

By: Representative Warren

To: Corrections

HOUSE BILL NO. 583

1 AN ACT TO REENACT SECTIONS 47-5-1001 THROUGH 47-5-1013,
 2 MISSISSIPPI CODE OF 1972, WHICH PERMIT A COURT TO PLACE AN
 3 OFFENDER IN THE INTENSIVE SUPERVISION PROGRAM AS AN ALTERNATIVE TO
 4 INCARCERATION, ESTABLISHES RULES AND GUIDELINES FOR OPERATION OF
 5 THE PROGRAM AND PROVIDES PAYMENT OF FEES BY PARTICIPANTS FOR SUCH
 6 PROGRAM; TO AMEND SECTION 47-5-1015, MISSISSIPPI CODE OF 1972, TO
 7 EXTEND THE DATE OF REPEAL ON THOSE REENACTED SECTIONS; AND FOR
 8 RELATED PURPOSES.

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

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

12 47-5-1001. For purposes of Sections 47-5-1001 through
 13 47-5-1015, the following words shall have the meaning ascribed
 14 herein unless the context shall otherwise require:

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 offender's presence
 18 or nonpresence in the home.

19 (b) "Correctional field officer" means the supervising
 20 probation and parole officer in charge of supervising the
 21 offender.

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

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

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

28 (f) "Operating capacity" means the total number of
 29 state offenders which can be safely and reasonably housed in
 30 facilities operated by the department and in local or county jails

31 or other facilities authorized to house state offenders as
32 certified by the department, subject to applicable federal and
33 state laws and rules and regulations.

34 (g) "Participant" means an offender placed into an
35 intensive supervision program.

36 **SECTION 2.** Section 47-5-1003, Mississippi Code of 1972, is
37 reenacted as follows:

38 47-5-1003. (1) An intensive supervision program may be used
39 as an alternative to incarceration for offenders who are low risk
40 and nonviolent as selected by the department or court. Any
41 offender convicted of a sex crime or a felony violation of Section
42 41-29-139(a)(1) shall not be placed in the program.

43 (2) The court placing an offender in the intensive
44 supervision program may, acting upon the advice and consent of the
45 commissioner and not later than one (1) year after the defendant
46 has been delivered to the custody of the department, suspend the
47 further execution of the sentence and place the defendant on
48 intensive supervision, except when a death sentence or life
49 imprisonment is the maximum penalty which may be imposed or if the
50 defendant has been confined for the conviction of a felony on a
51 previous occasion in any court or courts of the United States and
52 of any state or territories thereof or has been convicted of a
53 felony involving the use of a deadly weapon.

54 (3) To protect and to ensure the safety of the state's
55 citizens, any offender who violates an order or condition of the
56 intensive supervision program may be arrested by the correctional
57 field officer and placed in the actual custody of the Department
58 of Corrections. Such offender is under the full and complete
59 jurisdiction of the department and subject to removal from the
60 program by the classification hearing officer.

61 (4) When any circuit or county court places an offender in
62 an intensive supervision program, the court shall give notice to
63 the Mississippi Department of Corrections within fifteen (15) days

64 of the court's decision to place the offender in an intensive
65 supervision program. Notice shall be delivered to the central
66 office of the Mississippi Department of Corrections and to the
67 regional office of the department which will be providing
68 supervision to the offender in an intensive supervision program.

69 The courts may not require an offender to complete the
70 intensive supervision program as a condition of probation or
71 post-release supervision.

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

74 47-5-1005. (1) The department shall promulgate rules that
75 prescribe reasonable guidelines under which an intensive
76 supervision program shall operate. These rules shall include, but
77 not be limited to, the following:

78 (a) The participant shall remain within the interior
79 premises or within the property boundaries of his or her residence
80 at all times during the hours designated by the correctional field
81 officer.

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

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

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

88 (iii) Undergoing medical, psychiatric, mental
89 health treatment, counseling or other treatment programs approved
90 for the participant by the court or department;

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

93 (v) Participating in community work release or
94 community service program approved for the participant by the
95 court or department; or

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

98 (2) The department shall select and approve all electronic
99 monitoring devices used under Sections 47-5-1001 through
100 47-5-1015.

101 (3) The department may lease the equipment necessary to
102 implement the intensive supervision program and to contract for
103 the monitoring of such devices. The department is authorized to
104 select the lowest price and best source in contracting for these
105 services.

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

108 47-5-1007. (1) Any participant in the intensive supervision
109 program who engages in employment shall pay a monthly fee to the
110 department for each month such person is enrolled in the program.
111 The department may waive the monthly fee if the offender is a
112 full-time student or is engaged in vocational training. Money
113 received by the department from participants in the program shall
114 be deposited into a special fund which is hereby created in the
115 State Treasury. It shall be used, upon appropriation by the
116 Legislature, for the purpose of helping to defray the costs
117 involved in administering and supervising such program.
118 Unexpended amounts remaining in such special fund at the end of a
119 fiscal year shall not lapse into the State General Fund, and any
120 interest earned on amounts in such special fund shall be deposited
121 to the credit of the special fund.

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

125 (3) The participant shall make the necessary arrangements to
126 allow for correctional officers to visit the participant's place
127 of education or employment at any time, based upon the approval of
128 the educational institution or employer, for the purpose of

129 verifying the participant's compliance with the conditions of his
130 detention.

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

135 (5) The participant shall be responsible for and shall
136 maintain the following:

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

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

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

142 (6) The participant shall obtain approval from the
143 correctional field officer before the participant changes
144 residence.

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

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

150 (9) The participant shall abide by other conditions as set
151 by the department.

152 **SECTION 5.** Section 47-5-1009, Mississippi Code of 1972, is
153 reenacted as follows:

154 47-5-1009. (1) The department shall have absolute immunity
155 from liability for any injury resulting from a determination by a
156 judge or correctional officer that an offender shall be allowed to
157 participate in the electronic home detention program.

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

161 **SECTION 6.** Section 47-5-1011, Mississippi Code of 1972, is
162 reenacted as follows:

163 47-5-1011. (1) Before entering an order for commitment for
164 electronic house arrest, the department shall inform the
165 participant and other persons residing in the home of the nature
166 and extent of the approved electronic monitoring devices by doing
167 the following:

168 (a) Securing the written consent of the participant in
169 the program to comply with the rules and regulations of the
170 program.

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

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

179 (2) The participant shall be responsible for the cost of
180 equipment and any damage to such equipment. Any intentional
181 damage, any attempt to defeat monitoring, any committing of a
182 criminal offense or any associating with felons or known
183 criminals, shall constitute a violation of the program.

184 (3) Any person whose residence is utilized in the program
185 shall agree to keep the home drug and alcohol free and to exclude
186 known felons and criminals in order to provide a noncriminal
187 environment.

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

190 47-5-1013. Participants enrolled in an intensive supervision
191 program shall be required to:

192 (a) Maintain employment if physically able, or
193 full-time student status at an approved school or vocational

194 trade, and make progress deemed satisfactory to the correctional
195 field officer, or both, or be involved in supervised job searches.

196 (b) Pay restitution and program fees as directed by the
197 department. Program fees shall not be less than Seventy-five
198 Dollars (\$75.00) per month. The sentencing judge may charge a
199 program fee of less than Seventy-five Dollars (\$75.00) per month
200 in cases of extreme financial hardship, when such judge determines
201 that the offender's participation in the program would provide a
202 benefit to his community. Program fees shall be deposited in the
203 special fund created in Section 47-5-1007.

204 (c) Establish a place of residence at a place approved
205 by the correctional field officer, and not change his residence
206 without the officer's approval. The correctional officer shall be
207 allowed to inspect the place of residence for alcoholic beverages,
208 controlled substances and drug paraphernalia.

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

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

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

217 (g) Meet any other conditions imposed by the court to
218 meet the needs of the offender and limit the risks to the
219 community.

220 **SECTION 8.** Section 47-5-1015, Mississippi Code of 1972, is
221 amended as follows:

222 47-5-1015. Sections 47-5-1001 through 47-5-1015 shall stand
223 repealed after June 30, 2008.

224 **SECTION 9.** This act shall take effect and be in force from
225 and after its passage.