

By: Representative Frierson

To: Appropriations

HOUSE BILL NO. 1498

1 AN ACT TO AMEND SECTION 25-9-127, MISSISSIPPI CODE OF 1972,
 2 TO PROVIDE THAT FOR A PERIOD OF AN ADDITIONAL YEAR, THE PERSONNEL
 3 ACTIONS OF THE DEPARTMENT OF CORRECTIONS SHALL BE EXEMPT FROM
 4 STATE PERSONNEL BOARD RULES, REGULATIONS AND PROCEDURES, AND ALL
 5 EMPLOYEES OF THE AGENCY SHALL BE CLASSIFIED AS NONSTATE SERVICE
 6 DURING THAT PERIOD; TO AMEND SECTIONS 47-5-20, 47-5-26 AND
 7 47-5-28, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND FOR
 8 RELATED PURPOSES.

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

10 **SECTION 1.** Section 25-9-127, Mississippi Code of 1972, is
 11 amended as follows:

12 25-9-127. (1) No employee of any department, agency or
 13 institution who is included under this chapter or hereafter
 14 included under its authority, and who is subject to the rules and
 15 regulations prescribed by the state personnel system, may be
 16 dismissed or otherwise adversely affected as to compensation or
 17 employment status except for inefficiency or other good cause, and
 18 after written notice and hearing within the department, agency or
 19 institution as shall be specified in the rules and regulations of
 20 the State Personnel Board complying with due process of law; and
 21 any employee who has by written notice of dismissal or action



22 adversely affecting his compensation or employment status shall,
23 on hearing and on any appeal of any decision made in such action,
24 be required to furnish evidence that the reasons stated in the
25 notice of dismissal or action adversely affecting his compensation
26 or employment status are not true or are not sufficient grounds
27 for the action taken; provided, however, that this provision shall
28 not apply (a) to persons separated from any department, agency or
29 institution due to curtailment of funds or reduction in staff when
30 such separation is in accordance with rules and regulations of the
31 state personnel system; (b) during the probationary period of
32 state service of twelve (12) months; and (c) to an executive
33 officer of any state agency who serves at the will and pleasure of
34 the Governor, board, commission or other appointing authority.

35 (2) The operation of a state-owned motor vehicle without a
36 valid Mississippi driver's license by an employee of any
37 department, agency or institution that is included under this
38 chapter and that is subject to the rules and regulations of the
39 state personnel system shall constitute good cause for dismissal
40 of such person from employment.

41 (3) Beginning July 1, 1999, every male between the ages of
42 eighteen (18) and twenty-six (26) who is required to register
43 under the federal Military Selective Service Act, 50 USCS App.
44 453, and who is an employee of the state shall not be promoted to
45 any higher position of employment with the state until he submits
46 to the person, commission, board or agency by which he is employed



47 satisfactory documentation of his compliance with the draft
48 registration requirements of the Military Selective Service Act.
49 The documentation shall include a signed affirmation under penalty
50 of perjury that the male employee has complied with the
51 requirements of the Military Selective Service Act.

52 (4) For a period of two (2) years beginning July 1, 2014,
53 the provisions of subsection (1) shall not apply to the personnel
54 actions of the State Department of Education that are subject to
55 the rules and regulations of the State Personnel Board, and all
56 employees of the department shall be classified as nonstate
57 service during that period. However, any employee hired after
58 July 1, 2014, by the department shall meet the criteria of the
59 State Personnel Board as it presently exists for employment. The
60 State Superintendent of Public Education and the State Board of
61 Education shall consult with the Office of the Attorney General
62 before taking personnel actions authorized by this section to
63 review those actions for compliance with applicable state and
64 federal law.

65 It is not the intention or effect of this section to include
66 any school attendance officer in any exemption from coverage under
67 the State Personnel Board policy or regulations, including, but
68 not limited to, termination and conditions of employment.

69 (5) (a) For a period of * * * two years beginning July 1,
70 2015, the provisions of subsection (1) shall not apply to the
71 personnel actions of the Department of Corrections, and all



72 employees of the department shall be classified as nonstate
73 service during that period. However, any employee hired after
74 July 1, 2015, by the department shall meet the criteria of the
75 State Personnel Board as it presently exists for employment.

76 (b) Additionally, for a period of one year beginning July 1,
77 2016, the personnel actions of the Commissioner of the Department
78 of Corrections shall be exempt from State Personnel Board rules,
79 regulations and procedures in order to give the commissioner
80 flexibility in making an orderly, effective and timely
81 reorganization and realignment of the department.

82 (c) The Commissioner of Corrections shall consult with the
83 Office of the Attorney General before personnel actions authorized
84 by this section to review those actions for compliance with
85 applicable state and federal law.

86 **SECTION 2.** Section 47-5-20, Mississippi Code of 1972, is
87 amended as follows:

88 47-5-20. The commissioner shall have the following powers
89 and duties:

90 (a) To establish the general policy of the department;

91 (b) To approve proposals for the location of new
92 facilities, for major renovation activities, and for the creation
93 of new programs and divisions within the department as well as for
94 the abolition of the same; provided, however, that the
95 commissioner shall approve the location of no new facility unless
96 the board of supervisors of the county or the governing



97 authorities of the municipality in which the new facility is to be
98 located shall have had the opportunity with at least sixty (60)
99 days' prior notice to disapprove the location of the proposed
100 facility. If either the board of supervisors or the governing
101 authorities shall disapprove the facility, it shall not be located
102 in that county or municipality. Said notice shall be made by
103 certified mail, return receipt requested, to the members of the
104 board or governing authorities and to the clerk thereof;

105 (c) Except as otherwise provided or required by law, to open
106 bids and approve the sale of any products or manufactured goods by
107 the department according to applicable provisions of law regarding
108 bidding and sale of state property, and according to rules and
109 regulations established by the State Fiscal Management Board; and

110 (d) To adopt administrative rules and regulations
111 including, but not limited to, offender transfer procedures, award
112 of administrative earned time, personnel procedures, employment
113 practices.

114 (e) To make personnel actions for a period of one (1)
115 year beginning July 1, 2016, that are exempt from State Personnel
116 Board rules, regulations and procedures in order to give the
117 commissioner flexibility in making an orderly, effective and
118 timely reorganization and realignment of the department.

119 **SECTION 3.** Section 47-5-26, Mississippi Code of 1972, is
120 amended as follows:



121 47-5-26. (1) The commissioner shall employ the following
122 personnel:

123 (a) A Deputy Commissioner for Administration and
124 Finance, who shall supervise and implement all fiscal policies and
125 programs within the department, supervise and implement all hiring
126 and personnel matters within the department, supervise the
127 department's personnel director, supervise and implement all
128 purchasing within the department and supervise and implement all
129 data processing activities within the department, and who shall
130 serve as the Chief Executive Officer of the Division of
131 Administration and Finance. He shall possess either:

132 (i) A master's degree from an accredited four-year
133 college or university in public or business administration,
134 accounting, economics or a directly related field, and four (4)
135 years of experience in work related to the above-described duties,
136 one (1) year of which must have included line or functional
137 supervision; or

138 (ii) A bachelor's degree from an accredited
139 four-year college or university in public or business
140 administration, accounting, economics or a directly related field,
141 and six (6) years of experience in work related to the
142 above-described duties, one (1) year of which must have included
143 line or functional supervision. Certification by the State of
144 Mississippi as a certified public accountant may be substituted
145 for one (1) year of the required experience.



146 (b) A Deputy Commissioner for Community Corrections,
147 who shall initiate and administer programs, including, but not
148 limited to, supervision of probationers, parolees and
149 suspensioners, counseling, community-based treatment, interstate
150 compact administration and enforcement, prevention programs,
151 halfway houses and group homes, technical violation centers,
152 restitution centers, presentence investigations, and work and
153 educational releases, and shall serve as the Chief Executive
154 Officer of the Division of Community Services. The Deputy
155 Commissioner for Community Corrections is charged with full and
156 complete cooperation with the State Parole Board and shall make
157 monthly reports to the Chairman of the Parole Board in the form
158 and type required by the chairman, in his discretion, for the
159 proper performance of the probation and parole functions. After a
160 plea or verdict of guilty to a felony is entered against a person
161 and before he is sentenced, the Deputy Commissioner for Community
162 Corrections shall procure from any available source and shall file
163 in the presentence records any information regarding any criminal
164 history of the person such as fingerprints, dates of arrests,
165 complaints, civil and criminal charges, investigative reports of
166 arresting and prosecuting agencies, reports of the National Crime
167 Information Center, the nature and character of each offense,
168 noting all particular circumstances thereof and any similar data
169 about the person. The Deputy Commissioner for Community
170 Corrections shall keep an accurate and complete duplicate record



171 of this file and shall furnish the duplicate to the department.
172 This file shall be placed in and shall constitute a part of the
173 inmate's master file. The Deputy Commissioner for Community
174 Corrections shall furnish this file to the State Parole Board when
175 the file is needed in the course of its official duties. He shall
176 possess either: (i) a master's degree in counseling, corrections
177 psychology, guidance, social work, criminal justice or some
178 related field and at least four (4) years' full-time experience in
179 such field, including at least one (1) year of supervisory
180 experience; or (ii) a bachelor's degree in a field described in
181 subparagraph (i) of this paragraph and at least six (6) years'
182 full-time work in corrections, one (1) year of which shall have
183 been at the supervisory level.

184 (c) A Deputy Commissioner for Institutions, who shall
185 administer institutions, reception and diagnostic centers,
186 prerelease centers and other facilities and programs provided
187 therein, and shall serve as the Chief Executive Officer of the
188 Division of Institutions. He shall possess either: (i) a
189 master's degree in counseling, criminal justice, psychology,
190 guidance, social work, business or some related field, and at
191 least four (4) years' full-time experience in corrections,
192 including at least one (1) year of correctional management
193 experience; or (ii) a bachelor's degree in a field described in
194 subparagraph (i) of this paragraph and at least six (6) years'



195 full-time work in corrections, four (4) years of which shall have
196 been at the correctional management level.

197 (2) The commissioner shall employ an administrative
198 assistant for parole matters, who shall be an employee of the
199 department assigned to the State Parole Board and who shall work
200 under the guidance and supervision of the board.

201 (3) The administrative assistant for parole matters shall
202 receive an annual salary to be established by the Legislature.
203 The salaries of department employees not established by the
204 Legislature shall receive an annual salary established by the
205 State Personnel Board.

206 (4) The commissioner shall employ a superintendent for the
207 Parchman facility, Central Mississippi Correctional Facility and
208 South Mississippi Correctional Institution of the Department of
209 Corrections. The Superintendent of the Mississippi State
210 Penitentiary shall reside on the grounds of the Parchman facility.
211 Each superintendent shall appoint an officer in charge when he is
212 absent.

213 Each superintendent shall develop and implement a plan for
214 the prevention and control of an inmate riot and shall file a
215 report with the Chairman of the Senate Corrections Committee and
216 the Chairman of the House Penitentiary Committee on the first day
217 of each regular session of the Legislature regarding the status of
218 the plan.



219 In order that the grievances and complaints of inmates,
220 employees and visitors at each facility may be heard in a timely
221 and orderly manner, each superintendent shall appoint or designate
222 an employee at the facility to hear grievances and complaints and
223 to report grievances and complaints to the superintendent. Each
224 superintendent shall institute procedures as are necessary to
225 provide confidentiality to those who file grievances and
226 complaints.

227 (5) For a one year period beginning July 1, 2016, any person
228 authorized for employment under this section shall not be subject
229 to the rules, regulations and procedures of the State Personnel
230 Board, except as otherwise provided under Section 25-9-127 (5).

231 **SECTION 4.** Section 47-5-28, Mississippi Code of 1972, is
232 amended as follows:

233 47-5-28. The commissioner shall have the following powers
234 and duties:

235 (a) To implement and administer laws and policy
236 relating to corrections and coordinate the efforts of the
237 department with those of the federal government and other state
238 departments and agencies, county governments, municipal
239 governments, and private agencies concerned with providing
240 offender services;

241 (b) To establish standards, in cooperation with other
242 state agencies having responsibility as provided by law, provide
243 technical assistance, and exercise the requisite supervision as it



244 relates to correctional programs over all state-supported adult
245 correctional facilities and community-based programs;

246 (c) To promulgate and publish such rules, regulations
247 and policies of the department as are needed for the efficient
248 government and maintenance of all facilities and programs in
249 accord insofar as possible with currently accepted standards of
250 adult offender care and treatment;

251 (d) To provide the Parole Board with suitable and
252 sufficient office space and support resources and staff necessary
253 to conducting Parole Board business under the guidance of the
254 Chairman of the Parole Board;

255 (e) To contract for transitional reentry center beds
256 that will be used as noncorrections housing for offenders released
257 from the department on parole, probation or post-release
258 supervision but do not have appropriate housing available upon
259 release. At least one hundred (100) transitional reentry center
260 beds contracted by the department and chosen by the Parole Board
261 shall be available for the parole board to place parolees without
262 appropriate housing;

263 (f) To make an annual report to the Governor and the
264 Legislature reflecting the activities of the department and make
265 recommendations for improvement of the services to be performed by
266 the department;



267 (g) To cooperate fully with periodic independent
268 internal investigations of the department and to file the report
269 with the Governor and the Legislature;

270 (h) To make personnel actions for a period of one (1)
271 year beginning July 1, 2016, that are exempt from State Personnel
272 Board rules, regulations and procedures in order to give the
273 commissioner flexibility in making an orderly, effective and
274 timely reorganization and realignment of the department.

275 (* * *i) To perform such other duties necessary to
276 effectively and efficiently carry out the purposes of the
277 department as may be directed by the Governor.

278 **SECTION 5.** This act shall take effect and be in force from
279 and after July 1, 2016.

