

By: Representative Scott

To: Corrections

HOUSE BILL NO. 1100

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 SUCH SECTIONS; TO AMEND REENACTED SECTION 47-5-1003, TO REQUIRE
5 COURTS TO PLACE CERTAIN NONVIOLENT OFFENDERS IN THE INTENSIVE
6 SUPERVISION PROGRAM; AND FOR RELATED PURPOSES.

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

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

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

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

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

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

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

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

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

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

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

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

36 47-5-1003. (1) An intensive supervision program may be used
37 as an alternative to incarceration for offenders who are low risk
38 and nonviolent as selected by the department or court. Any
39 offender convicted of a sex crime or a felony violation of Section
40 41-29-139(a)(1) shall not be placed in the program.

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

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

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

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

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

70 The courts shall place an offender in the intensive
71 supervision program if such offender is convicted of a nonviolent
72 offense and has been a minimum security risk for two (2) years and
73 volunteers forty (40) hours a week on any project pertaining to
74 Hurricane Katrina.

75 The courts shall also place an offender in the intensive
76 supervision program if such offender is convicted of a nonviolent
77 offense and is employed full time for the government, a nonprofit
78 agency or any religious organization, and he or she volunteers
79 twenty (20) hours of community service per month on any project
80 pertaining to Hurricane Katrina.

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

83 47-5-1005. (1) The department shall promulgate rules that
84 prescribe reasonable guidelines under which an intensive
85 supervision program shall operate. These rules shall include, but
86 not be limited to, the following:

87 (a) The participant shall remain within the interior
88 premises or within the property boundaries of his or her residence
89 at all times during the hours designated by the correctional field
90 officer.

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

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

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

97 (iii) Undergoing medical, psychiatric, mental
98 health treatment, counseling or other treatment programs approved
99 for the participant by the court or department;

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

102 (v) Participating in community work release or
103 community service program approved for the participant by the
104 court or department; or

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

107 (2) The department shall select and approve all electronic
108 monitoring devices used under Sections 47-5-1001 through
109 47-5-1015.

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

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

117 47-5-1007. (1) Any participant in the intensive supervision
118 program who engages in employment shall pay a monthly fee to the
119 department for each month such person is enrolled in the program.
120 The department may waive the monthly fee if the offender is a
121 full-time student or is engaged in vocational training. Money
122 received by the department from participants in the program shall
123 be deposited into a special fund which is hereby created in the
124 State Treasury. It shall be used, upon appropriation by the
125 Legislature, for the purpose of helping to defray the costs
126 involved in administering and supervising such program.
127 Unexpended amounts remaining in such special fund at the end of a

128 fiscal year shall not lapse into the State General Fund, and any
129 interest earned on amounts in such special fund shall be deposited
130 to the credit of the special fund.

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

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

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

144 (5) The participant shall be responsible for and shall
145 maintain the following:

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

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

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

151 (6) The participant shall obtain approval from the
152 correctional field officer before the participant changes
153 residence.

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

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

159 (9) The participant shall abide by other conditions as set
160 by the department.

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

163 47-5-1009. (1) The department shall have absolute immunity
164 from liability for any injury resulting from a determination by a
165 judge or correctional officer that an offender shall be allowed to
166 participate in the electronic home detention program.

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

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

172 47-5-1011. (1) Before entering an order for commitment for
173 electronic house arrest, the department shall inform the
174 participant and other persons residing in the home of the nature
175 and extent of the approved electronic monitoring devices by doing
176 the following:

177 (a) Securing the written consent of the participant in
178 the program to comply with the rules and regulations of the
179 program.

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

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

188 (2) The participant shall be responsible for the cost of
189 equipment and any damage to such equipment. Any intentional
190 damage, any attempt to defeat monitoring, any committing of a
191 criminal offense or any associating with felons or known
192 criminals, shall constitute a violation of the program.

193 (3) Any person whose residence is utilized in the program
194 shall agree to keep the home drug and alcohol free and to exclude
195 known felons and criminals in order to provide a noncriminal
196 environment.

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

199 47-5-1013. Participants enrolled in an intensive supervision
200 program shall be required to:

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

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

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

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

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

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

226 (g) Meet any other conditions imposed by the court to
227 meet the needs of the offender and limit the risks to the
228 community.

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

231 47-5-1015. Sections 47-5-1001 through 47-5-1013 and Section
232 47-5-1015 shall stand repealed after June 30, 2008.

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