

By: Representatives Mayo, Compretta, Gunn,
Martinson, Reynolds, Moore, Formby, Wells-
Smith

To: Corrections

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 192

1 AN ACT TO CREATE NEW SECTION 99-19-84, MISSISSIPPI CODE OF
2 1972, TO MANDATE ELECTRONIC SUPERVISION FOR CERTAIN SEX OFFENDERS
3 UPON EXPIRATION OF ANY TERM OF INCARCERATION, AND TO REQUIRE
4 CERTAIN SEX OFFENDERS TO BE TESTED FOR SEXUAL ENHANCEMENT DRUGS;
5 TO CREATE NEW SECTION 47-5-1017, MISSISSIPPI CODE OF 1972, TO
6 REQUIRE THE DEPARTMENT OF CORRECTIONS TO USE A CERTAIN SYSTEM WHEN
7 ELECTRONICALLY MONITORING CERTAIN OFFENDERS; TO CREATE NEW SECTION
8 47-5-1019, MISSISSIPPI CODE OF 1972, TO PROVIDE THE PUNISHMENT FOR
9 TAMPERING WITH AN ELECTRONIC MONITORING DEVICE; TO CREATE NEW
10 SECTION 47-5-1020, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT
11 CERTAIN SEX OFFENDERS SHALL PAY A PROGRAM FEE TO BE ELECTRONICALLY
12 MONITORED; TO AMEND SECTIONS 47-7-37 AND 47-7-34, MISSISSIPPI CODE
13 OF 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

15 **SECTION 1.** The following shall be codified as Section
16 99-19-84, Mississippi Code of 1972:

17 99-19-84. (1) Any person who has, before the passage of
18 this act, committed a sex offense or attempted sex offense as
19 defined in Section 45-33-23 and is convicted thereof shall be
20 placed on electronic monitoring upon release from incarceration
21 for the entire length of his or her parole, probation,
22 post-release supervision, or other form of supervision by the
23 Department of Corrections.

24 (2) Any person who commits a sex offense or attempted sex
25 offense as defined in Section 45-33-23 on or after the effective
26 date of this act and is convicted thereof shall be placed on
27 electronic monitoring upon release from incarceration for the
28 entire length of his or her probation, post-release supervision,
29 or other form of supervision by the Department of Corrections.

30 (3) Any person who commits a sex offense or attempted sex
31 offense as defined in Section 45-33-23 on or after the effective
32 date of this act and is convicted thereof, and the unlawful

33 activity involved a victim who was under sixteen (16) years of age
34 and the offender was eighteen (18) years of age or older shall be
35 placed on electronic monitoring for life after his or her release
36 from incarceration.

37 (4) Any person who is placed on electronic monitoring, as
38 prescribed in this section, must submit to a monthly drug test to
39 detect the presence of sexual enhancement drugs. Such monthly
40 testing shall occur for the entire duration that the offender is
41 on electronic monitoring. The offender shall pay the costs of the
42 testing and such testing shall be administered by the department.

43 **SECTION 2.** The following shall be codified as Section
44 47-5-1017, Mississippi Code of 1972:

45 47-5-1017. The department shall electronically monitor an
46 offender sentenced pursuant to Section 99-19-84. The department,
47 when electronically monitoring a sex offender, must use a system
48 that monitors and identifies the offender's location and timely
49 reports or records the offender's presence near or within
50 prohibited areas or the offender's departure from specified
51 geographic limitations. The department shall promulgate rules
52 that prescribe reasonable guidelines under which electronic
53 monitoring shall be carried out pursuant to Section 99-19-84.

54 **SECTION 3.** The following shall be codified as Section
55 47-5-1019, Mississippi Code of 1972:

56 47-5-1019. A person who intentionally alters, tampers with,
57 damages or destroys any electronic monitoring equipment utilized
58 pursuant to Section 99-19-84, unless the person is the owner of
59 the equipment or an agent of the owner performing ordinary
60 maintenance and repairs, commits a felony punishable by
61 imprisonment not to exceed five (5) years in the custody of the
62 Department of Corrections.

63 **SECTION 4.** Section 47-7-34, Mississippi Code of 1972, is
64 amended as follows:

65 47-7-34. (1) When a court imposes a sentence upon a
66 conviction for any felony committed after June 30, 1995, the
67 court, in addition to any other punishment imposed if the other
68 punishment includes a term of incarceration in a state or local
69 correctional facility, may impose a term of post-release
70 supervision. However, the total number of years of incarceration
71 plus the total number of years of post-release supervision shall
72 not exceed the maximum sentence authorized to be imposed by law
73 for the felony committed. The defendant shall be placed under
74 post-release supervision upon release from the term of
75 incarceration. The period of supervision shall be established by
76 the court.

77 (2) The period of post-release supervision shall be
78 conducted in the same manner as a like period of supervised
79 probation, including a requirement that the defendant shall abide
80 by any terms and conditions as the court may establish. Failure
81 to successfully abide by the terms and conditions shall be grounds
82 to terminate the period of post-release supervision and to
83 recommit the defendant to the correctional facility from which he
84 was previously released. Procedures for termination and
85 recommitment shall be conducted in the same manner as procedures
86 for the revocation of probation and imposition of a suspended
87 sentence.

88 (3) Post-release supervision programs shall be operated
89 through the probation and parole unit of the Division of Community
90 Corrections of the department. The maximum amount of time that
91 the Mississippi Department of Corrections may supervise an
92 offender on the post-release supervision program is five (5)
93 years.

94 (4) The provisions of this section shall not affect the
95 electronic monitoring of a sex offender pursuant to Section
96 94-19-84.

97 **SECTION 5.** Section 47-7-37, Mississippi Code of 1972, is
98 amended as follows:

99 47-7-37. The period of probation shall be fixed by the
100 court, and may at any time be extended or terminated by the court,
101 or judge in vacation. Such period with any extension thereof
102 shall not exceed five (5) years, except that in cases of desertion
103 and/or failure to support minor children, the period of probation
104 may be fixed and/or extended by the court for so long as the duty
105 to support such minor children exists.

106 At any time during the period of probation the court, or
107 judge in vacation, may issue a warrant for violating any of the
108 conditions of probation or suspension of sentence and cause the
109 probationer to be arrested. Any probation and parole officer may
110 arrest a probationer without a warrant, or may deputize any other
111 officer with power of arrest to do so by giving him or her a
112 written statement setting forth that the probationer has, in the
113 judgment of the probation and parole officer, violated the
114 conditions of probation. Such written statement delivered with
115 the probationer by the arresting officer to the official in charge
116 of a county jail or other place of detention shall be sufficient
117 warrant for the detention of the probationer.

118 The probation and parole officer after making an arrest shall
119 present to the detaining authorities a similar statement of the
120 circumstances of violation. The probation and parole officer
121 shall at once notify the court of the arrest and detention of the
122 probationer and shall submit a report in writing showing in what
123 manner the probationer has violated the conditions of probation.
124 Thereupon, or upon an arrest by warrant as herein provided, the
125 court, in termtime or vacation, shall cause the probationer to be
126 brought before it and may continue or revoke all or any part of
127 the probation or the suspension of sentence, and may cause the
128 sentence imposed to be executed or may impose any part of the
129 sentence which might have been imposed at the time of conviction.

130 If the probationer is arrested in a circuit court district in
131 the State of Mississippi other than that in which he or she was
132 convicted, the probation and parole officer, upon the written
133 request of the sentencing judge, shall furnish to the circuit
134 court or the county court of the county in which the arrest is
135 made, or to the judge of such court, a report concerning the
136 probationer, and such court or the judge in vacation shall have
137 authority, after a hearing, to continue or revoke all or any part
138 of probation or all or any part of the suspension of sentence, and
139 may in case of revocation proceed to deal with the case as if
140 there had been no probation. In such case, the clerk of the court
141 in which the order of revocation is issued shall forward a
142 transcript of such order to the clerk of the court of original
143 jurisdiction, and the clerk of that court shall proceed as if the
144 order of revocation had been issued by the court of original
145 jurisdiction. Upon the revocation of probation or suspension of
146 sentence of any offender, such offender shall be placed in the
147 legal custody of the State Department of Corrections and shall be
148 subject to the requirements thereof.

149 Any probationer who removes himself or herself from the State
150 of Mississippi without permission of the court placing him on
151 probation, or the court to which jurisdiction has been
152 transferred, shall be deemed and considered a fugitive from
153 justice and shall be subject to extradition as now provided by
154 law. No part of the time that one is on probation shall be
155 considered as any part of the time that he or she shall be
156 sentenced to serve.

157 The arresting officer, except when a probation and parole
158 officer, shall be allowed the same fees as now provided by law for
159 arrest on warrant, and such fees shall be taxed against the
160 probationer and paid as now provided by law.

161 The arrest, revocation and recommitment procedures of this
162 section also apply to persons who are serving a period of
163 post-release supervision imposed by the court.

164 The provisions of this section shall not affect electronic
165 monitoring of a sex offender pursuant to Section 99-19-84.

166 **SECTION 6.** The following shall be codified as Section
167 47-5-1020, Mississippi Code of 1972:

168 47-5-1020. Sex offenders who are electronically monitored by
169 the department, pursuant to Section 99-19-84, shall pay fees as
170 directed by the department. Program fees shall not be less than
171 Seventy-five Dollars (\$75.00) per month except in cases of extreme
172 financial hardship as determined by the department.

173 **SECTION 7.** This act shall take effect and be in force from
174 and after January 1, 2007.