

**Replace By Substitute  
COMMITTEE AMENDMENT NO 1 PROPOSED TO**

**House Bill No. 936**

**BY: Committee**

**Amend by striking all after the enacting clause and inserting  
in lieu thereof the following:**

25        **SECTION 1.**    The Department of Corrections is authorized to  
26    provide for hospice care services for inmates who are confined in  
27    facilities under the jurisdiction of the department and who are  
28    terminally ill as defined in Section 41-85-3.    The department may  
29    have those hospice care services provided by properly qualified  
30    employees of the department or may contract for the providing of  
31    the hospice care services.    If the department provides the hospice  
32    care services with department employees, the department is not  
33    required to have a license under the Mississippi Hospice Law.



34       **SECTION 2.** Section 41-85-5, Mississippi Code of 1972, is  
35 amended as follows:

36       41-85-5. (1) It is unlawful for a person to operate or  
37 maintain a hospice, use the title "hospice," or represent that the  
38 person provides a hospice program of care, without first obtaining  
39 a license therefor from the department.

40       (2) The license shall be displayed in a conspicuous place  
41 inside the hospice program office; shall be valid only in the  
42 possession of the person to which it is issued; shall not be  
43 subject to sale, assignment or other transfer, voluntary or  
44 involuntary; and shall not be valid for any hospice other than the  
45 hospice for which originally issued.

46       (3) Services provided by a hospital, nursing home or other  
47 health care facility or health care provider shall not be  
48 considered to constitute a hospice program of care unless such  
49 facility, provider or care giver establishes a freestanding or  
50 distinct hospice unit, staff, facility and services to provide  
51 hospice home care, homelike inpatient hospice care, or outpatient  
52 hospice care under the separate and distinct administrative  
53 authority of a hospice program.

54       (4) A license for a hospice program shall not be issued if  
55 the hospice is to be located in an area in violation of any local  
56 zoning ordinances or regulations.

57       (5) The Department of Corrections may provide hospice care  
58 services to inmates confined in facilities under the jurisdiction



of the department as authorized under Section 1 of this act  
without a license issued under this chapter.

**SECTION 3.** Section 43-11-1, Mississippi Code of 1972, is  
amended as follows:

43-11-1. When used in this chapter, the following words  
shall have the following meaning:

(a) "Institutions for the aged or infirm" means a place  
either governmental or private that provides group living  
arrangements for four (4) or more persons who are unrelated to the  
operator and who are being provided food, shelter and personal  
care, whether any such place is organized or operated for profit  
or not. The term "institution for the aged or infirm" includes  
nursing homes, pediatric skilled nursing facilities, psychiatric  
residential treatment facilities, convalescent homes, homes for  
the aged \* \* \*, adult foster care facilities \* \* \* and special  
care facilities for paroled inmates, provided that these  
institutions fall within the scope of the definitions set forth  
above. The term "institution for the aged or infirm" does not  
include hospitals, clinics or mental institutions devoted  
primarily to providing medical service, and does not include any  
private residence in which the owner of the residence is providing  
personal care services to disabled or homeless veterans under an  
agreement with, and in compliance with the standards prescribed  
by, the United States Department of Veterans Affairs, if the owner



83 of the residence also provided personal care services to disabled  
84 or homeless veterans at any time during calendar year 2008.

85 (b) "Person" means any individual, firm, partnership,  
86 corporation, company, association or joint-stock association, or  
87 any licensee herein or the legal successor thereof.

88 (c) "Personal care" means assistance rendered by  
89 personnel of the home to aged or infirm residents in performing  
90 one or more of the activities of daily living, which includes, but  
91 is not limited to, the bathing, walking, excretory functions,  
92 feeding, personal grooming and dressing of such residents.

93 (d) "Psychiatric residential treatment facility" means  
94 any nonhospital establishment with permanent facilities which  
95 provides a twenty-four-hour program of care by qualified  
96 therapists, including, but not limited to, duly licensed mental  
97 health professionals, psychiatrists, psychologists,  
98 psychotherapists and licensed certified social workers, for  
99 emotionally disturbed children and adolescents referred to such  
100 facility by a court, local school district or by the Department of  
101 Human Services, who are not in an acute phase of illness requiring  
102 the services of a psychiatric hospital, and are in need of such  
103 restorative treatment services. For purposes of this paragraph,  
104 the term "emotionally disturbed" means a condition exhibiting one  
105 or more of the following characteristics over a long period of  
106 time and to a marked degree, which adversely affects educational  
107 performance:



- 108                   1. An inability to learn which cannot be explained  
109 by intellectual, sensory or health factors;
- 110                   2. An inability to build or maintain satisfactory  
111 relationships with peers and teachers;
- 112                   3. Inappropriate types of behavior or feelings  
113 under normal circumstances;
- 114                   4. A general pervasive mood of unhappiness or  
115 depression; or
- 116                   5. A tendency to develop physical symptoms or  
117 fears associated with personal or school problems. An  
118 establishment furnishing primarily domiciliary care is not within  
119 this definition.

120                   (e) "Pediatric skilled nursing facility" means an  
121 institution or a distinct part of an institution that is primarily  
122 engaged in providing to inpatients skilled nursing care and  
123 related services for persons under twenty-one (21) years of age  
124 who require medical or nursing care or rehabilitation services for  
125 the rehabilitation of injured, disabled or sick persons.

126                   (f) "Licensing agency" means the State Department of  
127 Health.

128                   (g) "Medical records" mean, without restriction, those  
129 medical histories, records, reports, summaries, diagnoses and  
130 prognoses, records of treatment and medication ordered and given,  
131 notes, entries, x-rays and other written or graphic data prepared,  
132 kept, made or maintained in institutions for the aged or infirm



that pertain to residency in, or services rendered to residents of, an institution for the aged or infirm.

(h) "Adult foster care facility" means a home setting for vulnerable adults in the community who are unable to live independently due to physical, emotional, developmental or mental impairments, or in need of emergency and continuing protective social services for purposes of preventing further abuse or neglect and for safeguarding and enhancing the welfare of the abused or neglected vulnerable adult. Adult foster care programs shall be designed to meet the needs of vulnerable adults with impairments through individual plans of care, which provide a variety of health, social and related support services in a protective setting, enabling participants to live in the community. Adult foster care programs may be (i) traditional, where the foster care provider lives in the residence and is the primary caregiver to clients in the home; (ii) corporate, where the foster care home is operated by a corporation with shift staff delivering services to clients; or (iii) shelter, where the foster care home accepts clients on an emergency short-term basis for up to thirty (30) days.

(i) "Special care facilities for paroled inmates" means long-term care and skilled nursing facilities licensed as special care facilities for medically frail paroled inmates, formed to ease the burden of prison overcrowding and provide compassionate release and medical parole initiatives while impacting economic



outcomes for the Mississippi Prison System. The facilities shall  
meet all Mississippi Department of Health and federal Center for  
Medicaid Services (CMS) requirements and shall be regulated by  
both agencies; provided, however, such regulations shall not be as  
restrictive as those required for personal care homes and other  
institutions devoted primarily to providing medical services. The  
facilities will offer physical, occupational and speech therapy,  
nursing services, wound care, a dedicated COVID services unit,  
individualized patient centered plans of care, social services,  
spiritual services, physical activities, transportation,  
medication, durable medical equipment, personalized meal plans by  
a licensed dietician and security services. There may be up to  
three (3) facilities located in each Supreme Court district, to be  
designated by the Chairman of the State Parole Board or his  
designee.

**SECTION 4.** Section 43-11-13, Mississippi Code of 1972, is  
amended as follows:

43-11-13. (1) The licensing agency shall adopt, amend,  
promulgate and enforce such rules, regulations and standards,  
including classifications, with respect to all institutions for  
the aged or infirm to be licensed under this chapter as may be  
designed to further the accomplishment of the purpose of this  
chapter in promoting adequate care of individuals in those  
institutions in the interest of public health, safety and welfare.  
Those rules, regulations and standards shall be adopted and



promulgated by the licensing agency and shall be recorded and indexed in a book to be maintained by the licensing agency in its main office in the State of Mississippi, entitled "Rules, Regulations and Minimum Standards for Institutions for the Aged or Infirm" and the book shall be open and available to all institutions for the aged or infirm and the public generally at all reasonable times. Upon the adoption of those rules, regulations and standards, the licensing agency shall mail copies thereof to all those institutions in the state that have filed with the agency their names and addresses for this purpose, but the failure to mail the same or the failure of the institutions to receive the same shall in no way affect the validity thereof. The rules, regulations and standards may be amended by the licensing agency, from time to time, as necessary to promote the health, safety and welfare of persons living in those institutions.

(2) The licensee shall keep posted in a conspicuous place on the licensed premises all current rules, regulations and minimum standards applicable to fire protection measures as adopted by the licensing agency. The licensee shall furnish to the licensing agency at least once each six (6) months a certificate of approval and inspection by state or local fire authorities. Failure to comply with state laws and/or municipal ordinances and current rules, regulations and minimum standards as adopted by the licensing agency, relative to fire prevention measures, shall be prima facie evidence for revocation of license.



(3) The State Board of Health shall promulgate rules and regulations restricting the storage, quantity and classes of drugs allowed in personal care homes and adult foster care facilities. Residents requiring administration of Schedule II Narcotics as defined in the Uniform Controlled Substances Law may be admitted to a personal care home. Schedule drugs may only be allowed in a personal care home if they are administered or stored utilizing proper procedures under the direct supervision of a licensed physician or nurse.

(4) (a) Notwithstanding any determination by the licensing agency that skilled nursing services would be appropriate for a resident of a personal care home, that resident, the resident's guardian or the legally recognized responsible party for the resident may consent in writing for the resident to continue to reside in the personal care home, if approved in writing by a licensed physician. However, no personal care home shall allow more than two (2) residents, or ten percent (10%) of the total number of residents in the facility, whichever is greater, to remain in the personal care home under the provisions of this subsection (4). This consent shall be deemed to be appropriately informed consent as described in the regulations promulgated by the licensing agency. After that written consent has been obtained, the resident shall have the right to continue to reside in the personal care home for as long as the resident meets the other conditions for residing in the personal care home. A copy



of the written consent and the physician's approval shall be forwarded by the personal care home to the licensing agency.

(b) The State Board of Health shall promulgate rules and regulations restricting the handling of a resident's personal deposits by the director of a personal care home. Any funds given or provided for the purpose of supplying extra comforts, conveniences or services to any resident in any personal care home, and any funds otherwise received and held from, for or on behalf of any such resident, shall be deposited by the director or other proper officer of the personal care home to the credit of that resident in an account that shall be known as the Resident's Personal Deposit Fund. No more than one (1) month's charge for the care, support, maintenance and medical attention of the resident shall be applied from the account at any one time. After the death, discharge or transfer of any resident for whose benefit any such fund has been provided, any unexpended balance remaining in his personal deposit fund shall be applied for the payment of care, cost of support, maintenance and medical attention that is accrued. If any unexpended balance remains in that resident's personal deposit fund after complete reimbursement has been made for payment of care, support, maintenance and medical attention, and the director or other proper officer of the personal care home has been or shall be unable to locate the person or persons entitled to the unexpended balance, the director or other proper officer may, after the lapse of one (1) year from the date of that



death, discharge or transfer, deposit the unexpended balance to the credit of the personal care home's operating fund.

(c) The State Board of Health shall promulgate rules and regulations requiring personal care homes to maintain records relating to health condition, medicine dispensed and administered, and any reaction to that medicine. The director of the personal care home shall be responsible for explaining the availability of those records to the family of the resident at any time upon reasonable request.

(5) The State Board of Health and the Mississippi Department of Corrections shall jointly issue rules and regulations for the operation of the special care facilities for paroled inmates.

( \* \* \*6) (a) For the purposes of this subsection ( \* \* \*6):

(i) "Licensed entity" means a hospital, nursing home, personal care home, home health agency, hospice or adult foster care facility;

(ii) "Covered entity" means a licensed entity or a health care professional staffing agency;

(iii) "Employee" means any individual employed by a covered entity, and also includes any individual who by contract provides to the patients, residents or clients being served by the covered entity direct, hands-on, medical patient care in a patient's, resident's or client's room or in treatment or recovery rooms. The term "employee" does not include health care



professional/vocational technical students performing clinical training in a licensed entity under contracts between their schools and the licensed entity, and does not include students at high schools located in Mississippi who observe the treatment and care of patients in a licensed entity as part of the requirements of an allied-health course taught in the high school, if:

1. The student is under the supervision of a licensed health care provider; and

2. The student has signed an affidavit that is on file at the student's school stating that he or she has not been convicted of or pleaded guilty or nolo contendere to a felony listed in paragraph (d) of this subsection ( \* \* \* 6), or that any such conviction or plea was reversed on appeal or a pardon was granted for the conviction or plea. Before any student may sign such an affidavit, the student's school shall provide information to the student explaining what a felony is and the nature of the felonies listed in paragraph (d) of this subsection ( \* \* \* 6).

However, the health care professional/vocational technical academic program in which the student is enrolled may require the student to obtain criminal history record checks. In such incidences, paragraph (a)(iii)1 and 2 of this subsection ( \* \* \* 6) does not preclude the licensing entity from processing submitted fingerprints of students from healthcare-related professional/vocational technical programs who, as part of their



307 program of study, conduct observations and provide clinical care  
308 and services in a covered entity.

309 (b) Under regulations promulgated by the State Board of  
310 Health, the licensing agency shall require to be performed a  
311 criminal history record check on (i) every new employee of a  
312 covered entity who provides direct patient care or services and  
313 who is employed on or after July 1, 2003, and (ii) every employee  
314 of a covered entity employed before July 1, 2003, who has a  
315 documented disciplinary action by his or her present employer. In  
316 addition, the licensing agency shall require the covered entity to  
317 perform a disciplinary check with the professional licensing  
318 agency of each employee, if any, to determine if any disciplinary  
319 action has been taken against the employee by that agency.

320 Except as otherwise provided in paragraph (c) of this  
321 subsection ( \* \* \*6), no such employee hired on or after July 1,  
322 2003, shall be permitted to provide direct patient care until the  
323 results of the criminal history record check have revealed no  
324 disqualifying record or the employee has been granted a waiver.  
325 In order to determine the employee applicant's suitability for  
326 employment, the applicant shall be fingerprinted. Fingerprints  
327 shall be submitted to the licensing agency from scanning, with the  
328 results processed through the Department of Public Safety's  
329 Criminal Information Center. The fingerprints shall then be  
330 forwarded by the Department of Public Safety to the Federal Bureau  
331 of Investigation for a national criminal history record check.



The licensing agency shall notify the covered entity of the results of an employee applicant's criminal history record check. If the criminal history record check discloses a felony conviction, guilty plea or plea of nolo contendere to a felony of possession or sale of drugs, murder, manslaughter, armed robbery, rape, sexual battery, sex offense listed in Section 45-33-23(h), child abuse, arson, grand larceny, burglary, gratification of lust or aggravated assault, or felonious abuse and/or battery of a vulnerable adult that has not been reversed on appeal or for which a pardon has not been granted, the employee applicant shall not be eligible to be employed by the covered entity.

(c) Any such new employee applicant may, however, be employed on a temporary basis pending the results of the criminal history record check, but any employment contract with the new employee shall be voidable if the new employee receives a disqualifying criminal history record check and no waiver is granted as provided in this subsection ( \* \* \*6).

(d) Under regulations promulgated by the State Board of Health, the licensing agency shall require every employee of a covered entity employed before July 1, 2003, to sign an affidavit stating that he or she has not been convicted of or pleaded guilty or nolo contendere to a felony of possession or sale of drugs, murder, manslaughter, armed robbery, rape, sexual battery, any sex offense listed in Section 45-33-23(h), child abuse, arson, grand larceny, burglary, gratification of lust, aggravated assault, or



felonious abuse and/or battery of a vulnerable adult, or that any such conviction or plea was reversed on appeal or a pardon was granted for the conviction or plea. No such employee of a covered entity hired before July 1, 2003, shall be permitted to provide direct patient care until the employee has signed the affidavit required by this paragraph (d). All such existing employees of covered entities must sign the affidavit required by this paragraph (d) within six (6) months of the final adoption of the regulations promulgated by the State Board of Health. If a person signs the affidavit required by this paragraph (d), and it is later determined that the person actually had been convicted of or pleaded guilty or nolo contendere to any of the offenses listed in this paragraph (d) and the conviction or plea has not been reversed on appeal or a pardon has not been granted for the conviction or plea, the person is guilty of perjury. If the offense that the person was convicted of or pleaded guilty or nolo contendere to was a violent offense, the person, upon a conviction of perjury under this paragraph, shall be punished as provided in Section 97-9-61. If the offense that the person was convicted of or pleaded guilty or nolo contendere to was a nonviolent offense, the person, upon a conviction of perjury under this paragraph, shall be punished by a fine of not more than Five Hundred Dollars (\$500.00), or by imprisonment in the county jail for not more than six (6) months, or by both such fine and imprisonment.



381           (e) The covered entity may, in its discretion, allow  
382 any employee who is unable to sign the affidavit required by  
383 paragraph (d) of this subsection ( \* \* \*6) or any employee  
384 applicant aggrieved by an employment decision under this  
385 subsection ( \* \* \*6) to appear before the covered entity's hiring  
386 officer, or his or her designee, to show mitigating circumstances  
387 that may exist and allow the employee or employee applicant to be  
388 employed by the covered entity. The covered entity, upon report  
389 and recommendation of the hiring officer, may grant waivers for  
390 those mitigating circumstances, which shall include, but not be  
391 limited to: (i) age at which the crime was committed; (ii)  
392 circumstances surrounding the crime; (iii) length of time since  
393 the conviction and criminal history since the conviction; (iv)  
394 work history; (v) current employment and character references; and  
395 (vi) other evidence demonstrating the ability of the individual to  
396 perform the employment responsibilities competently and that the  
397 individual does not pose a threat to the health or safety of the  
398 patients of the covered entity.

399           (f) The licensing agency may charge the covered entity  
400 submitting the fingerprints a fee not to exceed Fifty Dollars  
401 (\$50.00), which covered entity may, in its discretion, charge the  
402 same fee, or a portion thereof, to the employee applicant. Any  
403 increase in the fee charged by the licensing agency under this  
404 paragraph shall be in accordance with the provisions of Section  
405 41-3-65. Any costs incurred by a covered entity implementing this



subsection ( \* \* \*6) shall be reimbursed as an allowable cost under Section 43-13-116.

(g) If the results of an employee applicant's criminal history record check reveals no disqualifying event, then the covered entity shall, within two (2) weeks of the notification of no disqualifying event, provide the employee applicant with a notarized letter signed by the chief executive officer of the covered entity, or his or her authorized designee, confirming the employee applicant's suitability for employment based on his or her criminal history record check. An employee applicant may use that letter for a period of two (2) years from the date of the letter to seek employment with any covered entity without the necessity of an additional criminal history record check. Any covered entity presented with the letter may rely on the letter with respect to an employee applicant's criminal background and is not required for a period of two (2) years from the date of the letter to conduct or have conducted a criminal history record check as required in this subsection ( \* \* \*6).

(h) The licensing agency, the covered entity, and their agents, officers, employees, attorneys and representatives, shall be presumed to be acting in good faith for any employment decision or action taken under this subsection ( \* \* \*6). The presumption of good faith may be overcome by a preponderance of the evidence in any civil action. No licensing agency, covered entity, nor their agents, officers, employees, attorneys and representatives



shall be held liable in any employment decision or action based in whole or in part on compliance with or attempts to comply with the requirements of this subsection ( \* \* \*6).

(i) The licensing agency shall promulgate regulations to implement this subsection ( \* \* \*6).

(j) The provisions of this subsection ( \* \* \*6) shall not apply to:

(i) Applicants and employees of the University of Mississippi Medical Center for whom criminal history record checks and fingerprinting are obtained in accordance with Section 37-115-41; or

(ii) Health care professional/vocational technical students for whom criminal history record checks and fingerprinting are obtained in accordance with Section 37-29-232.

( \* \* \*7) The State Board of Health shall promulgate rules, regulations and standards regarding the operation of adult foster care facilities.

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

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

(a) To implement and administer laws and policy relating to corrections and coordinate the efforts of the department with those of the federal government and other state departments and agencies, county governments, municipal



governments, and private agencies concerned with providing offender services;

(b) To establish standards, in cooperation with other state agencies having responsibility as provided by law, provide technical assistance, and exercise the requisite supervision as it relates to correctional programs over all state-supported adult correctional facilities and community-based programs;

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

(d) To provide the Parole Board with suitable and sufficient office space and support resources and staff necessary to \* \* \* conduct Parole Board business under the guidance of the Chairman of the Parole Board;

(e) To contract for transitional reentry center beds that will be used as noncorrections housing for offenders released from the department on parole, probation or post-release supervision but do not have appropriate housing available upon release. At least one hundred (100) but no more than eight hundred (800) transitional reentry center beds contracted by the department and chosen by the Parole Board shall be available for the Parole Board to place parolees without appropriate housing;



480 (f) To designate deputy commissioners while performing  
481 their officially assigned duties relating to the custody, control,  
482 transportation, recapture or arrest of any offender within the  
483 jurisdiction of the department or any offender of any jail,  
484 penitentiary, public workhouse or overnight lockup of the state or  
485 any political subdivision thereof not within the jurisdiction of  
486 the department, to the status of peace officers anywhere in the  
487 state in any matter relating to the custody, control,  
488 transportation or recapture of such offender, and shall have the  
489 status of law enforcement officers and peace officers as  
490 contemplated by Sections 45-6-3, 97-3-7 and 97-3-19.

491 For the purpose of administration and enforcement of this  
492 chapter, deputy commissioners of the Mississippi Department of  
493 Corrections, who are certified by the Mississippi Board on Law  
494 Enforcement Officer Standards and Training, have the powers of a  
495 law enforcement officer of this state. Such powers shall include  
496 to make arrests and to serve and execute search warrants and other  
497 valid legal process anywhere within the State of Mississippi while  
498 performing their officially assigned duties relating to the  
499 custody, control, transportation, recapture or arrest of any  
500 offender within the jurisdiction of the department or any offender  
501 of any jail, penitentiary, public workhouse or overnight lockup of  
502 the state or any political subdivision thereof not within the  
503 jurisdiction of the department in any matter relating to the



custody, control, transportation or recapture of such  
offender \* \* \*;

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

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

(i) To make personnel actions for a period of one (1)  
year beginning July 1, 2016, that are exempt from State Personnel  
Board rules, regulations and procedures in order to give the  
commissioner flexibility in making an orderly, effective and  
timely reorganization and realignment of the department; \* \* \*

(j) To contract with licensed special care facilities  
for paroled inmates to provide authorized medical services and  
support services for medically frail inmates who have been paroled  
and committed to the custody of such facility; and

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

**SECTION 6.** Section 47-7-4, Mississippi Code of 1972, is  
amended as follows:

47-7-4. (1) The commissioner and the medical director of  
the department may place an offender who has served not less than



one (1) year of his or her sentence, except an offender convicted of a sex crime, on conditional medical release. However, a nonviolent offender who is bedridden may be placed on conditional medical release regardless of the time served on his or her sentence. Upon the release of a nonviolent offender who is bedridden, the state shall not be responsible or liable for any medical costs that may be incurred if such costs are acquired after the offender is no longer incarcerated due to his or her placement on conditional medical release. The commissioner shall not place an offender on conditional medical release unless the medical director of the department certifies to the commissioner that (a) the offender is suffering from a significant permanent physical medical condition with no possibility of recovery; (b) that his or her further incarceration will serve no rehabilitative purposes; and (c) that the state would incur unreasonable expenses as a result of his or her continued incarceration. Any offender placed on conditional medical release shall be supervised by the Division of Community Corrections of the department for the remainder of his or her sentence. An offender's conditional medical release may be revoked and the offender returned and placed in actual custody of the department if the offender violates an order or condition of his or her conditional medical release. An offender who is no longer bedridden shall be returned and placed in the actual custody of the department.



553       (2) (a) The State Parole Board may grant a medical parole  
554 and referral to licensed special care facilities for paroled  
555 inmates for an inmate determined to be "medically frail" as  
556 defined in this subsection.

557       (b) For purposes of this subsection (2), the term  
558 "medically frail" means an individual who is a minimal threat to  
559 society as a result of his or her medical condition, whose ability  
560 to perform activities of daily living is significantly impaired,  
561 and who may have limited mobility as the result of one or more of  
562 the following conditions from which the individual is not expected  
563 to recover:

564               (i) A disabling mental disorder, including  
565 dementia, Alzheimer's or a similar degenerative brain disorder;

566               (ii) A serious and complex medical condition; or

567               (iii) A physical disability.

568       (c) The following conditions apply to a parole granted  
569 under this subsection (2):

570               (i) An inmate who has been sentenced to capital  
571 punishment is not eligible;

572               (ii) An inmate who has been convicted as a  
573 criminal sex offender is not eligible;

574               (iii) An inmate does not pose a public safety risk  
575 as determined by the State Parole Board;

576               (iv) If the prisoner is incapacitated, an  
577 individual legally entitled to agree to the inmate's placement



agrees to the inmate's placement in a licensed special care facility for paroled inmates or in a medical facility where medical care and treatment are determined to be appropriate for the parolee by the State Parole Board;

(v) An inmate shall agree to the release of his or her medical records that are directly relevant to the condition or conditions rendering the inmate medically frail to the prosecutor of the county from which the inmate was committed before the State Parole Board determines whether or not to grant parole under this subsection;

(vi) If the inmate is granted parole under this subsection (2), the inmate shall agree to the quarterly release of his or her medical records that are directly relevant to the condition or conditions rendering the inmate medically frail at the request of the prosecutor of the county from which the inmate was committed;

(vii) The parolee shall adhere to the terms of his or her parole for the length of his or her parole term, and the parole shall be for a term not less than the time necessary to reach the prisoner's earliest release date;

(viii) A parolee who violates the terms of his or her parole or is determined not to be eligible for parole under this subsection (2) may be transferred to a setting more appropriate for the medical needs of the parolee;



602                   (ix) The Department of Corrections or the State  
603 Parole Board shall not retain authority over the medical treatment  
604 plan for the inmate granted parole under this subsection (2);

605                   (x) The department and the State Parole Board  
606 shall ensure that the placement and terms and conditions of parole  
607 granted under this subsection (2) do not violate any other state  
608 or federal regulations;

609                   (xi) A medical facility utilized by the department  
610 to facilitate parole under this subsection (2) shall be operated  
611 in a manner that ensures the safety of the residents of the  
612 facility.

613                   (d) The Mississippi Department of Corrections may enter  
614 into contracts to facilitate the placement of paroled inmates  
615 under this subsection (2). The Mississippi Department of  
616 Corrections shall appoint a specialist in the appropriate field of  
617 medicine, who is not employed by the department, to evaluate the  
618 condition of the inmate considered for parole under this  
619 subsection (2) and to report on that condition to the department  
620 and the State Parole Board. The State Parole Board shall  
621 determine whether the inmate is medically frail in consultation  
622 with the Mississippi Department of Health.

623                   **SECTION 7.** The following shall be codified as Section  
624 43-13-117.6, Mississippi Code of 1972:

625                   43-13-117.6. (1) The Division of Medicaid may apply to the  
626 federal Center for Medicaid Services (CMS) for necessary waivers



627 to provide federal funding under the Medicaid program for  
628 providing reimbursement for authorized services to medically frail  
629 inmates who qualify for nursing home-level care and who the state  
630 deems are not public safety risks, provided through a Special Care  
631 Facility for Paroled Inmates licensed by the State Department of  
632 Health under contract with the Mississippi Department of  
633 Corrections, as specifically authorized under this act.

634 (2) The program for paroled inmates shall be funded from  
635 monies that are appropriated or otherwise made available to the  
636 division specifically to cover the cost of the paroled inmate  
637 program and shall not be a part of the division's regular  
638 appropriation for the operation of the federal-state Medicaid  
639 program. This program shall be a separate program within the  
640 Division of Medicaid as the administering agent.

641 **SECTION 8.** This act shall take effect and be in force from  
642 and after July 1, 2022, and shall stand repealed from and after  
643 June 30, 2022.

**Further, amend by striking the title in its entirety and  
inserting in lieu thereof the following:**

1 AN ACT TO AMEND SECTION 41-85-5, MISSISSIPPI CODE OF 1972, TO  
2 AUTHORIZE THE DEPARTMENT OF CORRECTIONS TO PROVIDE FOR HOSPICE  
3 CARE SERVICES FOR INMATES WHO ARE CONFINED IN FACILITIES UNDER THE  
4 JURISDICTION OF THE DEPARTMENT AND WHO ARE TERMINALLY ILL; TO  
5 AUTHORIZE THE DEPARTMENT TO HAVE THOSE HOSPICE CARE SERVICES  
6 PROVIDED BY PROPERLY QUALIFIED EMPLOYEES OF THE DEPARTMENT OR TO  
7 CONTRACT FOR THE PROVISION OF THE HOSPICE CARE SERVICES; TO  
8 PROVIDE THAT IF THE DEPARTMENT PROVIDES THE HOSPICE CARE SERVICES  
9 WITH DEPARTMENT EMPLOYEES, THE DEPARTMENT IS NOT REQUIRED TO HAVE  
10 A LICENSE UNDER THE MISSISSIPPI HOSPICE LAW; TO AMEND SECTION



11 41-85-5, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING  
12 PROVISIONS; TO AMEND SECTIONS 43-11-1 AND 43-11-13, MISSISSIPPI  
13 CODE OF 1972, TO DEFINE THE TERM "SPECIAL CARE FACILITIES FOR  
14 PAROLED INMATES" AND PRESCRIBE CONDITIONS FOR LICENSURE BY THE  
15 STATE DEPARTMENT OF HEALTH; TO AMEND SECTIONS 47-5-28 AND 47-7-4,  
16 MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE MISSISSIPPI DEPARTMENT  
17 OF CORRECTIONS TO ESTABLISH A PROGRAM TO GRANT MEDICAL PAROLE TO  
18 SUCH SPECIAL CARE FACILITIES FOR MEDICALLY FRAIL INMATES AND TO  
19 ESTABLISH ELIGIBILITY REQUIREMENTS FOR SUCH PAROLE; TO CODIFY  
20 SECTION 43-13-117.6, MISSISSIPPI CODE OF 1972, TO AUTHORIZE AND  
21 DIRECT THE DIVISION OF MEDICAID TO APPLY FOR NECESSARY WAIVERS FOR  
22 MEDICAID REIMBURSEMENT FOR SERVICES PROVIDED AT SUCH SPECIAL CARE  
23 FACILITIES FOR PAROLED INMATES; AND FOR RELATED PURPOSES.

