposed by the court to  
231 meet the needs of the offender and limit the risks to the  
232 community.

233           **SECTION 8.** Section 47-5-1015, Mississippi Code of 1972, is  
234 reenacted and amended as follows:

235           47-5-1015. Sections 47-5-1001 through 47-5-1015 shall stand  
236 repealed after June 30, 2006.

237           **SECTION 9.** This act shall take effect and be in force from  
238 and after July 1, 2005.