

By: Senator(s) Albritton

To: Judiciary, Division B;  
Corrections

SENATE BILL NO. 2789

1 AN ACT TO CREATE NEW SECTION 47-5-1017, MISSISSIPPI CODE OF  
 2 1972, TO PROVIDE FOR ELECTRONIC MONITORING OF SEX OFFENDERS UPON  
 3 WHOM A SPLIT SENTENCE IS IMPOSED; TO CREATE NEW SECTION 47-5-1019,  
 4 MISSISSIPPI CODE OF 1972, TO PROVIDE FOR PUNISHMENT FOR TAMPERING  
 5 WITH AN ELECTRONIC MONITORING DEVICE; TO AMEND SECTION 47-7-33,  
 6 MISSISSIPPI CODE OF 1972, TO REQUIRE ELECTRONIC MONITORING OF  
 7 CERTAIN PAROLEES AND PROBATIONERS; TO AMEND SECTION 47-7-34,  
 8 MISSISSIPPI CODE OF 1972, TO CONFORM TO SPLIT SENTENCING; TO AMEND  
 9 SECTION 99-19-84, MISSISSIPPI CODE OF 1972, TO AUTHORIZE A SPLIT  
 10 SENTENCE FOR SEX OFFENDERS; TO CREATE NEW SECTION 99-19-205,  
 11 MISSISSIPPI CODE OF 1972, TO MANDATE ELECTRONIC SUPERVISION FOR  
 12 CERTAIN SEX OFFENDERS UPON EXPIRATION OF ANY TERM OF  
 13 INCARCERATION; 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 47-5-1017, Mississippi Code of 1972:

17 47-5-1017. The department shall electronically monitor an  
 18 offender upon whom a split sentence is imposed pursuant to Section  
 19 99-19-84. The department, in carrying out a court order to  
 20 electronically monitor an offender, must use a system that  
 21 actively monitors and identifies the offender's location and  
 22 timely reports or records the offender's presence near or within a  
 23 crime scene or in prohibited areas or the offender's departure  
 24 from specified geographic limitations.

25 **SECTION 2.** The following shall be codified as Section  
 26 47-5-1019, Mississippi Code of 1972:

27 47-5-1019. A person who intentionally alters, tampers with,  
 28 damages or destroys any electronic monitoring equipment, unless  
 29 the person is the owner of the equipment or an agent of the owner  
 30 performing ordinary maintenance and repairs, commits a felony  
 31 punishable by imprisonment not to exceed five (5) years in the  
 32 custody of the Department of Corrections.

33           **SECTION 3.** Section 47-7-33, Mississippi Code of 1972, is  
34 amended as follows:

35           47-7-33. (1) When it appears to the satisfaction of any  
36 circuit court or county court in the State of Mississippi having  
37 original jurisdiction over criminal actions, or to the judge  
38 thereof, that the ends of justice and the best interest of the  
39 public, as well as the defendant, will be served thereby, such  
40 court, in termtime or in vacation, shall have the power, after  
41 conviction or a plea of guilty, except in a case where a death  
42 sentence or life imprisonment is the maximum penalty which may be  
43 imposed or where the defendant has been convicted of a felony on a  
44 previous occasion in any court or courts of the United States and  
45 of any state or territories thereof, to suspend the imposition or  
46 execution of sentence, and place the defendant on probation as  
47 herein provided, except that the court shall not suspend the  
48 execution of a sentence of imprisonment after the defendant shall  
49 have begun to serve such sentence. In placing any defendant on  
50 probation, the court, or judge, shall direct that such defendant  
51 be under the supervision of the Department of Corrections.

52           (2) When any circuit or county court places an offender on  
53 probation, the court shall give notice to the Mississippi  
54 Department of Corrections within fifteen (15) days of the court's  
55 decision to place the offender on probation. Notice shall be  
56 delivered to the central office of the Mississippi Department of  
57 Corrections and to the regional office of the department which  
58 will be providing supervision to the offender on probation.

59           (3) When any circuit court or county court places a person  
60 on probation in accordance with the provisions of this section and  
61 that person is ordered to make any payments to his family, if any  
62 member of his family whom he is ordered to support is receiving  
63 public assistance through the Department of Human Services, the  
64 court shall order him to make such payments to the county welfare

65 officer of the county rendering public assistance to his family,  
66 for the sole use and benefit of said family.

67 (4) If probation or parole is revoked by the court and the  
68 offender is designated as a sex offender for unlawful sexual  
69 activity involving a victim under sixteen (16) years of age and  
70 the offender is eighteen (18) years of age or older, and if the  
71 court imposes a subsequent term of supervision following the  
72 revocation of supervision, the court must order electronic  
73 monitoring as a condition of any subsequent term of probation or  
74 parole.

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

77 47-7-34. (1) When a court imposes a sentence upon a  
78 conviction for any felony committed after June 30, 1995, the  
79 court, in addition to any other punishment imposed if the other  
80 punishment includes a term of incarceration in a state or local  
81 correctional facility, may impose a term of post-release  
82 supervision. However, the total number of years of incarceration  
83 plus the total number of years of post-release supervision shall  
84 not exceed the maximum sentence authorized to be imposed by law  
85 for the felony committed. The defendant shall be placed under  
86 post-release supervision upon release from the term of  
87 incarceration. The period of supervision shall be established by  
88 the court.

89 (2) The period of post-release supervision shall be  
90 conducted in the same manner as a like period of supervised  
91 probation, including a requirement that the defendant shall abide  
92 by any terms and conditions as the court may establish. Failure  
93 to successfully abide by the terms and conditions shall be grounds  
94 to terminate the period of post-release supervision and to  
95 recommit the defendant to the correctional facility from which he  
96 was previously released. Procedures for termination and  
97 recommitment shall be conducted in the same manner as procedures

98 for the revocation of probation and imposition of a suspended  
99 sentence.

100 (3) Post-release supervision programs shall be operated  
101 through the probation and parole unit of the Division of Community  
102 Corrections of the department. The maximum amount of time that  
103 the Mississippi Department of Corrections may supervise an  
104 offender on the post-release supervision program is five (5)  
105 years.

106 (4) The provisions of this section shall not affect the  
107 ability of a court to impose a split sentence pursuant to Section  
108 99-19-84.

109 **SECTION 5.** Section 99-19-84, Mississippi Code of 1972, is  
110 amended as follows:

111 99-19-84. (1) Whenever probation is a part of a sentence  
112 prescribed for an offense for which registration as a sex offender  
113 is required under Title 45, Chapter 33, the court may include as a  
114 condition of probation that the sex offender be placed on  
115 electronic monitoring. The Department of Corrections shall  
116 promulgate rules and regulations for the implementation of  
117 electronic monitoring of sex offenders on probation.

118 (2) Whenever punishment by imprisonment for a misdemeanor or  
119 a felony, except for a capital felony, is prescribed for an  
120 offense for which registration as a sex offender is required under  
121 Title 45, Chapter 33, the court, in its discretion at the time of  
122 sentencing, may impose a split sentence whereby the defendant is  
123 to be placed on electronic monitoring following release from  
124 incarceration for any term of years or for life.

125 **SECTION 6.** The following shall be codified as Section  
126 99-19-205, Mississippi Code of 1972:

127 99-19-205. Any person who is convicted of a sex offense on  
128 or after July 1, 2007, and who is sentenced to any state or local  
129 correctional facility, placed on probation, given a suspended  
130 sentence or other disposition, and the unlawful activity involved

131 a victim who was under sixteen (16) years of age and the offender  
132 was eighteen (18) years of age or older, or the offender is  
133 subject to lifetime registration under Section 45-33-47(2), shall  
134 be sentenced by the court to mandatory electronic monitoring for  
135 life subsequent to the offender's release from incarceration.

136         **SECTION 7.** This act shall take effect and be in force from  
137 and after July 1, 2007.