

By: Representative Malone

To: Corrections

HOUSE BILL NO. 1005

1 AN ACT TO REENACT SECTIONS 47-5-1001 THROUGH 47-5-1013,  
2 MISSISSIPPI CODE OF 1972, WHICH PROVIDE THE INTENSIVE SUPERVISION  
3 PROGRAM; TO AMEND SECTION 47-5-1015, TO EXTEND THE DATE OF REPEAL  
4 ON THE REENACTED SECTIONS FROM JUNE 30, 2006, TO JUNE 30, 2007;  
5 AND FOR RELATED PURPOSES.

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

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

9 47-5-1001. For purposes of Sections 47-5-1001 through  
10 47-5-1015, the following words shall have the meaning ascribed  
11 herein unless the context shall otherwise require:

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

16 (b) "Correctional field officer" means the supervising  
17 probation and parole officer in charge of supervising the  
18 offender.

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

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

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

25 (f) "Operating capacity" means the total number of  
26 state offenders which can be safely and reasonably housed in  
27 facilities operated by the department and in local or county jails  
28 or other facilities authorized to house state offenders as

29 certified by the department, subject to applicable federal and  
30 state laws and rules and regulations.

31 (g) "Participant" means an offender placed into an  
32 intensive supervision program.

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

35 47-5-1003. (1) An intensive supervision program may be used  
36 as an alternative to incarceration for offenders who are low risk  
37 and nonviolent as selected by the department or court. Any  
38 offender convicted of a sex crime or a felony violation of Section  
39 41-29-139(a)(1) shall not be placed in the program.

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

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

58 (4) When any circuit or county court places an offender in  
59 an intensive supervision program, the court shall give notice to  
60 the Mississippi Department of Corrections within fifteen (15) days  
61 of the court's decision to place the offender in an intensive

62 supervision program. Notice shall be delivered to the central  
63 office of the Mississippi Department of Corrections and to the  
64 regional office of the department which will be providing  
65 supervision to the offender in an intensive supervision program.

66 The courts may not require an offender to complete the  
67 intensive supervision program as a condition of probation or  
68 post-release supervision.

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

71 47-5-1005. (1) The department shall promulgate rules that  
72 prescribe reasonable guidelines under which an intensive  
73 supervision program shall operate. These rules shall include, but  
74 not be limited to, the following:

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

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

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

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

85 (iii) Undergoing medical, psychiatric, mental  
86 health treatment, counseling or other treatment programs approved  
87 for the participant by the court or department;

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

90 (v) Participating in community work release or  
91 community service program approved for the participant by the  
92 court or department; or

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

95 (2) The department shall select and approve all electronic  
96 monitoring devices used under Sections 47-5-1001 through  
97 47-5-1015.

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

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

105 47-5-1007. (1) Any participant in the intensive supervision  
106 program who engages in employment shall pay a monthly fee to the  
107 department for each month such person is enrolled in the program.  
108 The department may waive the monthly fee if the offender is a  
109 full-time student or is engaged in vocational training. Money  
110 received by the department from participants in the program shall  
111 be deposited into a special fund which is hereby created in the  
112 State Treasury. It shall be used, upon appropriation by the  
113 Legislature, for the purpose of helping to defray the costs  
114 involved in administering and supervising such program.  
115 Unexpended amounts remaining in such special fund at the end of a  
116 fiscal year shall not lapse into the State General Fund, and any  
117 interest earned on amounts in such special fund shall be deposited  
118 to the credit of the special fund.

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

122 (3) The participant shall make the necessary arrangements to  
123 allow for correctional officers to visit the participant's place  
124 of education or employment at any time, based upon the approval of  
125 the educational institution or employer, for the purpose of  
126 verifying the participant's compliance with the conditions of his  
127 detention.

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

132           (5) The participant shall be responsible for and shall  
133 maintain the following:

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

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

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

139           (6) The participant shall obtain approval from the  
140 correctional field officer before the participant changes  
141 residence.

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

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

147           (9) The participant shall abide by other conditions as set  
148 by the department.

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

151                 47-5-1009. (1) The department shall have absolute immunity  
152 from liability for any injury resulting from a determination by a  
153 judge or correctional officer that an offender shall be allowed to  
154 participate in the electronic home detention program.

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

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

160 47-5-1011. (1) Before entering an order for commitment for  
161 electronic house arrest, the department shall inform the  
162 participant and other persons residing in the home of the nature  
163 and extent of the approved electronic monitoring devices by doing  
164 the following:

165 (a) Securing the written consent of the participant in  
166 the program to comply with the rules and regulations of the  
167 program.

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

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

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

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

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

187 47-5-1013. Participants enrolled in an intensive supervision  
188 program shall be required to:

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

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

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

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

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

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

214           (g) Meet any other conditions imposed by the court to  
215 meet the needs of the offender and limit the risks to the  
216 community.

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

219           47-5-1015. Sections 47-5-1001 through 47-5-1013 and  
220 47-5-1015 shall stand repealed after June 30, 2007.

221           **SECTION 9.** This act shall take effect and be in force from  
222 and after June 30, 2006.