

2014 Bill Text MS H.B. 585

Enacted, March 31, 2014

Reporter

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Notice

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THE STATE OF MISSISSIPPI BILL TEXT > MISSISSIPPI 2014 REGULAR SESSION OF THE MISSISSIPPI LEGISLATURE > HOUSE BILL 585

Synopsis

AN ACT TO AMEND SECTIONS 9-23-3, 9-23-5, 9-23-9, 9-23-11, 9-23-13, 9-23-15, 9-23-17 AND 9-23-19, MISSISSIPPI CODE OF 1972, TO REVISE DRUG COURT PROVISIONS REGARDING LEGISLATIVE INTENT, DEFINITIONS, THE ADVISORY COMMITTEE, INTERVENTION COMPONENTS AND SERVICES, PARTICIPATION, AUTHORITY AND FUNDING; TO AMEND SECTION 99-15-26, MISSISSIPPI CODE OF 1972, TO REVISE NONADJUDICATED PROBATION; TO AMEND SECTION 47-7-33, MISSISSIPPI CODE OF 1972, TO REVISE PROBATION; TO AMEND SECTIONS 47-5-1003 AND 47-5-1007, MISSISSIPPI CODE OF 1972, TO REVISE INTENSIVE SUPERVISION AND ELECTRONIC HOME DETENTION; TO AMEND SECTION 99-15-107, MISSISSIPPI CODE OF 1972, TO REVISE ELIGIBILITY FOR THE PRETRIAL INTERVENTION PROGRAM; TO AMEND SECTIONS 97-17-39, 97-17-41, 97-17-42, 97-17-43, 97-17-47, 97-17-62, 97-17-64, 97-17-67, 97-17-70, 97-17-71, 97-21-29, 97-21-33, 97-21-37, 97-21-59, 97-23-19, 97-23-93, 97-23-94, 97-45-3, 97-45-5, 97-45-7 AND 97-45-9, MISSISSIPPI CODE OF 1972, TO REVISE THE THRESHOLD MONETARY AMOUNT REGARDING PROPERTY AND CERTAIN OTHER CRIMES THAT DESIGNATES SUCH CRIMES AS MISDEMEANORS AND FELONIES AND TO REVISE CERTAIN PENALTIES; TO BRING FORWARD SECTION 97-45-19, MISSISSIPPI CODE OF 1972; TO CREATE SECTION 97-43-3.1, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT IT SHALL BE UNLAWFUL FOR ANY PERSON TO CONDUCT AN ORGANIZED THEFT OR FRAUD ENTERPRISE; TO AMEND SECTIONS 41-29-139 AND 41-29-313, MISSISSIPPI CODE OF 1972, TO REVISE PENALTIES RELATED TO CERTAIN CONTROLLED SUBSTANCES; TO CREATE SECTION 97-3-2, MISSISSIPPI CODE OF 1972, TO DEFINE CRIMES OF VIOLENCE; TO AMEND SECTION 47-7-3, MISSISSIPPI CODE OF 1972, TO REVISE PAROLE ELIGIBILITY; TO AMEND SECTION 47-5-138.1, MISSISSIPPI CODE OF 1972, TO REVISE EXCEPTIONS FOR ELIGIBILITY FOR TRUSTY TIME; TO PROVIDE FOR INMATE CASE PLANNING; TO PROVIDE PAROLE RELEASE PROCEDURES; TO AMEND SECTIONS 47-7-17 AND 47-5-157, MISSISSIPPI CODE OF 1972, IN CONFORMITY; TO AMEND SECTION 47-7-2, MISSISSIPPI CODE OF 1972, TO DEFINE CERTAIN TERMS; TO PROVIDE FOR REENTRY PLANNING FOR INMATES; TO AMEND SECTIONS 45-33-41, 47-5-173 AND 47-5-177, MISSISSIPPI CODE OF 1972, TO REVISE VICTIM NOTIFICATION PROVISIONS; TO AMEND SECTIONS 47-7-5 AND 47-7-9, MISSISSIPPI CODE OF 1972, TO REVISE TRAINING REQUIREMENTS; TO PROVIDE FOR GRADUATED SANCTIONS AND INCENTIVES; TO PROVIDE FOR EARNED DISCHARGE; TO AMEND SECTIONS 47-7-27, 47-7-34, 47-7-37, 47-5-901 AND 47-5-911, MISSISSIPPI CODE OF 1972, TO REVISE PAROLE VIOLATION HEARINGS PROVISIONS; TO ESTABLISH TECHNICAL VIOLATION CENTERS IN THE DEPARTMENT OF CORRECTIONS; TO AMEND SECTIONS 47-5-10 AND 47-5-26, MISSISSIPPI CODE OF 1972, IN CONFORMITY; TO AMEND SECTION 47-5-28, MISSISSIPPI CODE OF 1972, TO REVISE THE DUTIES AND RESPONSIBILITIES OF THE COMMISSIONER OF THE DEPARTMENT OF CORRECTIONS; TO REQUIRE COUNTY CLERKS, MUNICIPAL CLERKS AND JUSTICE COURT CLERKS TO FILE CERTAIN INFORMATION WITH THE MISSISSIPPI JUDICIAL COLLEGE; TO PROVIDE FOR FISCAL IMPACT NOTES; TO

CREATE THE SENTENCING AND CRIMINAL JUSTICE OVERSIGHT TASK FORCE; TO PROVIDE FOR THE MEMBERSHIP, DUTIES AND POWERS OF THE TASK FORCE; TO MAKE A STATEMENT OF LEGISLATIVE INTENT AND PURPOSE TO PROVIDE VETERANS TREATMENT COURTS; TO AUTHORIZE CREATION OF A VETERANS TREATMENT COURT PROGRAM BY THE CIRCUIT COURTS; TO PROVIDE CONDITIONS FOR ELIGIBILITY FOR PARTICIPATION IN A PROGRAM; TO TASK THE ADMINISTRATIVE OFFICE OF COURTS WITH SUPERVISORY RESPONSIBILITY; TO REQUIRE THE STATE DRUG COURT ADVISORY COMMITTEE WITH THE RESPONSIBILITY TO DEVELOP STATEWIDE RULES AND POLICIES FOR VETERANS TREATMENT COURTS; TO CREATE THE VETERANS TREATMENT COURTS FUNDS; TO PROVIDE FOR IMMUNITY OF THE STAFF MEMBERS OF VETERANS TREATMENT COURTS FOR THEIR GOOD-FAITH ACTS; AND FOR RELATED PURPOSES.

Text

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

SECTION 1. Section 9-23-3, Mississippi Code of 1972, is amended as follows:

9-23-3.

- (1) The Legislature of Mississippi recognizes the critical need for judicial intervention to reduce the incidence of alcohol and drug use, alcohol and drug addiction, and crimes committed as a result of alcohol and drug use and alcohol and drug addiction. It is the intent of the Legislature to facilitate local drug court alternative orders adaptable to chancery, circuit, county, youth, municipal and justice courts.
- (2) The goals of the drug courts under this chapter include the following:
 - (a) To reduce alcoholism and other drug dependencies among adult and juvenile offenders and defendants and among respondents in juvenile petitions for abuse, neglect or both;
 - (b) To reduce criminal and delinquent recidivism and the incidence of child abuse and neglect;
 - (c) To reduce the alcohol-related and other drug-related court workload;
 - (d) To increase personal, familial and societal accountability of adult and juvenile offenders and defendants and respondents in juvenile petitions for abuse, neglect or both;* * *
 - (e) To promote effective interaction and use of resources among criminal and juvenile justice personnel, child protective services personnel and community agencies* * * ; AND
 - (F) TO USE CORRECTIONS RESOURCES MORE EFFECTIVELY BY REDIRECTING PRISON-BOUND OFFENDERS WHOSE CRIMINAL CONDUCT IS DRIVEN IN PART BY DRUG AND ALCOHOL DEPENDENCE TO INTENSIVE SUPERVISION AND CLINICAL TREATMENT AVAILABLE IN THE DRUG COURT.

SECTION 2. Section 9-23-5, Mississippi Code of 1972, is amended as follows:

9-23-5. For the purposes of this chapter, the following words and phrases shall have the meanings ascribed unless the context clearly requires otherwise:

- (a) "CHEMICAL" TESTS MEANS THE ANALYSIS OF AN INDIVIDUAL'S: (I) BLOOD, (II) BREATH, (III) HAIR, (IV) SWEAT, (V) SALIVA, (VI) URINE, OR (VII) OTHER BODILY SUBSTANCE TO DETERMINE THE PRESENCE OF ALCOHOL OR A CONTROLLED SUBSTANCE.
- (b) "CRIME OF VIOLENCE" MEANS AN OFFENSE LISTED IN SECTION 97-3-2.

(* * * C) " Drug court " means an immediate and highly structured intervention process for substance abuse treatment of eligible defendants or juveniles that:

 - (i) Brings together substance abuse professionals, local social programs and intensive judicial monitoring; and

- (ii) Follows the key components of drug courts published by the Drug Court Program Office of the United States Department of Justice.

* * *

(D) "EVIDENCE-BASED PRACTICES" MEANS SUPERVISION POLICIES, PROCEDURES AND PRACTICES THAT SCIENTIFIC RESEARCH DEMONSTRATES REDUCE RECIDIVISM.

(E) "RISK AND NEEDS ASSESSMENT" MEANS THE USE OF AN ACTUARIAL ASSESSMENT TOOL VALIDATED ON A MISSISSIPPI CORRECTIONS POPULATION TO DETERMINE A PERSON'S RISK TO REOFFEND AND THE CHARACTERISTICS THAT, IF ADDRESSED, REDUCE THE RISK TO REOFFEND.

SECTION 3. Section 9-23-9, Mississippi Code of 1972, is amended as follows:

9-23-9.

- (1) The State Drug Courts Advisory Committee is established to develop and periodically update proposed statewide evaluation plans and models for monitoring all critical aspects of drug courts. The committee must provide the proposed evaluation plans to the Chief Justice and the Administrative Office of Courts. The committee shall be chaired by the Director of the Administrative Office of Courts and shall consist of not less than seven (7) members nor more than eleven (11) members appointed by the Supreme Court and broadly representative of the courts, law enforcement, corrections, juvenile justice, child protective services and substance abuse treatment communities.
- (2) The State Drug Courts Advisory Committee may also make recommendations to the Chief Justice, the Director of the Administrative Office of Courts and state officials concerning improvements to drug court policies and procedures INCLUDING THE DRUG COURT CERTIFICATION PROCESS . The committee may make suggestions as to the criteria for eligibility, and other procedural and substantive guidelines for drug court operation.
- (3) The State Drug Courts Advisory Committee shall act as arbiter of disputes arising out of the operation of drug courts established under this chapter and make recommendations to improve the drug courts; it shall also make recommendations to the Supreme Court necessary and incident to compliance with established rules.
- (4) The State Drug Court S Advisory Committee shall establish through rules and regulations a viable and fiscally responsible plan to expand the number of adult and juvenile drug court programs operating in Mississippi. These rules and regulations shall include plans to increase participation in existing and future programs while maintaining their voluntary nature.
- (5) THE STATE DRUG COURTS ADVISORY COMMITTEE SHALL RECEIVE AND REVIEW THE MONTHLY REPORTS SUBMITTED TO THE ADMINISTRATIVE OFFICE OF COURTS BY EACH CERTIFIED DRUG COURT AND PROVIDE COMMENTS AND MAKE RECOMMENDATIONS, AS NECESSARY, TO THE CHIEF JUSTICE AND THE DIRECTOR OF THE ADMINISTRATIVE OFFICE OF COURTS.

SECTION 4. Section 9-23-11, Mississippi Code of 1972, is amended as follows:

9-23-11.

- (1) * * *

THE ADMINISTRATIVE OFFICE OF COURTS SHALL ESTABLISH, IMPLEMENT AND OPERATE A UNIFORM CERTIFICATION PROCESS FOR ALL DRUG COURTS AND OTHER PROBLEM-SOLVING COURTS INCLUDING JUVENILE COURTS, VETERANS COURTS OR ANY OTHER COURT DESIGNED TO ADJUDICATE CRIMINAL ACTIONS INVOLVING AN IDENTIFIED CLASSIFICATION OF CRIMINAL DEFENDANT TO ENSURE FUNDING FOR DRUG COURTS SUPPORTS EFFECTIVE AND PROVEN PRACTICES THAT REDUCE RECIDIVISM AND SUBSTANCE DEPENDENCY AMONG THEIR PARTICIPANTS.

- (2) * * * THE ADMINISTRATIVE OFFICE OF COURTS SHALL ESTABLISH A CERTIFICATION PROCESS THAT ENSURES ANY NEW OR EXISTING DRUG COURT MEETS MINIMUM STANDARDS FOR DRUG COURT OPERATION.
- (A) THESE STANDARDS SHALL INCLUDE, BUT ARE NOT LIMITED TO:
- (I) THE USE OF EVIDENCE-BASED PRACTICES INCLUDING, BUT NOT LIMITED TO, THE USE OF A VALID AND RELIABLE RISK AND NEEDS ASSESSMENT TOOL TO IDENTIFY PARTICIPANTS AND DELIVER APPROPRIATE INTERVENTIONS;
 - (II) TARGETING MEDIUM TO HIGH RISK OFFENDERS FOR PARTICIPATION;
 - (III) THE USE OF CURRENT, EVIDENCE-BASED INTERVENTIONS PROVEN TO REDUCE DEPENDENCY ON DRUGS OR ALCOHOL, OR BOTH;
 - (IV) FREQUENT TESTING FOR ALCOHOL OR DRUGS;
 - (V) COORDINATED STRATEGY BETWEEN ALL DRUG COURT PROGRAM PERSONNEL INVOLVING THE USE OF GRADUATED CLINICAL INTERVENTIONS;
 - (VI) ONGOING JUDICIAL INTERACTION WITH EACH PARTICIPANT; AND
 - (VII) MONITORING AND EVALUATION OF DRUG COURT PROGRAM IMPLEMENTATION AND OUTCOMES THROUGH DATA COLLECTION AND REPORTING.
- (B) DRUG COURT CERTIFICATION APPLICATIONS SHALL INCLUDE:
- (I) A DESCRIPTION OF THE NEED FOR THE DRUG COURT;
 - (II) THE TARGETED POPULATION FOR THE DRUG COURT;
 - (III) THE ELIGIBILITY CRITERIA FOR DRUG COURT PARTICIPANTS;
 - (IV) A DESCRIPTION OF THE PROCESS FOR IDENTIFYING APPROPRIATE PARTICIPANTS INCLUDING THE USE OF A RISK AND NEEDS ASSESSMENT AND A CLINICAL ASSESSMENT;
 - (V) A DESCRIPTION OF THE DRUG COURT INTERVENTION COMPONENTS INCLUDING ANTICIPATED BUDGET AND IMPLEMENTATION PLAN;
 - (VI) THE DATA COLLECTION PLAN WHICH SHALL INCLUDE COLLECTING THE FOLLOWING DATA:
 - 1. TOTAL NUMBER OF PARTICIPANTS;
 - 2. TOTAL NUMBER OF SUCCESSFUL PARTICIPANTS;
 - 3. TOTAL NUMBER OF UNSUCCESSFUL PARTICIPANTS AND THE REASON WHY EACH PARTICIPANT DID NOT COMPLETE THE PROGRAM;
 - 4. TOTAL NUMBER OF PARTICIPANTS WHO WERE ARRESTED FOR A NEW CRIMINAL OFFENSE WHILE IN THE DRUG COURT PROGRAM;
 - 5. TOTAL NUMBER OF PARTICIPANTS WHO WERE CONVICTED OF A NEW FELONY OR MISDEMEANOR OFFENSE WHILE IN THE DRUG COURT PROGRAM;
 - 6. TOTAL NUMBER OF PARTICIPANTS WHO COMMITTED AT LEAST ONE (1) VIOLATION WHILE IN THE DRUG COURT PROGRAM AND THE RESULTING SANCTION(S);
 - 7. RESULTS OF THE INITIAL RISK AND NEEDS ASSESSMENT OR OTHER CLINICAL ASSESSMENT CONDUCTED ON EACH PARTICIPANT; AND
 - 8. ANY OTHER DATA OR INFORMATION AS REQUIRED BY THE ADMINISTRATIVE OFFICE OF COURTS.

- (C) EVERY DRUG COURT SHALL BE CERTIFIED UNDER THE FOLLOWING SCHEDULE:
- (I) A DRUG COURT APPLICATION SUBMITTED AFTER THE EFFECTIVE DATE OF THIS ACT SHALL REQUIRE CERTIFICATION OF THE DRUG COURT BASED ON THE PROPOSED DRUG COURT PLAN;
 - (II) A DRUG COURT ESTABLISHED AFTER THE EFFECTIVE DATE OF THIS ACT SHALL BE RECERTIFIED AFTER ITS SECOND YEAR OF FUNDED OPERATION;
 - (III) A DRUG COURT IN EXISTENCE ON THE EFFECTIVE DATE OF THIS ACT MUST SUBMIT A CERTIFICATION PETITION WITHIN ONE (1) YEAR OF THE EFFECTIVE DATE OF THIS ACT AND BE CERTIFIED PURSUANT TO THE REQUIREMENTS OF THIS SECTION PRIOR TO EXPENDING DRUG COURT RESOURCES BUDGETED FOR FISCAL YEAR 2016; AND
 - (IV) ALL DRUG COURTS SHALL SUBMIT A RE-CERTIFICATION PETITION EVERY TWO (2) YEARS TO THE ADMINISTRATIVE OFFICE OF COURTS AFTER THE INITIAL CERTIFICATION.
- (3) * * * ALL CERTIFIED DRUG COURTS SHALL MEASURE SUCCESSFUL COMPLETION OF THE DRUG COURT BASED ON THOSE PARTICIPANTS WHO COMPLETE THE PROGRAM WITHOUT A NEW CRIMINAL CONVICTION.
- (4)
- * * * (A) ALL CERTIFIED DRUG COURTS MUST COLLECT AND SUBMIT TO THE ADMINISTRATIVE OFFICE OF COURTS EACH MONTH, THE FOLLOWING DATA:
- (I) TOTAL NUMBER OF PARTICIPANTS AT THE BEGINNING OF THE MONTH;
 - (II) TOTAL NUMBER OF PARTICIPANTS AT THE END OF THE MONTH;
 - (III) TOTAL NUMBER OF PARTICIPANTS WHO BEGAN THE PROGRAM IN THE MONTH;
 - (IV) TOTAL NUMBER OF PARTICIPANTS WHO SUCCESSFULLY COMPLETED THE DRUG COURT IN THE MONTH;
 - (V) TOTAL NUMBER OF PARTICIPANTS WHO LEFT THE PROGRAM IN THE MONTH;
 - (VI) TOTAL NUMBER OF PARTICIPANTS WHO WERE ARRESTED FOR A NEW CRIMINAL OFFENSE WHILE IN THE DRUG COURT PROGRAM IN THE MONTH;
 - (VII) TOTAL NUMBER OF PARTICIPANTS WHO WERE CONVICTED FOR A NEW CRIMINAL ARREST WHILE IN THE DRUG COURT PROGRAM IN THE MONTH; AND
 - (VIII) TOTAL NUMBER OF PARTICIPANTS WHO COMMITTED AT LEAST ONE (1) VIOLATION WHILE IN THE DRUG COURT PROGRAM AND ANY RESULTING SANCTION(S).
- (B) BY AUGUST 1, 2015, AND EACH YEAR THEREAFTER, THE ADMINISTRATIVE OFFICE OF COURTS SHALL REPORT TO THE PEER COMMITTEE THE INFORMATION IN SUBSECTION (4)(A) OF THIS SECTION IN A SORTABLE, ELECTRONIC FORMAT.
- (5) * * * ALL CERTIFIED DRUG COURTS MAY INDIVIDUALLY ESTABLISH RULES AND MAY MAKE SPECIAL ORDERS AND RULES AS NECESSARY THAT DO NOT CONFLICT WITH THE RULES PROMULGATED BY THE SUPREME COURT OR THE ADMINISTRATIVE OFFICE OF COURTS.
- (6) * * * A CERTIFIED DRUG COURT MAY APPOINT THE FULL- OR PART-TIME EMPLOYEES IT DEEMS NECESSARY FOR THE WORK OF THE DRUG COURT AND SHALL FIX THE COMPENSATION OF THOSE EMPLOYEES. SUCH EMPLOYEES SHALL SERVE AT THE WILL AND PLEASURE OF THE JUDGE OR THE JUDGE'S DESIGNEE.

- (7) * * * THE ADMINISTRATIVE OFFICE OF COURTS SHALL PROMULGATE RULES AND REGULATIONS TO CARRY OUT THE CERTIFICATION AND RE-CERTIFICATION PROCESS AND MAKE ANY OTHER POLICIES NOT INCONSISTENT WITH THIS SECTION TO CARRY OUT THIS PROCESS.
- (8) A CERTIFIED DRUG COURT ESTABLISHED UNDER THIS CHAPTER IS SUBJECT TO THE REGULATORY POWERS OF THE ADMINISTRATIVE OFFICE OF COURTS AS SET FORTH IN SECTION 9-23-17.

SECTION 5. Section 9-23-13, Mississippi Code of 1972, is amended as follows:

9-23-13.

- (1) A drug court's alcohol and drug intervention component* * * SHALL provide for eligible individuals , EITHER DIRECTLY OR THROUGH REFERRALS, a range of necessary court intervention services, including, but not limited to, the following:
- (a) Screening USING A VALID AND RELIABLE ASSESSMENT TOOL EFFECTIVE FOR IDENTIFYING ALCOHOL AND DRUG DEPENDENT PERSONS for eligibility and* * * appropriate services;
 - (b) Clinical assessment;
 - (c) Education;
 - (d) Referral;
 - (e) Service coordination and case management; and
 - (f) Counseling and rehabilitative care.
- (2) Any inpatient treatment or inpatient detoxification program ordered by the court shall be certified by the Department of Mental Health, other appropriate state agency or the equivalent agency of another state.

SECTION 6. Section 9-23-15, Mississippi Code of 1972, is amended as follows:

9-23-15.

- (1) In order to be eligible for alternative sentencing through a local drug court, the participant must satisfy each of the following criteria:
- (a) The participant cannot have any felony convictions for any offenses that are crimes of violence AS DEFINED IN SECTION 97-3-2 WITHIN THE PREVIOUS TEN (10) YEARS .
 - (b) The crime before the court cannot be a crime of violence AS DEFINED IN SECTION 97-3-2 .
 - (c) Other criminal proceedings alleging commission of a crime of violence cannot be pending against the participant.
 - (d) The participant cannot* * * BE currently charged with burglary of* * * A dwelling UNDER SECTION 97-17-23(2) OR 97-17-37 .
 - (e) The crime before the court cannot be a charge of driving under the influence of alcohol or any other drug or drugs that resulted in the death of a person.
 - (f) The crime charged cannot be one of* * * TRAFFICKING IN controlled substances UNDER SECTION 41-29-139(F) , nor can the participant have a prior conviction for same.
- (2) Participation in the services of an alcohol and drug intervention component shall be open only to the individuals over whom the court has jurisdiction, except that the court may agree to provide the services for individuals referred from another drug court. In cases transferred from another jurisdiction, the receiving judge shall act as a special master and make recommendations to the sentencing judge.

- (3)
- (a) As a condition of participation in a drug court, a participant may be required to undergo a chemical test or a series of chemical tests as specified by the drug court. A participant is liable for the costs of all chemical tests required under this section, regardless of whether the costs are paid to the drug court or the laboratory; however, if testing is available from other sources or the program itself, the judge may waive any fees for testing.
 - (b) A laboratory that performs a chemical test under this section shall report the results of the test to the drug court.
- (4) A person does not have a right to participate in drug court under this chapter. The court having jurisdiction over a person for a matter before the court shall have the final determination about whether the person may participate in drug court under this chapter.

SECTION 7. Section 9-23-17, Mississippi Code of 1972, is amended as follows:

9-23-17. With regard to any drug court established under this chapter, the Administrative Office of Courts* * * **SHALL** do the following:

- (a) **CERTIFY AND RE-CERTIFY DRUG COURT APPLICATIONS THAT MEET STANDARDS ESTABLISHED BY ADMINISTRATIVE OFFICE OF COURTS IN ACCORDANCE WITH THIS CHAPTER.**
 - (* * * **B**) Ensure that the structure of the intervention component complies with rules adopted under this section and applicable federal regulations.
 - (* * * **C**) Revoke the authorization of a program upon a determination that the program does not comply with rules adopted under this section and applicable federal regulations.
 - (* * * **D**) Make agreements and contracts to effectuate the purposes of this chapter with:
 - (i) Another department, authority or agency of the state;
 - (ii) Another state;
 - (iii) The federal government;
 - (iv) A state-supported or private university; or
 - (v) A public or private agency, foundation, corporation or individual.
 - (* * * **E**) Directly, or by contract, approve and certify any intervention component established under this* * * **CHAPTER** .
 - (* * * **F**) Require, as a condition of operation, that each drug court created or funded under this chapter be certified by the Administrative Office of Courts.
- (G) COLLECT MONTHLY DATA REPORTS SUBMITTED BY ALL CERTIFIED DRUG COURTS, PROVIDE THOSE REPORTS TO THE STATE DRUG COURTS ADVISORY COMMITTEE, COMPILE AN ANNUAL REPORT SUMMARIZING THE DATA COLLECTED AND THE OUTCOMES ACHIEVED BY ALL CERTIFIED DRUG COURTS AND SUBMIT THE ANNUAL REPORT TO THE OVERSIGHT TASK FORCE.**
- (H) EVERY THREE (3) YEARS CONTRACT WITH AN EXTERNAL EVALUATOR TO CONDUCT AN EVALUATION OF THE EFFECTIVENESS OF THE DRUG COURT PROGRAM, BOTH STATEWIDE AND INDIVIDUAL DRUG COURT PROGRAMS, IN COMPLYING WITH THE KEY COMPONENTS OF THE DRUG COURTS ADOPTED BY THE NATIONAL ASSOCIATION OF DRUG COURT PROFESSIONALS.**
 - (* * * **I**) Adopt rules to implement this chapter.

SECTION 8. Section 9-23-19, Mississippi Code of 1972, is amended as follows:

9-23-19.

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- (1) All monies received from any source by the drug court shall be accumulated in a fund to be used only for drug court purposes. Any funds remaining in this fund at the end of a fiscal year shall not lapse into any general fund, but shall be retained in the drug court fund for the funding of further activities by the drug court.
- (2) A drug court may apply for and receive the following:
 - (a) Gifts, bequests and donations from private sources.
 - (b) Grant and contract money from governmental sources.
 - (c) Other forms of financial assistance approved by the court to supplement the budget of the drug court.
- (3) THE COSTS OF PARTICIPATION IN AN ALCOHOL AND DRUG INTERVENTION PROGRAM REQUIRED BY THE CERTIFIED DRUG COURT MAY BE PAID BY THE PARTICIPANT OR OUT OF USER FEES OR SUCH OTHER STATE, FEDERAL OR PRIVATE FUNDS THAT MAY, FROM TIME TO TIME, BE MADE AVAILABLE.
- (4) THE COURT MAY ASSESS SUCH REASONABLE AND APPROPRIATE FEES TO BE PAID TO THE LOCAL DRUG COURT FUND FOR PARTICIPATION IN AN ALCOHOL OR DRUG INTERVENTION PROGRAM.

SECTION 9. Section 99-15-26, Mississippi Code of 1972, is amended as follows:

99-15-26.

- (1)
 - (a) In all criminal cases, felony and misdemeanor, other than crimes against the person , A CRIME OF VIOLENCE AS DEFINED IN SECTION 97-3-2 or a violation of Section 97-11-31, the circuit or county court shall be empowered, upon the entry of a plea of guilty by a criminal defendant MADE ON OR AFTER JULY 1, 2014 , to withhold acceptance of the plea and sentence thereon pending successful completion of such conditions as may be imposed by the court pursuant to subsection (2) of this section.
 - (b) In all misdemeanor criminal cases, other than crimes against the person, the justice or municipal court shall be empowered, upon the entry of a plea of guilty by a criminal defendant, to withhold acceptance of the plea and sentence thereon pending successful completion of such conditions as may be imposed by the court pursuant to subsection (2) of this section.
 - (c) NOTWITHSTANDING SECTION 97-3-2, in all criminal cases charging a misdemeanor of domestic violence as defined in Section 99-3-7(5) or aggravated domestic violence as defined in Section 97-3-7(4), a circuit, county, justice or municipal court shall be empowered, upon the entry of a plea of guilty by the criminal defendant, to withhold acceptance of the plea and sentence thereon pending successful completion of such conditions as may be imposed by the court pursuant to subsection (2) of this section.
 - (d) No person having previously qualified under the provisions of this section* * * shall be eligible to qualify for release in accordance with this section FOR A REPEAT OFFENSE . A person shall not be eligible to qualify for release in accordance with this section if* * * CHARGED WITH THE OFFENSE OF TRAFFICKING OF A CONTROLLED SUBSTANCE AS PROVIDED IN SECTION 41-29-139(F) .
- (2)
 - (a) Conditions which the circuit, county, justice or municipal court may impose under subsection (1) of this section shall consist of:
 - (i) Reasonable restitution to the victim of the crime.

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- (ii) Performance of not more than nine hundred sixty (960) hours of public service work approved by the court.
 - (iii) Payment of a fine not to exceed the statutory limit.
 - (iv) Successful completion of drug, alcohol, psychological or psychiatric treatment, successful completion of a program designed to bring about the cessation of domestic abuse, or any combination thereof, if the court deems treatment necessary.
 - (v) The circuit or county court, in its discretion, may require the defendant to remain in the program subject to good behavior for a period of time not to exceed five (5) years. The justice or municipal court, in its discretion, may require the defendant to remain in the program subject to good behavior for a period of time not to exceed two (2) years.
- (b) Conditions which the circuit or county court may impose under subsection (1) of this section also include successful completion of a regimented inmate discipline program.
- (3) When the court has imposed upon the defendant the conditions set out in this section, the court shall release the bail bond, if any.
 - (4) Upon successful completion of the court-imposed conditions permitted by subsection (2) of this section, the court shall direct that the cause be dismissed and the case be closed.
 - (5) Upon petition therefor, the court shall expunge the record of any case in which an arrest was made, the person arrested was released and the case was dismissed or the charges were dropped or there was no disposition of such case.
 - (6) This section shall take effect and be in force from and after March 31, 1983.

SECTION 10. Section 47-7-33, Mississippi Code of 1972, is amended as follows:

47-7-33.

- (1) When it appears to the satisfaction of any circuit court or county court in the State of Mississippi having original jurisdiction over criminal actions, or to the judge thereof, that the ends of justice and the best interest of the public, as well as the defendant, will be served thereby, such court, in termtime or in vacation, shall have the power, after conviction or a plea of guilty, except in a case where a death sentence or life imprisonment is the maximum penalty which may be imposed* * *, to suspend the imposition or execution of sentence, and place the defendant on probation as herein provided, except that the court shall not suspend the execution of a sentence of imprisonment after the defendant shall have begun to serve such sentence. In placing any defendant on probation, the court, or judge, shall direct that such defendant be under the supervision of the Department of Corrections.
- (2) When any circuit or county court places an offender on probation, the court shall give notice to the Mississippi Department of Corrections within fifteen (15) days of the court's decision to place the offender on probation. Notice shall be delivered to the central office of the Mississippi Department of Corrections and to the regional office of the department which will be providing supervision to the offender on probation.
- (3) When any circuit court or county court places a person on probation in accordance with the provisions of this section and that person is ordered to make any payments to his family, if any member of his family whom he is ordered to support is receiving public assistance through the State Department of* * * **HUMAN SERVICES**, the court shall order him to make such payments to the county welfare officer of the county rendering public assistance to his family, for the sole use and benefit of said family.

SECTION 11. Section 47-5-1003, Mississippi Code of 1972, is amended as follows:

47-5-1003.

- (1) An intensive supervision program may be used as an alternative to incarceration for offenders who are* * * **NOT CONVICTED OF A CRIME OF VIOLENCE PURSUANT TO SECTION 97-3-2** as selected by the* * * court and for juvenile offenders as provided in Section 43-21-605. Any offender convicted of a sex crime shall not be placed in the program.
- (2) The court* * * may place the defendant on intensive supervision, except when a death sentence or life imprisonment is the maximum penalty which may be imposed* * * **BY A COURT OR JUDGE** .
- (3) To protect and to ensure the safety of the state's citizens, any offender who violates an order or condition of the intensive supervision program may be arrested by the correctional field officer and placed in the actual custody of the Department of Corrections. Such offender is under the full and complete jurisdiction of the department and subject to removal from the program by the classification hearing officer.
- (4) When any circuit or county court places an offender in an intensive supervision program, the court shall give notice to the Mississippi Department of Corrections within fifteen (15) days of the court's decision to place the offender in an intensive supervision program. Notice shall be delivered to the central office of the Mississippi Department of Corrections and to the regional office of the department which will be providing supervision to the offender in an intensive supervision program.
The courts may not require an offender to participate in the intensive supervision program during a term of probation or post-release supervision.
- (5) The Department of Corrections shall* * * **PROVIDE TO THE OVERSIGHT TASK FORCE ALL RELEVANT DATA REGARDING THE OFFENDERS PARTICIPATING IN THE INTENSIVE SUPERVISION PROGRAM INCLUDING THE NUMBER OF OFFENDERS ADMITTED TO THE PROGRAM ANNUALLY, THE NUMBER OF OFFENDERS WHO LEAVE THE PROGRAM ANNUALLY AND WHY THEY LEAVE, THE NUMBER OF OFFENDERS WHO ARE ARRESTED OR CONVICTED ANNUALLY AND THE CIRCUMSTANCES OF THE ARREST AND ANY OTHER INFORMATION REQUESTED** .

SECTION 12. Section 47-5-1007, Mississippi Code of 1972, is amended as follows:

47-5-1007.

- (1) Any participant in the intensive supervision program who engages in employment shall pay a monthly fee to the department for each month such person is enrolled in the program. The department may waive the monthly fee if the offender is a full-time student or is engaged in vocational training. Juvenile offenders shall pay a monthly fee of not less than Ten Dollars (\$ 10.00) but not more than Fifty Dollars (\$ 50.00) based on a sliding scale using the standard of need for each family that is used to calculate TANF benefits. Money received by the department from participants in the program shall be deposited into a special fund which is hereby created in the State Treasury. It shall be used, upon appropriation by the Legislature, for the purpose of helping to defray the costs involved in administering and supervising such program. Unexpended amounts remaining in such special fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned on amounts in such special fund shall be deposited to the credit of the special fund.
- (2) The participant shall admit any correctional officer into his residence at any time for purposes of verifying the participant's compliance with the conditions of his detention.
- (3) The participant shall make the necessary arrangements to allow for correctional officers to visit the participant's place of education or employment at any time, based upon the approval of the educational institution or employer, for the purpose of verifying the participant's compliance with the conditions of his detention.
- (4) The participant shall acknowledge and participate with the approved electronic monitoring device as designated by the department at any time for the purpose of verifying the participant's compliance with the conditions of his detention.

- (5) The participant shall be responsible for and shall maintain the following:
 - (a) A working telephone line in the participant's home;
 - (b) A monitoring device in the participant's home, or on the participant's person, or both; and
 - (c) A monitoring device in the participant's home and on the participant's person in the absence of a telephone.
- (6) The participant shall obtain approval from the correctional field officer before the participant changes residence.
- (7) The participant shall not commit another crime during the period of home detention ordered by the court or department.
- (8) Notice shall be given to the participant that violation of the order of home detention shall subject the participant to prosecution for the crime of escape as a felony.
- (9) The participant shall abide by other conditions as set by the **COURT OR THE** department.

SECTION 13. Section 99-15-107, Mississippi Code of 1972, is amended as follows:

99-15-107. A person shall not be considered for intervention if he or she has* * * **BEEN** charged with any crime of violence* * * **PURSUANT TO SECTION 97-3-2** . A person shall not be eligible for acceptance into the intervention program provided by Sections 99-15-101 through 99-15-127 if such person has been charged* * * with an offense pertaining to* * * **TRAFFICKING IN** a controlled substance,* * * as provided in Section 41-29-139* * * **(F)** .

SECTION 14. Section 97-17-39, Mississippi Code of 1972, is amended as follows:

97-17-39. If any person, by any means whatever, shall* * * **WILLFULLY** or mischievously injure or destroy any of the burial vaults, urns, memorials, vases, foundations, bases or other similar items in a cemetery, or injure or destroy any of the work, materials, or furniture of any courthouse or jail, or other public building, or schoolhouse or church, or deface any of the walls or other parts thereof, or shall write, or make any drawings or character, or do any other act, either on or in said building or the walls thereof, or shall deface or injure the trees, fences, pavements, or soil, on the grounds belonging thereto, or an ornamental or shade tree on any public road or street leading thereto, such person, upon conviction, for such offense, shall be punished as follows:

- (a) If the damage caused by the destruction or defacement of such property has a value of less than* * * **FIVE HUNDRED DOLLARS (\$ 500.00)** , any person who is convicted of* * * **THIS** offense* * * **MAY** be fined not more than One Thousand Dollars (\$ 1,000.00) or be imprisoned in the county jail for not more than one (1) year, or both* * * **IF THE COURT FINDS SUBSTANTIAL AND COMPELLING REASONS WHY THE OFFENDER CANNOT BE SAFELY AND EFFECTIVELY SUPERVISED IN THE COMMUNITY, IS NOT AMENABLE TO COMMUNITY-BASED TREATMENT, OR POSES A SIGNIFICANT RISK TO PUBLIC SAFETY. IF SUCH A FINDING IS NOT MADE, THE COURT SHALL SUSPEND THE SENTENCE OF IMPRISONMENT AND IMPOSE A PERIOD OF PROBATION NOT EXCEEDING ONE (1) YEAR OR A FINE OF NOT MORE THAN ONE THOUSAND DOLLARS (\$ 1,000.00), OR BOTH. ANY PERSON CONVICTED OF A THIRD OR SUBSEQUENT OFFENSE UNDER THIS SUBSECTION WHERE THE VALUE OF THE PROPERTY IS NOT LESS THAN FIVE HUNDRED DOLLARS (\$ 500.00), SHALL BE IMPRISONED IN THE PENITENTIARY FOR A TERM NOT EXCEEDING THREE (3) YEARS OR FINED AN AMOUNT NOT EXCEEDING TWO THOUSAND DOLLARS (\$ 2,000.00), OR BOTH.**
- (b) If the damage caused by the destruction or defacement of such property has a value equal to or exceeding* * * **FIVE HUNDRED DOLLARS (\$ 500.00) OR MORE BUT LESS THAN FIVE THOUSAND DOLLARS (\$ 5,000.00)** , any person who is convicted of* * * **THIS** offense shall be fined not more than Five Thousand Dollars (\$ 5,000.00) or be imprisoned in the State Penitentiary for up to five (5) years, or both.

- (C) IF THE DAMAGE CAUSED BY THE DESTRUCTION OR DEFACEMENT OF SUCH PROPERTY HAS A VALUE OF FIVE THOUSAND DOLLARS (\$ 5,000.00) OR MORE BUT LESS THAN TWENTY-FIVE THOUSAND DOLLARS (\$ 25,000.00), ANY PERSON WHO IS CONVICTED OF THIS OFFENSE SHALL BE FINED NOT MORE THAN TEN THOUSAND DOLLARS (\$ 10,000.00) OR BE IMPRISONED IN THE PENITENTIARY FOR UP TO TEN (10) YEARS, OR BOTH.
- (D) IF THE DAMAGE CAUSED BY THE DESTRUCTION OR DEFACEMENT OF SUCH PROPERTY HAS A VALUE OF TWENTY-FIVE THOUSAND DOLLARS (\$ 25,000.00) OR MORE, ANY PERSON WHO IS CONVICTED OF THIS OFFENSE SHALL BE FINED NOT MORE THAN TEN THOUSAND DOLLARS (\$ 10,000.00) OR BE IMPRISONED IN THE PENITENTIARY FOR UP TO TWENTY (20) YEARS, OR BOTH.

SECTION 15. Section 97-17-41, Mississippi Code of 1972, is amended as follows:

97-17-41.

- (1) * * * ANY person who shall be convicted of taking and carrying away, feloniously, the personal property of another, of the value of* * * ONE THOUSAND DOLLARS (\$ 1,000.00) or more, BUT LESS THAN FIVE THOUSAND DOLLARS (\$ 5,000.00), shall be guilty of grand larceny, and shall be imprisoned in the Penitentiary for a term not exceeding* * * FIVE (5) years; or shall be fined not more than Ten Thousand Dollars (\$ 10,000.00), or both. The total value of property taken and carried away by the person from a single victim shall be aggregated in determining the gravity of the offense.
- (2) ANY PERSON WHO SHALL BE CONVICTED OF TAKING AND CARRYING AWAY, FELONIOUSLY, THE PERSONAL PROPERTY OF ANOTHER, OF THE VALUE OF FIVE THOUSAND DOLLARS (\$ 5,000.00) OR MORE, BUT LESS THAN TWENTY-FIVE THOUSAND DOLLARS (\$ 25,000.00), SHALL BE GUILTY OF GRAND LARCENY, AND SHALL BE IMPRISONED IN THE PENITENTIARY FOR A TERM NOT EXCEEDING TEN (10) YEARS; OR SHALL BE FINED NOT MORE THAN TEN THOUSAND DOLLARS (\$ 10,000.00), OR BOTH. THE TOTAL VALUE OF PROPERTY TAKEN AND CARRIED AWAY BY THE PERSON FROM A SINGLE VICTIM SHALL BE AGGREGATED IN DETERMINING THE GRAVITY OF THE OFFENSE.
- (3) ANY PERSON WHO SHALL BE CONVICTED OF TAKING AND CARRYING AWAY, FELONIOUSLY, THE PERSONAL PROPERTY OF ANOTHER, OF THE VALUE OF TWENTY-FIVE THOUSAND DOLLARS (\$ 25,000.00) OR MORE, SHALL BE GUILTY OF GRAND LARCENY, AND SHALL BE IMPRISONED IN THE PENITENTIARY FOR A TERM NOT EXCEEDING TWENTY (20) YEARS; OR SHALL BE FINED NOT MORE THAN TEN THOUSAND DOLLARS (\$ 10,000.00), OR BOTH. THE TOTAL VALUE OF PROPERTY TAKEN AND CARRIED AWAY BY THE PERSON FROM A SINGLE VICTIM SHALL BE AGGREGATED IN DETERMINING THE GRAVITY OF THE OFFENSE.
- (* * * 4) * * * (A) ANY person who shall be convicted of taking and carrying away, feloniously, the property of a church, synagogue, temple or other established place of worship, of the value of* * * ONE THOUSAND DOLLARS (\$ 1,000.00) or more, shall be guilty of grand larceny, and shall be imprisoned in the Penitentiary for a term not exceeding ten (10) years, or shall be fined not more than Ten Thousand Dollars (\$ 10,000.00), or both.
- (B) ANY PERSON WHO SHALL BE CONVICTED OF TAKING AND CARRYING AWAY, FELONIOUSLY, THE PROPERTY OF A CHURCH, SYNAGOGUE, TEMPLE OR OTHER ESTABLISHED PLACE OF WORSHIP, OF THE VALUE OF TWENTY-FIVE THOUSAND DOLLARS (\$ 25,000.00) OR MORE, SHALL BE GUILTY OF GRAND LARCENY, AND SHALL BE IMPRISONED IN THE PENITENTIARY FOR A TERM NOT EXCEEDING TWENTY (20) YEARS, OR SHALL BE FINED NOT MORE THAN TEN THOUSAND DOLLARS (\$ 10,000.00), OR BOTH. THE TOTAL VALUE OF PROPERTY TAKEN AND CARRIED AWAY BY THE PERSON FROM A SINGLE VICTIM SHALL BE AGGREGATED IN DETERMINING THE GRAVITY OF THE OFFENSE.

SECTION 16. Section 97-17-42, Mississippi Code of 1972, is amended as follows:

97-17-42.

- (1) Any person who shall, willfully and without authority, take possession of or take away a motor vehicle of any value belonging to another, with intent to either permanently or temporarily convert it or to permanently or temporarily deprive the owner of possession or ownership, and any person who knowingly shall aid and abet in the taking possession or taking away of the motor vehicle, shall be guilty of* * * **LARCENY** and shall be punished* * * **BASED ON THE VALUE OF THE MOTOR VEHICLE INVOLVED ACCORDING TO THE SCHEDULE IN SECTION 97-17-41 . IF THE VALUE OF THE MOTOR VEHICLE INVOLVED IS ONE THOUSAND DOLLARS (\$ 1,000.00) OR LESS, THE PERSON SHALL BE PUNISHED ACCORDING TO THE SCHEDULE IN SECTION 97-17-43.**
- (2) Any person convicted under this section who causes damage to any motor vehicle shall be ordered by the court to pay restitution to the owner or owners of the motor vehicle or vehicles damaged.
- (3) This section shall not apply to the enforcement of a security interest in a motor vehicle.
- (4) Any person who shall be convicted for a second or subsequent offense under this section shall be imprisoned in the Penitentiary for a term not exceeding* * * **TWICE THE TERM AUTHORIZED BASED ON THE VALUE OF THE MOTOR VEHICLE INVOLVED IN THE SUBSEQUENT OFFENSE ACCORDING TO THE SCHEDULE IN SECTION 97-17-41** or shall be fined not more than Ten Thousand Dollars (\$ 10,000.00), or both.

SECTION 17. Section 97-17-43, Mississippi Code of 1972, is amended as follows:

97-17-43.

- (1) If any person shall feloniously take, steal and carry away any personal property of another under the value of* * * **ONE THOUSAND DOLLARS (\$ 1,000.00)** , he shall be guilty of petit larceny and, upon conviction,* * * **MAY** be punished by* * * imprisonment in the county jail not exceeding six (6) months or by **A** fine not exceeding One Thousand Dollars (\$ 1,000.00), or both **IF THE COURT FINDS SUBSTANTIAL AND COMPELLING REASONS WHY THE OFFENDER CANNOT BE SAFELY AND EFFECTIVELY SUPERVISED IN THE COMMUNITY, IS NOT AMENABLE TO COMMUNITY-BASED TREATMENT, OR POSES A SIGNIFICANT RISK TO PUBLIC SAFETY. IF SUCH A FINDING IS NOT MADE, THE COURT SHALL SUSPEND THE SENTENCE OF IMPRISONMENT AND IMPOSE A PERIOD OF PROBATION NOT EXCEEDING ONE (1) YEAR OR A FINE NOT EXCEEDING ONE THOUSAND DOLLARS (\$ 1,000.00), OR BOTH** . The total value of property taken, stolen or carried away by the person from a single victim shall be aggregated in determining the gravity of the offense. **ANY PERSON CONVICTED OF A THIRD OR SUBSEQUENT OFFENSE UNDER THIS SECTION WHERE THE VALUE OF THE PROPERTY IS NOT LESS THAN FIVE HUNDRED DOLLARS (\$ 500.00), SHALL BE IMPRISONED IN THE PENITENTIARY FOR A TERM NOT EXCEEDING THREE (3) YEARS OR FINED AN AMOUNT NOT EXCEEDING ONE THOUSAND DOLLARS (\$ 1,000.00), OR BOTH.**
- (2) If any person shall feloniously take, steal and carry away any property of a church, synagogue, temple or other established place of worship under the value of* * * **ONE THOUSAND DOLLARS (\$ 1,000.00)** , he shall be guilty of petit larceny and, upon conviction,* * * **MAY** be punished by* * * imprisonment in the county jail not exceeding one (1) year or by fine not exceeding Two Thousand Dollars (\$ 2,000.00), or both **IF THE COURT FINDS SUBSTANTIAL AND COMPELLING REASONS WHY THE OFFENDER CANNOT BE SAFELY AND EFFECTIVELY SUPERVISED IN THE COMMUNITY, IS NOT AMENABLE TO COMMUNITY-BASED TREATMENT, OR POSES A SIGNIFICANT RISK TO PUBLIC SAFETY. IF SUCH A FINDING IS NOT MADE, THE COURT SHALL SUSPEND THE SENTENCE OF IMPRISONMENT AND IMPOSE A PERIOD OF PROBATION NOT EXCEEDING ONE (1) YEAR OR A FINE NOT EXCEEDING TWO THOUSAND DOLLARS (\$ 2,000.00), OR BOTH. ANY PERSON CONVICTED**

OF A THIRD OR SUBSEQUENT OFFENSE UNDER THIS SECTION WHERE THE VALUE OF THE PROPERTY IS NOT LESS THAN FIVE HUNDRED DOLLARS (\$ 500.00), SHALL BE IMPRISONED IN THE PENITENTIARY FOR A TERM NOT EXCEEDING THREE (3) YEARS OR FINED AN AMOUNT NOT EXCEEDING TWO THOUSAND DOLLARS (\$ 2,000.00), OR BOTH .

- (3) Any person who leaves the premises of an establishment at which motor fuel offered for retail sale was dispensed into the fuel tank of a motor vehicle by driving away in that motor vehicle without having made due payment or authorized charge for the motor fuel so dispensed, with intent to defraud the retail establishment, shall be guilty of petit larceny and punished as provided in subsection (1) of this section and, upon any second or subsequent such offense, the driver's license of the person shall be suspended as follows:
- (a) The person shall submit the driver's license to the court upon conviction and the court shall forward the driver's license to the Department of Public Safety.
 - (b) The first suspension of a driver's license under this subsection shall be for a period of six (6) months.
 - (c) A second or subsequent suspension of a driver's license under this subsection shall be for a period of one (1) year.
 - (d) At the expiration of the suspension period, and upon payment of a restoration fee of Twenty-five Dollars (\$ 25.00), the suspension shall terminate and the Department of Public Safety shall return the person's driver's license to the person. The restoration fee shall be in addition to the fees provided for in Title 63, Chapter 1, and shall be deposited into the State General Fund in accordance with Section 45-1-23.

SECTION 18. Section 97-17-47, Mississippi Code of 1972, is amended as follows:

97-17-47. If any person shall sever from the soil of another any produce growing thereon, or shall sever from any building, gate, fence, railing, or other improvement or enclosure any part thereof, and shall take and convert the same to his own use with intent to steal the same, he shall be guilty of larceny in the same manner and of the same degree as if the article so taken had been severed at some previous and different time AND SHALL BE PUNISHED BASED ON THE VALUE OF THE PROPERTY INVOLVED ACCORDING TO THE SCHEDULE IN SECTIONS 97-17-41 AND 97-17-43 .

SECTION 19. Section 97-17-62, Mississippi Code of 1972, is amended as follows:

97-17-62.

(1)

- (a) It is unlawful to obtain custody of personal property or equipment by trick, deceit, fraud or willful false representation with intent to defraud the owner or any person in lawful possession of the personal property or equipment.
- (b) It is unlawful to hire or lease personal property or equipment from any person who is in lawful possession of the personal property or equipment with intent to defraud that person of the rental due under the rental agreement.
- (c) It is unlawful to abandon or willfully refuse to redeliver personal property as required under a rental agreement without the consent of the lessor or the lessor's agent with intent to defraud the lessor or the lessor's agent.
- (d) A person who violates this subsection (1) shall be guilty of a misdemeanor, punishable as provided in Section 97-17-43, unless the value of the personal property or equipment is of a value of* * * ONE THOUSAND DOLLARS (\$ 1,000.00) or more; in that event the violation constitutes a felony,* * * AND SHALL BE PUNISHED BASED ON THE PROPERTY INVOLVED ACCORDING TO THE SCHEDULE IN Section 97-17-41.

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- (a) In prosecutions under this section, the following acts are prima facie evidence of fraudulent intent: obtaining the property or equipment under false pretenses; absconding without payment; or removing or attempting to remove the property or equipment from the county without the express written consent of the lessor or the lessor's agent.
- (b) Demand for return of overdue property or equipment and for payment of amounts due may be made personally, by hand delivery, or by certified mail, return receipt requested, to the lessee's address shown in the rental contract.
- (c) In a prosecution under subsection (1)(c):
 - (i) Failure to redeliver the property or equipment within five (5) days after hand delivery to or return receipt from the lessee is prima facie evidence of fraudulent intent. Notice that is returned undelivered after mailing to the address given by the lessee at the time of rental shall be deemed equivalent to return receipt from the lessee.
 - (ii) Failure to pay any amount due which is incurred as the result of the failure to redeliver property after the rental period expires is prima facie evidence of fraudulent intent. Amounts due include unpaid rental for the time period during which the property or equipment was not returned, and include the lesser of the cost of repairing or replacing the property or equipment, as necessary, if it has been damaged or not returned.

SECTION 20. Section 97-17-64, Mississippi Code of 1972, is amended as follows:

97-17-64.

- (1) A person who obtains personal property of another under a lease or rental agreement is guilty of theft if he exercises unlawful or unauthorized control over the property with purpose to deprive the owner thereof. As used in this section, the word "deprive" means to withhold property of another permanently or for so extended a period that a significant portion of its economic value, or the use or benefit thereof, is lost to the owner; or to withhold the property with intent to restore it to the owner only upon payment of a reward or other compensation; or to conceal, abandon or dispose of the property so as to make it unlikely that the owner will recover it; or to sell, give, pledge, or otherwise transfer any interest in the property.
- (2) It shall be prima facie evidence of purpose to deprive when a person:
 - (a) In obtaining such property presents identification or information which is materially false, fictitious, misleading or not current, with respect to such person's name, address, place of employment, or any other material matter; or
 - (b) Fails to return such property to the owner or his representative within ten (10) days after proper notice following the expiration of the term for which such person's use, possession or control of the property is authorized; or
 - (c) Fails to contact the owner or his representative to make arrangements to return such property within ten (10) days after proper notice following the expiration of the term for which such person's use, possession or control of such property is authorized.
- (3) For the purpose of this section, "proper notice" means either actual notification as may be otherwise proven beyond a reasonable doubt or a written demand for return of the property mailed to the defendant, which satisfies the following procedure:
 - (a) The written demand must be mailed to the defendant by certified or registered mail with return receipt attached, which return receipt by its terms must be signed by the defendant personally and not by his representative;
 - (b) The written demand must be mailed to the defendant at either the address given at the time he obtained the property or the defendant's last - known address if later furnished in writing by the defendant to the owner or his representative; and

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- (c) The return receipt bearing the defendant's signature must be returned to the owner or his representative.
- (4) It shall be an affirmative defense to prosecution under this section that:
 - (a) The defendant was unaware that the property was that of another; or
 - (b) The defendant acted under an honest claim of right to the property involved or that he had a right to acquire or dispose of it as he did; or
 - (c) The defendant was physically incapacitated and unable to request or obtain permission of the owner to retain the property; or
 - (d) The property was in such a condition, through no fault of the defendant, that it could not be returned within the requisite time after receipt of proper notice.
- (5) Any person convicted of the offense of theft under this section shall be:
 - (a) Guilty of a misdemeanor when the value of the personal property is less than* * * **ONE THOUSAND DOLLARS (\$ 1,000.00)** and **MAY BE** punished by a fine of not more than Two Hundred Fifty Dollars (\$ 250.00), or by* * * imprisonment in the county jail for a term of not more than six (6) months, by both such fine and imprisonment **IF THE COURT FINDS SUBSTANTIAL AND COMPELLING REASONS WHY THE OFFENDER CANNOT BE SAFELY AND EFFECTIVELY SUPERVISED IN THE COMMUNITY, IS NOT AMENABLE TO COMMUNITY-BASED TREATMENT, OR POSES A SIGNIFICANT RISK TO PUBLIC SAFETY. IF SUCH A FINDING IS NOT MADE, THE COURT SHALL SUSPEND THE SENTENCE OF IMPRISONMENT AND IMPOSE A PERIOD OF PROBATION NOT EXCEEDING ONE (1) YEAR OR A FINE NOT EXCEEDING TWO HUNDRED FIFTY DOLLARS (\$ 250.00), OR BOTH. ANY PERSON CONVICTED OF A THIRD OR SUBSEQUENT OFFENSE UNDER THIS SUBSECTION WHERE THE VALUE OF THE PROPERTY IS NOT LESS THAN FIVE HUNDRED DOLLARS (\$ 500.00), SHALL BE IMPRISONED IN THE PENITENTIARY FOR A TERM NOT EXCEEDING THREE (3) YEARS OR FINED AN AMOUNT NOT EXCEEDING ONE THOUSAND DOLLARS (\$ 1,000.00)** ; or
 - (b) Guilty of a felony when the value of the personal property is* * * **ONE THOUSAND DOLLARS (\$ 1,000.00)** or more and punished by a fine of not more than One Thousand Dollars (\$ 1,000.00), or by imprisonment in the State Penitentiary for a term of not more than* * * **FIVE (5)** years, or by both such fine and imprisonment.

SECTION 21. Section 97-17-67, Mississippi Code of 1972, is amended as follows:

97-17-67.

- (1) Every person who shall maliciously or mischievously destroy, disfigure, or injure, or cause to be destroyed, disfigured, or injured, any property of another, either real or personal, shall be guilty of malicious mischief.
- (2) If the value of the property destroyed, disfigured or injured is* * * **ONE THOUSAND DOLLARS (\$ 1,000.00)** or less, it shall be a misdemeanor **AND MAY BE** punishable by a fine of not more than One Thousand Dollars (\$ 1,000.00) or* * * **IMPRISONMENT IN THE COUNTY JAIL** not exceeding twelve (12) months* * *, or both* * * **IF THE COURT FINDS SUBSTANTIAL AND COMPELLING REASONS WHY THE OFFENDER CANNOT BE SAFELY AND EFFECTIVELY SUPERVISED IN THE COMMUNITY, IS NOT AMENABLE TO COMMUNITY-BASED TREATMENT, OR POSES A SIGNIFICANT RISK TO PUBLIC SAFETY. IF SUCH A FINDING IS NOT MADE, THE COURT SHALL SUSPEND THE SENTENCE OF IMPRISONMENT AND IMPOSE A PERIOD OF PROBATION NOT EXCEEDING ONE (1) YEAR OR A FINE OF NOT MORE THAN ONE THOUSAND DOLLARS (\$ 1,000.00), OR BOTH. ANY PERSON CONVICTED OF A THIRD OR SUBSEQUENT OFFENSE UNDER THIS SUBSECTION WHERE THE VALUE OF THE PROPERTY IS NOT LESS THAN FIVE HUNDRED DOLLARS (\$ 500.00), SHALL BE**

IMPRISONED IN THE PENITENTIARY FOR A TERM NOT EXCEEDING THREE (3) YEARS OR FINED AN AMOUNT NOT EXCEEDING ONE THOUSAND DOLLARS (\$ 1,000.00), OR BOTH.

- (3) If the value of the property destroyed, disfigured or injured is in excess of* * * ONE THOUSAND DOLLARS (\$ 1,000.00) BUT LESS THAN FIVE THOUSAND DOLLARS (\$ 5,000.00) , it shall be a felony punishable by a fine not exceeding Ten Thousand Dollars (\$ 10,000.00) or imprisonment in the Penitentiary not exceeding five (5) years, or both.
- (4) IF THE VALUE OF THE PROPERTY IS FIVE THOUSAND DOLLARS (\$ 5,000.00) OR MORE BUT LESS THAN TWENTY-FIVE THOUSAND DOLLARS (\$ 25,000.00), IT SHALL BE PUNISHABLE BY A FINE OF NOT MORE THAN TEN THOUSAND DOLLARS (\$ 10,000.00) OR IMPRISONMENT IN THE PENITENTIARY NOT EXCEEDING TEN (10) YEARS, OR BOTH.
- (5) IF THE VALUE OF THE PROPERTY IS TWENTY-FIVE THOUSAND DOLLARS (\$ 25,000.00) OR MORE, IT SHALL BE PUNISHABLE BY A FINE OF NOT MORE THAN TEN THOUSAND DOLLARS (\$ 10,000.00) OR IMPRISONMENT IN THE PENITENTIARY NOT EXCEEDING TWENTY (20) YEARS, OR BOTH.

(* * * 6) In all cases restitution to the victim for all damages shall be ordered. The value of property destroyed, disfigured or injured by the same party as part of a common crime against the same or multiple victims may be aggregated together and if the value exceeds One Thousand Dollars (\$ 1,000.00), shall be a felony.

(* * * 7) For purposes of this statute, value shall be the cost of repair or replacement of the property damaged or destroyed.

(* * * 8) Anyone who by any word, deed or act directly or indirectly urges, aids, abets, suggests or otherwise instills in the mind of another the will to so act shall be considered a principal in the commission of said crime and shall be punished in the same manner.

SECTION 22. Section 97-17-70, Mississippi Code of 1972, is amended as follows:

97-17-70.

- (1) A person commits the crime of receiving stolen property if he intentionally possesses, receives, retains or disposes of stolen property knowing that it has been stolen or having reasonable grounds to believe it has been stolen, unless the property is possessed, received, retained or disposed of with intent to restore it to the owner.
- (2) The fact that the person who stole the property has not been convicted, apprehended or identified is not a defense to a charge of receiving stolen property.
- (3)
- (a) Evidence that the person charged under this section stole the property that is the subject of the charge of receiving stolen property is not a defense to a charge under this section; however, dual charges of both stealing and receiving the same property shall not be brought against a single defendant in a single jurisdiction.
- (b) Proof that a defendant stole the property that is the subject of a charge under this section shall be prima facie evidence that the defendant had knowledge that the property was stolen.
- (4) Any person who shall be convicted of receiving stolen property which exceeds* * * ONE THOUSAND DOLLARS (\$ 1,000.00) OR MORE, BUT LESS THAN FIVE THOUSAND DOLLARS (\$ 5,000.00) in value shall be* * * PUNISHED BY IMPRISONMENT IN the custody of the State Department of Corrections for a term not exceeding* * * FIVE (5) years or by a fine of not more than Ten Thousand Dollars (\$ 10,000.00), or both.
- (5) Any person who shall be convicted of receiving stolen property which* * * exceed S * * * FIVE THOUSAND DOLLARS (\$ 5,000.00) OR MORE BUT LESS THAN TWENTY-FIVE THOUSAND DOLLARS (\$ 25,000.00) in value shall be punished by imprisonment* * * IN THE CUSTODY OF THE STATE DEPARTMENT OF CORRECTIONS FOR A TERM NOT EXCEEDING TEN (10)

YEARS OR BY A FINE OF NOT MORE THAN TEN THOUSAND DOLLARS (\$ 10,000.00) , or both.

- (6) ANY PERSON WHO SHALL BE CONVICTED OF RECEIVING STOLEN PROPERTY WHICH EXCEEDS TWENTY-FIVE THOUSAND DOLLARS (\$ 25,000.00) IN VALUE SHALL BE PUNISHED BY IMPRISONMENT IN THE CUSTODY OF THE STATE DEPARTMENT OF CORRECTIONS FOR A TERM NOT EXCEEDING TWENTY (20) YEARS OR BY A FINE OF NOT MORE THAN TEN THOUSAND DOLLARS (\$ 10,000.00), OR BOTH.
- (7) ANY PERSON WHO SHALL BE CONVICTED OF RECEIVING STOLEN PROPERTY WHICH DOES NOT EXCEED ONE THOUSAND DOLLARS (\$ 1,000.00) IN VALUE MAY BE PUNISHED BY IMPRISONMENT IN THE COUNTY JAIL FOR NOT MORE THAN SIX (6) MONTHS OR BY A FINE OF NOT MORE THAN ONE THOUSAND DOLLARS (\$ 1,000.00), OR BOTH IF THE COURT FINDS SUBSTANTIAL AND COMPELLING REASONS WHY THE OFFENDER CANNOT BE SAFELY AND EFFECTIVELY SUPERVISED IN THE COMMUNITY, IS NOT AMENABLE TO COMMUNITY-BASED TREATMENT, OR POSES A SIGNIFICANT RISK TO PUBLIC SAFETY. IF SUCH A FINDING IS NOT MADE, THE COURT SHALL SUSPEND THE SENTENCE OF IMPRISONMENT AND IMPOSE A PERIOD OF PROBATION NOT EXCEEDING ONE (1) YEAR OR A FINE OF NOT MORE THAN ONE THOUSAND DOLLARS (\$ 1,000.00), OR BOTH. ANY PERSON CONVICTED OF A THIRD OR SUBSEQUENT OFFENSE UNDER THIS SUBSECTION WHERE THE VALUE OF THE PROPERTY IS NOT LESS THAN FIVE HUNDRED DOLLARS (\$ 500.00), SHALL BE IMPRISONED IN THE PENITENTIARY FOR A TERM NOT EXCEEDING THREE (3) YEARS OR FINED AN AMOUNT NOT EXCEEDING ONE THOUSAND DOLLARS (\$ 1,000.00), OR BOTH.

SECTION 23. Section 97-17-71, Mississippi Code of 1972, is amended as follows:

97-17-71.

- (1) For the purposes of this section, the following terms shall have the meanings ascribed in this section:
- (a) "Railroad materials" means any materials, equipment and parts used in the construction, operation, protection and maintenance of a railroad.
 - (b) "Copper materials" means any copper wire, bars, rods or tubing, including copper wire or cable or coaxial cable of the type used by public utilities, common carriers or communication services providers, whether wireless or wire line, copper air conditioner evaporator coil or condenser, aluminum copper radiators not attached to a motor vehicle, or any combination of these.
 - (c) "Aluminum materials" means any aluminum cable, bars, rods or tubing of the type used to construct utility, communication or broadcasting towers, aluminum utility wire and aluminum irrigation pipes or tubing. "Aluminum materials" does not include aluminum cans that have served their original economic purpose.
 - (d) "Law enforcement officer" means any person appointed or employed full time by the state or any political subdivision thereof, or by the state military department as provided in Section 33-1-33, who is duly sworn and vested with authority to bear arms and make arrests, and whose primary responsibility is the prevention and detection of crime, the apprehension of criminals and the enforcement of the criminal traffic laws of this state or the ordinances of any political subdivision thereof.
 - (e) "Metal property" means materials as defined in this section as railroad track materials, copper materials and aluminum materials and electrical, communications or utility brass, metal covers for service access and entrances to sewers and storm drains, metal bridge pilings, irrigation wiring and other metal property attached to or part of center pivots, grain bins, stainless steel

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sinks, catalytic converters not attached to a motor vehicle and metal beer kegs. Metal property does not include ferrous materials not listed in this section.

- (f) "Person" means an individual, partnership, corporation, joint venture, trust, limited liability company, association or any other legal or commercial entity.
 - (g) "Personal identification card" means any government issued photographic identification card.
 - (h) "Photograph" or "photographically" means a still photographic image, including images captured in digital format, that are of such quality that the persons and objects depicted are clearly identifiable.
 - (i) "Purchase transaction" means a transaction in which a person gives consideration in exchange for metal property.
 - (j) "Purchaser" means a person who gives consideration in exchange for metal property.
 - (k) "Record" or "records" means a paper, electronic or other method of storing information.
 - (l) "Scrap metal dealer" means any person who is engaged, from a fixed location or otherwise, in the business of paying compensation for metal property that has served its original economic purpose, whether or not the person is engaged in the business of performing the manufacturing process by which metals are converted into raw material products consisting of prepared grades and having an existing or potential economic value.
- (2) Every scrap metal dealer or other purchaser shall keep an accurate and legible record in which he shall enter the following information for each purchase transaction:
- (a) The name, address and age of the person from whom the metal property is purchased as obtained from the seller's personal identification card;
 - (b) The date and place of each acquisition of the metal property;
 - (c) The weight, quantity or volume and a general physical description of the type of metal property, such as wire, tubing, extrusions or casting, purchased in a purchase transaction;
 - (d) The amount of consideration given in a purchase transaction for the metal property;
 - (e) The vehicle license tag number, state of issue and the make and type of the vehicle used to deliver the metal property to the purchaser;
 - (f) If a person other than the seller delivers the metal property to the purchaser, the name, address and age of the person who delivers the metal property;
 - (g) A signed statement from the person receiving consideration in the purchase transaction stating that he is the rightful owner of the metal property or is entitled to sell the metal property being sold;
 - (h)
 - (i) A scanned copy or a photocopy of the personal identification card of the person receiving consideration in the purchase transaction; or
 - (ii) If a person other than the seller delivers the metal property to the purchaser, a scanned copy or a photocopy of the personal identification card of the person delivering the metal property to the purchaser; and
 - (i) A photograph, videotape or similar likeness of the person receiving consideration or any person other than the seller who delivers the metal property to the purchaser in which the person's facial features are clearly visible and in which the metal property the person is selling or delivering is clearly visible.

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Such records shall be maintained by the scrap metal dealer or purchaser for not less than two (2) years from the date of the purchase transaction, and such records shall be made available to any law enforcement officer during usual and customary business hours.

- (3) The purchaser of metal property must hold the metal property separate and identifiable from other purchases for not less than three (3) business days from the date of purchase. The purchaser shall also photographically capture the metal property in the same form, without change, in which the metal property was acquired, and maintain the photograph for a period of not less than two (2) years. The time and date shall be digitally recorded on the photograph, and the identity of the person taking the photograph shall be recorded. The purchaser shall permit any law enforcement officer to make an inspection of the metal property during the holding period, and of all photographs of the metal property. Any photograph of metal property taken and maintained pursuant to this subsection shall be admissible in any civil or criminal proceeding.
- (4) During the usual and customary business hours of a scrap metal dealer or other purchaser, a law enforcement officer, after proper identification as a law enforcement officer, shall have the right to inspect all purchased metal property in the possession of the scrap metal dealer or purchaser.
- (5)
 - (a) Whenever a law enforcement officer has reasonable cause to believe that any item of metal property in the possession of a scrap metal dealer or other purchaser has been stolen, a law enforcement officer who has an affidavit from the alleged rightful owner of the property identifying the property with specificity, including any identifying markings, may issue and deliver a written hold notice to the scrap metal dealer or other purchaser. The hold notice shall specifically identify those items of metal property that are believed to have been stolen and that are subject to the hold notice. Upon receipt of the notice, the scrap metal dealer or other purchaser may not process or remove the metal property identified in the notice from the place of business of the scrap metal dealer or purchaser for fifteen (15) calendar days after receipt of the notice, unless sooner released by a law enforcement officer.
 - (b) No later than the expiration of the fifteen-day period, a law enforcement officer, after receiving additional substantive evidence beyond the initial affidavit, may issue and deliver a second written hold notice, which shall be an extended hold notice. The extended hold notice shall specifically identify those items of metal property that are believed to have been stolen and that are subject to the extended hold notice. Upon receipt of the extended hold notice, the scrap metal dealer or purchaser may not process or remove the items of metal property identified in the notice from the place of business of the scrap metal dealer or purchaser for fifteen (15) calendar days after receipt of the extended hold notice, unless sooner released by a law enforcement officer.
 - (c) At the expiration of the hold period or, if extended in accordance with this subsection, at the expiration of the extended hold period, the hold is automatically released, then the scrap metal dealer or purchaser may dispose of the metal property unless other disposition has been ordered by a court of competent jurisdiction.
 - (d) If the scrap metal dealer or other purchaser contests the identification or ownership of the metal property, the party other than the scrap metal dealer or other purchaser claiming ownership of any metal property in the possession of a scrap metal dealer or other purchaser, provided that a timely report of the theft of the metal property was made to the proper authorities, may bring a civil action in the circuit court of the county in which the scrap metal dealer or purchaser is located. The petition for the action shall include the means of identification of the metal property utilized by the petitioner to determine ownership of the metal property in the possession of the scrap metal dealer or other purchaser.
 - (e) When a lawful owner recovers stolen metal property from a scrap metal dealer or other purchaser who has complied with this section, and the person who sold the metal property to

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the scrap metal dealer or other purchaser is convicted of a violation of this section, or theft by receiving stolen property under Section 97-17-70, the court shall order the convicted person to make full restitution to the scrap metal dealer or other purchaser, including, without limitation, attorney's fees, court costs and other expenses.

- (6) This section shall not apply to purchases of metal property from any of the following:
 - (a) A law enforcement officer acting in an official capacity;
 - (b) A trustee in bankruptcy, executor, administrator or receiver who has presented proof of such status to the scrap metal dealer;
 - (c) Any public official acting under a court order who has presented proof of such status to the scrap metal dealer;
 - (d) A sale on the execution, or by virtue of any process issued by a court, if proof thereof has been presented to the scrap metal dealer; or
 - (e) A manufacturing, industrial or other commercial vendor that generates or sells regulated metal property in the ordinary course of its business.
- (7) It shall be unlawful for any person to give a false statement of ownership or to give a false or altered identification or vehicle tag number and receive money or other consideration from a scrap metal dealer or other purchaser in return for metal property.
- (8) A scrap metal dealer or other purchaser shall not enter into any cash transactions in payment for the purchase of metal property. Payment shall be made by check issued to the seller of the metal, made payable to the name and address of the seller and mailed to the recorded address of the seller, or by electronic funds transfer. Payment shall not be made for a period of three (3) days after the purchase transaction.
- (9) If a person acquiring metal property fails to maintain the records or to hold such materials for the period of time prescribed by this section, such failure shall be prima facie evidence that the person receiving the metal property received it knowing it to be stolen in violation of Section 97-17-70.
- (10) It shall be unlawful for any person to transport or cause to be transported for himself or another from any point within this state to any point outside this state any metal property, unless the person or entity first reports to the sheriff of the county from which he departs this state transporting such materials the same information that a purchaser in this state would be required to obtain and keep in a record as set forth in subsection (2) of this section. In such a case the sheriff receiving the report shall keep the information in records maintained in his office as a public record available for inspection by any person at all reasonable times. This section shall not apply to a public utility, as that term is defined in Section 77-3-3, engaged in carrying on utility operations; to a railroad, as that term is defined in Section 77-9-5; to a communication **S** service provider, whether wireless or wire line; to a scrap metal dealer; or to a person identified in subsection (6) as being exempt from the provisions of this section.
- (11) It shall be unlawful for a scrap metal dealer or other purchaser to knowingly purchase or possess a metal beer keg, or a metal syrup tank generally used by the soft drink industry, whether damaged or undamaged, or any reasonably recognizable part thereof, on any premises that the dealer uses to buy, sell, store, shred, melt, cut or otherwise alter scrap metal. However, it shall not be unlawful to purchase or possess a metal syrup tank generally used by the soft drink industry if the scrap metal dealer or other purchaser obtains a bill of sale at the time of purchase from a seller if the seller is a manufacturer of such tanks, a soft drink company or a soft drink distributor.
- (12) It shall be unlawful to sell to a scrap metal dealer any bronze vase and/or marker, memorial, statue, plaque, or other bronze object used at a cemetery or other location where deceased persons are interred or memorialized, or for any such dealer to purchase those objects, unless the source of the bronze is known and notice is provided to the municipal or county law enforcement

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agency where the dealer is located. The notice shall identify all names, letters, dates and symbols on the bronze and a photograph of the bronze shall be attached thereto. Written permission from the cemetery and the appropriate law enforcement agency must be received before any type of bronze described in this subsection may be purchased, processed, sold or melted.

- (13) It shall be unlawful for any scrap metal dealer to purchase any manhole cover and other similar types of utility access covers, including storm drain covers, or any metal property clearly identified as belonging to a political subdivision of the state or a municipality, unless that metal property is purchased from the political subdivision, the municipal utility or the manufacturer of the metal. Any purchaser who purchases metal property in bulk shall be allowed twenty-four (24) hours to determine if any metal property prohibited by this subsection is included in a bulk purchase. If such prohibited metal property is included in a bulk purchase, the purchaser shall notify law enforcement no later than twenty-four (24) hours after the purchase.
- (14) It shall be unlawful for a scrap metal dealer or other purchaser to purchase metal property from a person younger than eighteen (18) years of age.
- (15) Metal property may not be purchased, acquired or collected between the hours of 9:00 p.m. and 6:00 a.m.
- (16) Except as provided in this subsection, any person willfully or knowingly violating the provisions of this section shall, upon conviction thereof, be deemed guilty of a misdemeanor, and shall be punished by a fine not to exceed One Thousand Dollars (\$ 1,000.00) per offense, unless the purchase transaction or transactions related to the violation, in addition to any costs which are, or would be, incurred in repairing or in the attempt to recover any property damaged in the theft of or removal of the metal property, are in aggregate an amount which exceeds* * * ONE THOUSAND DOLLARS (\$ 1,000.00) BUT LESS THAN FIVE THOUSAND DOLLARS (\$ 5,000.00) , in which case the person shall be guilty of a felony and shall be imprisoned in the custody of the Department of Corrections for a term not to exceed* * * FIVE (5) years, fined not more than Ten Thousand Dollars (\$ 10,000.00), or both. Any person found guilty of stealing metal property or receiving metal property, knowing it to be stolen in violation of Section 97-17-70, shall be ordered to make full restitution to the victim, including, without limitation, restitution for property damage that resulted from the theft of the property.
- (17) IF THE PURCHASE TRANSACTION OR TRANSACTIONS RELATED TO THE VIOLATION, IN ADDITION TO ANY COSTS WHICH ARE, OR WOULD BE, INCURRED IN REPAIRING OR IN THE ATTEMPT TO RECOVER ANY PROPERTY DAMAGED IN THE THEFT OF OR REMOVAL OF THE METAL PROPERTY, ARE IN AGGREGATE AN AMOUNT WHICH EXCEEDS FIVE THOUSAND DOLLARS (\$ 5,000.00) BUT LESS THAN TWENTY-FIVE THOUSAND DOLLARS (\$ 25,000.00), THE PERSON SHALL BE GUILTY OF A FELONY AND SHALL BE IMPRISONED IN THE CUSTODY OF THE DEPARTMENT OF CORRECTIONS FOR A TERM NOT TO EXCEED TEN (10) YEARS, FINED NOT MORE THAN TEN THOUSAND DOLLARS (\$ 10,000.00), OR BOTH.
- (18) IF THE PURCHASE TRANSACTION OR TRANSACTIONS RELATED TO THE VIOLATION, IN ADDITION TO ANY COSTS WHICH ARE, OR WOULD BE, INCURRED IN REPAIRING OR IN THE ATTEMPT TO RECOVER ANY PROPERTY DAMAGED IN THE THEFT OF OR REMOVAL OF THE METAL PROPERTY, ARE IN AGGREGATE AN AMOUNT WHICH EXCEEDS TWENTY-FIVE THOUSAND DOLLARS (\$ 25,000.00), THE PERSON SHALL BE GUILTY OF A FELONY AND SHALL BE IMPRISONED IN THE CUSTODY OF THE DEPARTMENT OF CORRECTIONS FOR A TERM NOT TO EXCEED TWENTY (20) YEARS, FINED NOT MORE THAN TEN THOUSAND DOLLARS (\$ 10,000.00), OR BOTH.

(* * * 19) This section shall not be construed to repeal other criminal laws. Whenever conduct proscribed by any provision of this section is also proscribed by any other provision of law, the provision which carries the more serious penalty shall be applied.

(* * * 20) This section shall apply to all businesses regulated under this section without regard to the location within the State of Mississippi.

(* * * 21) This section shall not be construed to prohibit municipalities and counties from enacting and implementing ordinances, rules and regulations that impose stricter requirements relating to purchase transactions.

SECTION 24. Section 97-21-29, Mississippi Code of 1972, is amended as follows:

97-21-29. If any person shall, with intent to injure or defraud, make any instrument in his own name, intended to create, increase, discharge, defeat, or diminish any pecuniary obligation, right or interest, or to transfer or affect any property whatever, and shall utter and pass it under the pretense that it is the act of another who bears the same name, he shall be guilty of forgery AND SHALL BE PUNISHED ACCORDING TO THE SCHEDULE IN SECTION 97-21-33 .

SECTION 25. Section 97-21-33, Mississippi Code of 1972, is amended as follows:

97-21-33.

* * * (1) ANY PERSON convicted of forgery* * * WHEN THE AMOUNT OF VALUE INVOLVED IS UNDER ONE THOUSAND DOLLARS (\$ 1,000.00) MAY be punished by imprisonment in the* * * COUNTY JAIL for a term of not* * * MORE than* * * SIX (6) MONTHS , or by a fine of not more than* * * ONE THOUSAND DOLLARS (\$ 1,000.00) , or both* * * IF THE COURT FINDS SUBSTANTIAL AND COMPELLING REASONS WHY THE OFFENDER CANNOT BE SAFELY AND EFFECTIVELY SUPERVISED IN THE COMMUNITY, IS NOT AMENABLE TO COMMUNITY-BASED TREATMENT, OR POSES A SIGNIFICANT RISK TO PUBLIC SAFETY. IF SUCH A FINDING IS NOT MADE, THE COURT SHALL SUSPEND THE SENTENCE OF IMPRISONMENT AND IMPOSE A PERIOD OF PROBATION NOT EXCEEDING ONE (1) YEAR OR A FINE OF NOT MORE THAN ONE THOUSAND DOLLARS (\$ 1,000.00), OR BOTH. THE TOTAL VALUE OF THE FORGERY BY THE PERSON FROM A SINGLE VICTIM SHALL BE AGGREGATED IN DETERMINING THE GRAVITY OF THE OFFENSE. ANY PERSON CONVICTED OF A THIRD OR SUBSEQUENT OFFENSE UNDER THIS SUBSECTION WHERE THE VALUE OF THE PROPERTY IS NOT LESS THAN FIVE HUNDRED DOLLARS (\$ 500.00), SHALL BE PUNISHED BY IMPRISONMENT IN THE PENITENTIARY FOR A TERM NOT EXCEEDING THREE (3) YEARS OR BY A FINE NOT EXCEEDING ONE THOUSAND DOLLARS (\$ 1,000.00), OR BOTH.

(2) ANY PERSON CONVICTED OF FORGERY when the amount of value involved is* * * ONE THOUSAND DOLLARS (\$ 1,000.00) OR MORE BUT LESS THAN FIVE THOUSAND DOLLARS (\$ 5,000.00) SHALL be punished by imprisonment in the* * * PENITENTIARY FOR A TERM NOT MORE THAN FIVE (5) YEARS, OR A FINE OF NOT MORE THAN TEN THOUSAND DOLLARS (\$ 10,000.00), OR BOTH .

(3) ANY PERSON CONVICTED OF FORGERY WHEN THE AMOUNT OF VALUE INVOLVED IS FIVE THOUSAND DOLLARS (\$ 5,000.00) OR MORE, BUT LESS THAN TWENTY-FIVE THOUSAND DOLLARS (\$ 25,000.00) SHALL BE IMPRISONED IN THE PENITENTIARY FOR A TERM NOT EXCEEDING TEN (10) YEARS, OR BE FINED NOT MORE THAN TEN THOUSAND DOLLARS (\$ 10,000.00), OR BOTH.

(4) ANY PERSON CONVICTED OF FORGERY WHEN THE AMOUNT OF VALUE INVOLVED IS TWENTY-FIVE THOUSAND DOLLARS (\$ 25,000.00) OR MORE, SHALL BE IMPRISONED IN THE PENITENTIARY FOR A TERM NOT EXCEEDING TWENTY (20) YEARS, OR BE FINED NOT MORE THAN TEN THOUSAND DOLLARS (\$ 10,000.00), OR BOTH. THE TOTAL VALUE OF THE FORGERY BY THE PERSON FROM A SINGLE VICTIM SHALL BE AGGREGATED IN DETERMINING THE GRAVITY OF THE OFFENSE.

SECTION 26. Section 97-21-37, Mississippi Code of 1972, is amended as follows:

97-21-37. Every person who shall have in his possession any forged, altered or counterfeited negotiable note, bill, draft, or other evidence of debt issued or purported to have been issued by any corporation or company duly authorized for that purpose by the laws of the United States or of this state, or of any other state, government, or country, or any other forged, altered, or counterfeit instrument the forgery of which is declared by the provisions of this chapter to be punishable, knowing the same to be forged, altered, or counterfeited, with intention to utter the same as true or as false, or to cause the same to be uttered, with intent to injure or defraud, shall be guilty of forgery **AND SHALL BE PUNISHED ACCORDING TO THE SCHEDULE IN SECTION 97-21-33** .

SECTION 27. Section 97-21-59, Mississippi Code of 1972, is amended as follows:

97-21-59. Every person who shall be convicted of having uttered or published as true, and with intent to defraud, any forged, altered, or counterfeit instrument, or any counterfeit gold or silver coin, the forgery, altering, or counterfeiting of which is declared by the provisions of this chapter to be an offense, knowing such instrument or coin to be forged, altered, or counterfeited, shall suffer the punishment herein provided for forgery **, PURSUANT TO SECTION 97-21-33** .

SECTION 28. Section 97-23-19, Mississippi Code of 1972, is amended as follows:

97-23-19. If any person shall embezzle or fraudulently secrete, conceal, or convert to his own use, or make way with, or secrete with intent to embezzle or convert to his own use, any goods, rights in action, money, or other valuable security, effects, or property of any kind or description which shall have come or been entrusted to his care or possession by virtue of his office, position, place, or employment, either in mass or otherwise, **HE SHALL BE GUILTY OF EMBEZZLEMENT**.

(A) **ANY PERSON GUILTY OF EMBEZZLEMENT OF ANY GOODS, RIGHTS OF ACTION, MONEY, OR OTHER VALUABLE SECURITY, EFFECTS OR PROPERTY OF ANY KIND OR DESCRIPTION WITH A VALUE OF LESS THAN ONE THOUSAND DOLLARS (\$ 1,000.00), SHALL BE GUILTY OF MISDEMEANOR EMBEZZLEMENT, AND, UPON CONVICTION THEREOF, MAY BE SENTENCED TO A TERM OF IMPRISONMENT IN THE COUNTY JAIL NOT EXCEEDING SIX (6) MONTHS, OR FINED NOT MORE THAN ONE THOUSAND DOLLARS (\$ 1,000.00), OR BOTH IF THE COURT FINDS SUBSTANTIAL AND COMPELLING REASONS WHY THE OFFENDER CANNOT BE SAFELY AND EFFECTIVELY SUPERVISED IN THE COMMUNITY, IS NOT AMENABLE TO COMMUNITY-BASED TREATMENT OR POSES A SIGNIFICANT RISK TO PUBLIC SAFETY. IF SUCH A FINDING IS NOT MADE, THE COURT SHALL SUSPEND THE SENTENCE OF IMPRISONMENT AND IMPOSE A PERIOD OF PROBATION NOT EXCEEDING ONE (1) YEAR OR A FINE OF NOT MORE THAN ONE THOUSAND DOLLARS (\$ 1,000.00) OR BOTH. ANY PERSON CONVICTED OF A THIRD OR SUBSEQUENT OFFENSE UNDER THIS SUBSECTION WHERE THE VALUE OF THE PROPERTY IS NOT LESS THAN FIVE HUNDRED DOLLARS (\$ 500.00), SHALL BE IMPRISONED IN THE PENITENTIARY FOR A TERM NOT EXCEEDING THREE (3) YEARS OR FINED AN AMOUNT NOT EXCEEDING TWO THOUSAND DOLLARS (\$ 2,000.00), OR BOTH.**

(B) **ANY PERSON GUILTY OF EMBEZZLEMENT OF ANY GOODS, RIGHTS IN ACTION, MONEY, OR OTHER VALUABLE SECURITY, EFFECTS OR PROPERTY OF ANY KIND OR DESCRIPTION with a value of* * * ONE THOUSAND DOLLARS (\$ 1,000.00) or more BUT LESS THAN FIVE THOUSAND DOLLARS (\$ 5,000.00) ,* * * shall be guilty of felony embezzlement, and, upon conviction thereof, shall be imprisoned in the custody of the Department of Corrections not more than* * * FIVE (5) years, or fined not more than* * * FIVE THOUSAND DOLLARS (\$ 5,000.00) , or both.* * ***

(C) **ANY PERSON GUILTY OF EMBEZZLEMENT OF ANY GOODS, RIGHTS IN ACTION, MONEY, OR OTHER VALUABLE SECURITY, EFFECTS OR PROPERTY OF ANY KIND OR DESCRIPTION WITH A VALUE OF FIVE THOUSAND DOLLARS (\$ 5,000.00) OR MORE BUT LESS THAN TWENTY-FIVE THOUSAND DOLLARS (\$ 25,000.00), SHALL BE GUILTY OF FELONY EMBEZZLEMENT, AND, UPON CONVICTION THEREOF, SHALL BE IMPRISONED IN**

THE PENITENTIARY FOR NOT MORE THAN TEN (10) YEARS, OR FINED NOT MORE THAN TWENTY-FIVE THOUSAND DOLLARS (\$ 25,000.00), OR BOTH.

- (D) ANY PERSON GUILTY OF EMBEZZLEMENT OF ANY GOODS, RIGHTS IN ACTION, MONEY, OR OTHER VALUABLE SECURITY, EFFECTS OR PROPERTY OF ANY KIND OR DESCRIPTION WITH A VALUE OF TWENTY-FIVE THOUSAND DOLLARS (\$ 25,000.00) OR MORE, SHALL BE GUILTY OF FELONY EMBEZZLEMENT, AND, UPON CONVICTION THEREOF, SHALL BE IMPRISONED IN THE PENITENTIARY NOT MORE THAN TWENTY (20) YEARS, OR FINED NOT MORE THAN TWENTY-FIVE THOUSAND DOLLARS (\$ 25,000.00), OR BOTH.

SECTION 29. Section 97-23-93, Mississippi Code of 1972, is amended as follows:

97-23-93.

- (1) Any person who shall* * * WILLFULLY and unlawfully take possession of any merchandise owned or held by and offered or displayed for sale by any merchant, store or other mercantile establishment with the intention and purpose of converting such merchandise to his own use without paying the merchant's stated price therefor shall be guilty of the crime of shoplifting and, upon conviction, shall be punished as is provided in this section.
- (2) The requisite intention to convert merchandise without paying the merchant's stated price for the merchandise is presumed, and shall be prima facie evidence thereof, when such person, alone or in concert with another person, willfully:
 - (a) Conceals the unpurchased merchandise;
 - (b) Removes or causes the removal of unpurchased merchandise from a store or other mercantile establishment;
 - (c) Alters, transfers or removes any price-marking, any other marking which aids in determining value affixed to the unpurchased merchandise, or any tag or device used in electronic surveillance of unpurchased merchandise;
 - (d) Transfers the unpurchased merchandise from one container to another; or
 - (e) Causes the cash register or other sales recording device to reflect less than the merchant's stated price for the unpurchased merchandise.
- (3) Evidence of stated price or ownership of merchandise may include, but is not limited to:
 - (a) The actual merchandise or the container which held the merchandise alleged to have been shoplifted; or
 - (b) The content of the price tag or marking from such merchandise; or
 - (c) Properly identified photographs of such merchandise.
- (4) Any merchant or his agent or employee may testify at a trial as to the stated price or ownership of merchandise.
- (5) A person convicted of shoplifting merchandise for which the merchant's stated price is less than or equal to* * * ONE THOUSAND DOLLARS (\$ 1,000.00) shall be punished as follows:
 - (a) Upon a first shoplifting conviction the defendant shall be guilty of a misdemeanor and fined not more than One Thousand Dollars (\$ 1,000.00), or punished by imprisonment IN THE COUNTY JAIL not to exceed six (6) months, or by both* * * IF THE COURT FINDS SUBSTANTIAL AND COMPELLING REASONS WHY THE OFFENDER CANNOT BE SAFELY AND EFFECTIVELY SUPERVISED IN THE COMMUNITY, IS NOT AMENABLE TO COMMUNITY-BASED TREATMENT, OR POSES A SIGNIFICANT RISK TO PUBLIC SAFETY. IF SUCH A FINDING IS NOT MADE, THE COURT SHALL SUSPEND THE SENTENCE OF IMPRISONMENT AND IMPOSE A PERIOD OF PROBATION NOT

EXCEEDING ONE (1) YEAR OR A FINE OF NOT MORE THAN ONE THOUSAND DOLLARS (\$ 1,000.00).

- (b) Upon a second shoplifting conviction the defendant shall be guilty of a misdemeanor and fined not more than One Thousand Dollars (\$ 1,000.00) or punished by imprisonment IN THE COUNTY JAIL FOR A TERM not to exceed six (6) months, or by both* * * IF THE COURT FINDS SUBSTANTIAL AND COMPELLING REASONS WHY THE OFFENDER CANNOT BE SAFELY AND EFFECTIVELY SUPERVISED IN THE COMMUNITY, IS NOT AMENABLE TO COMMUNITY-BASED TREATMENT, OR POSES A SIGNIFICANT RISK TO PUBLIC SAFETY. IF SUCH A FINDING IS NOT MADE, THE COURT SHALL SUSPEND THE SENTENCE OF IMPRISONMENT AND IMPOSE A PERIOD OF PROBATION NOT EXCEEDING ONE (1) YEAR OR A FINE OF NOT MORE THAN ONE THOUSAND DOLLARS (\$ 1,000.00), OR BOTH.
- (6) Upon a third or subsequent shoplifting conviction WHERE THE VALUE OF THE SHOPLIFTED MERCHANDISE IS NOT LESS THAN FIVE HUNDRED DOLLARS (\$ 500.00) OR GREATER THAN ONE THOUSAND DOLLARS (\$ 1,000.00), the defendant shall be guilty of a felony and fined not more than* * * ONE THOUSAND DOLLARS (\$ 1,000.00) , or imprisoned for a term not exceeding* * * THREE (3) years, or by both such fine and imprisonment.
- (7) A person convicted of shoplifting merchandise for which the merchant's stated price exceeds* * * ONE THOUSAND DOLLARS (\$ 1,000.00) shall be guilty of a felony and, upon conviction, punished as provided in Section 97-17-41 for the offense of grand larceny.
- (8) In determining the number of prior shoplifting convictions for purposes of imposing punishment under this section, the court shall disregard all such convictions occurring more than seven (7) years prior to the shoplifting offense in question.
- (9) For the purpose of determining the gravity of the offense under subsection (7) of this section, the prosecutor may aggregate the value of merchandise shoplifted from three (3) or more separate mercantile establishments within the same legal jurisdiction over a period of thirty (30) or fewer days.

SECTION 30. Section 97-23-94, Mississippi Code of 1972, is amended as follows:

97-23-94.

- (1) In addition to any other offense and penalty provided by law, it shall be unlawful for any person eighteen (18) years of age or older to encourage, aid or abet any person under the age of eighteen (18) years to commit the crime of shoplifting as defined in Section 97-23-93. In addition to any other penalty provided by law, any person who violates this section shall be punished as follows:
- (a) Upon a first conviction the defendant shall be guilty of a misdemeanor and fined not more than Seven Hundred Fifty Dollars (\$ 750.00), or punished by imprisonment not to exceed thirty (30) days, or by both such fine and imprisonment.
- (b) Upon a second conviction the defendant shall be guilty of a misdemeanor and fined not more than One Thousand Dollars (\$ 1,000.00) or punished by imprisonment not to exceed ninety (90) days, or by both such fine and imprisonment.
- (c) Upon a third or subsequent conviction the defendant shall be guilty of a felony and fined One Thousand Dollars (\$ 1,000.00), or imprisoned for a term not exceeding* * * THREE (3) years, or by both such fine and imprisonment.
- (2) In addition to the penalties prescribed in subsection (1) of this section, the court is authorized to require the defendant to make restitution to the owner of the property where shoplifting occurred in an amount equal to twice the value of such property.

SECTION 31. Section 97-45-3, Mississippi Code of 1972, is amended as follows:

97-45-3.

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- (1) Computer fraud is the accessing or causing to be accessed of any computer, computer system, computer network or any part thereof with the intent to:
- (a) Defraud;
 - (b) Obtain money, property or services by means of false or fraudulent conduct, practices or representations; or through the false or fraudulent alteration, deletion or insertion of programs or data; or
 - (c) Insert or attach or knowingly create the opportunity for an unknowing and unwanted insertion or attachment of a set of instructions or a computer program into a computer program, computer, computer system, or computer network, that is intended to acquire, alter, damage, delete, disrupt, or destroy property or otherwise use the services of a computer program, computer, computer system or computer network.
- (2) Whoever commits the offense of computer fraud* * * WHEN THE DAMAGE OR LOSS OR ATTEMPTED DAMAGE OR LOSS AMOUNTS TO A VALUE OF LESS THAN ONE THOUSAND DOLLARS (\$ 1,000.00) MAY be punished, upon conviction, by a fine of not more than One Thousand Dollars (\$ 1,000.00), or by imprisonment for not more than six (6) months IN THE COUNTY JAIL , or by both* * * IF THE COURT FINDS SUBSTANTIAL AND COMPELLING REASONS WHY THE OFFENDER CANNOT BE SAFELY AND EFFECTIVELY SUPERVISED IN THE COMMUNITY, IS NOT AMENABLE TO COMMUNITY-BASED TREATMENT, OR POSES A SIGNIFICANT RISK TO PUBLIC SAFETY. IF SUCH A FINDING IS NOT MADE, THE COURT SHALL SUSPEND THE SENTENCE OF IMPRISONMENT AND IMPOSE A PERIOD OF PROBATION NOT EXCEEDING ONE (1) YEAR OR A FINE OF NOT MORE THAN ONE THOUSAND DOLLARS (\$ 1,000.00), OR BOTH. ANY PERSON CONVICTED OF A THIRD OR SUBSEQUENT OFFENSE UNDER THIS SUBSECTION WHERE THE VALUE OF THE PROPERTY IS NOT LESS THAN FIVE HUNDRED DOLLARS (\$ 500.00), SHALL BE IMPRISONED IN THE PENITENTIARY FOR A TERM NOT EXCEEDING THREE (3) YEARS OR FINED AN AMOUNT NOT EXCEEDING TWO THOUSAND DOLLARS (\$ 2,000.00), OR BOTH.
- * * * (3) WHOEVER COMMITS THE OFFENSE OF COMPUTER FRAUD when the damage or loss or attempted damage or loss amounts to a value of* * * ONE THOUSAND DOLLARS (\$ 1,000.00) OR MORE BUT LESS THAN FIVE THOUSAND DOLLARS (\$ 5,000.00) , * * * may be punished, upon conviction, by a fine of not more than Ten Thousand Dollars (\$ 10,000.00) or by imprisonment for not more than five (5) years, or by both such fine and imprisonment.
- (4) WHOEVER COMMITS THE OFFENSE OF COMPUTER FRAUD WHEN THE DAMAGE OR LOSS OR ATTEMPTED DAMAGE OR LOSS AMOUNTS TO A VALUE OF FIVE THOUSAND DOLLARS (\$ 5,000.00) OR MORE BUT LESS THAN TWENTY-FIVE THOUSAND DOLLARS (\$ 25,000.00), MAY BE PUNISHED, UPON CONVICTION, BY A FINE OF NOT MORE THAN TEN THOUSAND DOLLARS (\$ 10,000.00) OR BY IMPRISONMENT FOR NOT MORE THAN TEN (10) YEARS, OR BY BOTH SUCH FINE AND IMPRISONMENT.
- (5) WHOEVER COMMITS THE OFFENSE OF COMPUTER FRAUD WHEN THE DAMAGE OR LOSS OR ATTEMPTED DAMAGE OR LOSS AMOUNTS TO A VALUE OF TWENTY-FIVE THOUSAND DOLLARS (\$ 25,000.00) OR MORE, MAY BE PUNISHED, UPON CONVICTION, BY A FINE OF NOT MORE THAN TEN THOUSAND DOLLARS (\$ 10,000.00) OR BY IMPRISONMENT FOR NOT MORE THAN TWENTY (20) YEARS, OR BY BOTH SUCH FINE AND IMPRISONMENT.
- (* * * 6) The definition of the term "computer network" includes the Internet, as defined in Section 230 of Title II of the Communications Act of 1934, Chapter 652, 110 Stat. 137, codified at 47 USCS 230.

SECTION 32. Section 97-45-5, Mississippi Code of 1972, is amended as follows:

97-45-5.

- (1) An offense against computer users is the intentional:

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- (a) Denial to an authorized user, without consent, of the full and effective use of or access to a computer, a computer system, a computer network or computer services; or
- (b) Use or disclosure to another, without consent, of the numbers, codes, passwords or other means of access to a computer, a computer system, a computer network or computer services.
- (2) Whoever commits an offense against computer users* * * WHEN THE DAMAGE OR LOSS OR ATTEMPTED DAMAGE OR LOSS AMOUNTS TO A VALUE OF LESS THAN ONE THOUSAND DOLLARS (\$ 1,000.00) MAY be punished, upon conviction, by a fine of not more than One Thousand Dollars (\$ 1,000.00), or by imprisonment for not more than six (6) months IN THE COUNTY JAIL , or by both* * * IF THE COURT FINDS SUBSTANTIAL AND COMPELLING REASONS WHY THE OFFENDER CANNOT BE SAFELY AND EFFECTIVELY SUPERVISED IN THE COMMUNITY, IS NOT AMENABLE TO COMMUNITY-BASED TREATMENT, OR POSES A SIGNIFICANT RISK TO PUBLIC SAFETY. IF SUCH A FINDING IS NOT MADE, THE COURT SHALL SUSPEND THE SENTENCE OF IMPRISONMENT AND IMPOSE A PERIOD OF PROBATION NOT EXCEEDING ONE (1) YEAR OR A FINE OF NOT MORE THAN ONE THOUSAND DOLLARS (\$ 1,000.00), OR BOTH. THE TOTAL VALUE OF PROPERTY TAKEN, STOLEN OR CARRIED AWAY BY THE PERSON FROM A SINGLE VICTIM SHALL BE AGGREGATED IN DETERMINING THE GRAVITY OF THE OFFENSE. ANY PERSON CONVICTED OF A THIRD OR SUBSEQUENT OFFENSE UNDER THIS SUBSECTION WHERE THE VALUE OF THE PROPERTY IS NOT LESS THAN FIVE HUNDRED DOLLARS (\$ 500.00), SHALL BE IMPRISONED IN THE PENITENTIARY FOR A TERM NOT EXCEEDING THREE (3) YEARS OR FINED AN AMOUNT NOT EXCEEDING ONE THOUSAND DOLLARS (\$ 1,000.00), OR BOTH.
- (3) WHOEVER COMMITS AN OFFENSE AGAINST COMPUTER USERS when the damage or loss amounts to a value of* * * ONE THOUSAND DOLLARS (\$ 1,000.00) or more BUT LESS THAN FIVE THOUSAND DOLLARS (\$ 5,000.00) , * * * may be punished, upon conviction, by a fine of not more than Ten Thousand Dollars (\$ 10,000.00), or imprisonment for not more than five (5) years, or by both such fine and imprisonment.
- (4) WHOEVER COMMITS AN OFFENSE AGAINST COMPUTER USERS WHEN THE DAMAGE OR LOSS AMOUNTS TO A VALUE OF FIVE THOUSAND DOLLARS (\$ 5,000.00) OR MORE BUT LESS THAN TWENTY-FIVE THOUSAND DOLLARS (\$ 25,000.00), MAY BE PUNISHED, UPON CONVICTION, BY A FINE OF NOT MORE THAN TEN THOUSAND DOLLARS (\$ 10,000.00), OR IMPRISONMENT FOR NOT MORE THAN TEN (10) YEARS, OR BY BOTH SUCH FINE AND IMPRISONMENT.
- (5) WHOEVER COMMITS AN OFFENSE AGAINST COMPUTER USERS WHEN THE DAMAGE OR LOSS AMOUNTS TO A VALUE OF TWENTY-FIVE THOUSAND DOLLARS (\$ 25,000.00) OR MORE, MAY BE PUNISHED, UPON CONVICTION, BY A FINE OF NOT MORE THAN TEN THOUSAND DOLLARS (\$ 10,000.00), OR IMPRISONMENT FOR NOT MORE THAN TWENTY (20) YEARS, OR BY BOTH SUCH FINE AND IMPRISONMENT.

SECTION 33. Section 97-45-7, Mississippi Code of 1972, is amended as follows:

97-45-7.

- (1) An offense against computer equipment or supplies is the intentional modification or destruction, without consent, of computer equipment or supplies used or intended to be used in a computer, computer system or computer network.
- (2) Whoever commits an offense against computer equipment or supplies* * * WHEN THE DAMAGE OR LOSS OR ATTEMPTED DAMAGE OR LOSS AMOUNTS TO A VALUE OF LESS THAN ONE THOUSAND DOLLARS (\$ 1,000.00) MAY be punished, upon conviction, by a fine of not more than One Thousand Dollars (\$ 1,000.00), or by imprisonment for not more than six (6) months IN THE COUNTY JAIL, or both* * * IF THE COURT FINDS SUBSTANTIAL AND COMPELLING

REASONS WHY THE OFFENDER CANNOT BE SAFELY AND EFFECTIVELY SUPERVISED IN THE COMMUNITY, IS NOT AMENABLE TO COMMUNITY-BASED TREATMENT, OR POSES A SIGNIFICANT RISK TO PUBLIC SAFETY. IF SUCH A FINDING IS NOT MADE, THE COURT SHALL SUSPEND THE SENTENCE OF IMPRISONMENT AND IMPOSE A PERIOD OF PROBATION NOT EXCEEDING ONE (1) YEAR OR A FINE OF NOT MORE THAN ONE THOUSAND DOLLARS (\$ 1,000.00), OR BOTH. THE TOTAL VALUE OF PROPERTY TAKEN, STOLEN OR CARRIED AWAY BY THE PERSON FROM A SINGLE VICTIM SHALL BE AGGREGATED IN DETERMINING THE GRAVITY OF THE OFFENSE. ANY PERSON CONVICTED OF A THIRD OR SUBSEQUENT OFFENSE UNDER THIS SUBSECTION WHERE THE VALUE OF THE PROPERTY IS NOT LESS THAN FIVE HUNDRED DOLLARS (\$ 500.00), SHALL BE IMPRISONED IN THE PENITENTIARY FOR A TERM NOT EXCEEDING THREE (3) YEARS OR FINED AN AMOUNT NOT EXCEEDING ONE THOUSAND DOLLARS (\$ 1,000.00), OR BOTH.

- (3) WHOEVER COMMITS AN OFFENSE AGAINST COMPUTER EQUIPMENT OR SUPPLIES when the damage or loss amounts to a value of* * * ONE THOUSAND DOLLARS (\$ 1,000.00) or more* * * BUT LESS THAN FIVE THOUSAND DOLLARS (\$ 5,000.00) , may be punished, upon conviction, by a fine of not more than Ten Thousand Dollars (\$ 10,000.00) or by imprisonment for not more than five (5) years, or by both such fine and imprisonment.
- (4) WHOEVER COMMITS AN OFFENSE AGAINST COMPUTER EQUIPMENT OR SUPPLIES WHEN THE DAMAGE OR LOSS AMOUNTS TO A VALUE OF FIVE THOUSAND DOLLARS (\$ 5,000.00) OR MORE BUT LESS THAN TWENTY-FIVE THOUSAND DOLLARS (\$ 25,000.00), MAY BE PUNISHED, UPON CONVICTION, BY A FINE OF NOT MORE THAN TEN THOUSAND DOLLARS (\$ 10,000.00) OR BY IMPRISONMENT FOR NOT MORE THAN TEN (10) YEARS, OR BY BOTH SUCH FINE AND IMPRISONMENT.
- (5) WHOEVER COMMITS AN OFFENSE AGAINST COMPUTER EQUIPMENT OR SUPPLIES WHEN THE DAMAGE OR LOSS AMOUNTS TO A VALUE OF TWENTY-FIVE THOUSAND DOLLARS (\$ 25,000.00) OR MORE, MAY BE PUNISHED, UPON CONVICTION, BY A FINE OF NOT MORE THAN TEN THOUSAND DOLLARS (\$ 10,000.00) OR BY IMPRISONMENT FOR NOT MORE THAN TWENTY (20) YEARS, OR BY BOTH SUCH FINE AND IMPRISONMENT.

SECTION 34. Section 97-45-9, Mississippi Code of 1972, is amended as follows:

97-45-9.

- (1) An offense against intellectual property is the intentional:
- Destruction, insertion or modification, without consent, of intellectual property; or
 - Disclosure, use, copying, taking or accessing, without consent, of intellectual property.
- (2) Whoever commits an offense against intellectual property* * * WHEN THE DAMAGE OR LOSS OR ATTEMPTED DAMAGE OR LOSS AMOUNTS TO A VALUE OF LESS THAN ONE THOUSAND DOLLARS (\$ 1,000.00) MAY be punished, upon conviction, by a fine of not more than One Thousand Dollars (\$ 1,000.00), or by imprisonment for not more than six (6) months IN THE COUNTY JAIL , or by both* * * IF THE COURT FINDS SUBSTANTIAL AND COMPELLING REASONS WHY THE OFFENDER CANNOT BE SAFELY AND EFFECTIVELY SUPERVISED IN THE COMMUNITY, IS NOT AMENABLE TO COMMUNITY-BASED TREATMENT, OR POSES A SIGNIFICANT RISK TO PUBLIC SAFETY. IF SUCH A FINDING IS NOT MADE, THE COURT SHALL SUSPEND THE SENTENCE OF IMPRISONMENT AND IMPOSE A PERIOD OF PROBATION NOT EXCEEDING ONE (1) YEAR OR A FINE OF NOT MORE THAN ONE THOUSAND DOLLARS (\$ 1,000.00), OR BOTH. THE TOTAL VALUE OF PROPERTY TAKEN, STOLEN OR CARRIED AWAY BY THE PERSON FROM A SINGLE VICTIM SHALL BE AGGREGATED IN DETERMINING THE GRAVITY OF THE OFFENSE. ANY PERSON CONVICTED OF A THIRD OR SUBSEQUENT OFFENSE UNDER THIS SUBSECTION WHERE THE VALUE OF THE PROPERTY IS NOT LESS THAN FIVE HUNDRED DOLLARS (\$ 500.00),

SHALL BE IMPRISONED IN THE PENITENTIARY FOR A TERM NOT EXCEEDING THREE (3) YEARS OR FINED AN AMOUNT NOT EXCEEDING ONE THOUSAND DOLLARS (\$ 1,000.00), OR BY BOTH.

- (3) WHOEVER COMMITS AN OFFENSE AGAINST INTELLECTUAL PROPERTY when the damage or loss amounts to a value of* * * ONE THOUSAND DOLLARS (\$ 1,000.00) or more BUT LESS THAN FIVE THOUSAND DOLLARS (\$ 5,000.00) , the offender may be punished, upon conviction, by a fine of not more than Ten Thousand Dollars (\$ 10,000.00) or by imprisonment for not more than five (5) years, or by both such fine and imprisonment.
- (4) WHOEVER COMMITS AN OFFENSE AGAINST INTELLECTUAL PROPERTY WHEN THE DAMAGE OR LOSS AMOUNTS TO A VALUE OF FIVE THOUSAND DOLLARS (\$ 5,000.00) OR MORE BUT LESS THAN TWENTY-FIVE THOUSAND DOLLARS (\$ 25,000.00), MAY BE PUNISHED, UPON CONVICTION, BY A FINE OF NOT MORE THAN TEN THOUSAND DOLLARS (\$ 10,000.00) OR BY IMPRISONMENT FOR NOT MORE THAN TEN (10) YEARS, OR BY BOTH SUCH FINE AND IMPRISONMENT.
- (5) WHOEVER COMMITS AN OFFENSE AGAINST INTELLECTUAL PROPERTY WHEN THE DAMAGE OR LOSS AMOUNTS TO A VALUE OF TWENTY-FIVE THOUSAND DOLLARS (\$ 25,000.00) OR MORE, MAY BE PUNISHED, UPON CONVICTION, BY A FINE OF NOT MORE THAN TEN THOUSAND DOLLARS (\$ 10,000.00) OR BY IMPRISONMENT FOR NOT MORE THAN TWENTY (20) YEARS, OR BY BOTH SUCH FINE AND IMPRISONMENT.

(* * * 6) The provisions of this section shall not apply to the disclosure, use, copying, taking, or accessing by proper means as defined in this chapter.

SECTION 35. Section 97-45-19, Mississippi Code of 1972, is brought forward as follows:

97-45-19.

- (1) A person shall not obtain or attempt to obtain personal identity information of another person with the intent to unlawfully use that information for any of the following purposes without that person's authorization:
- (a) To obtain financial credit.
 - (b) To purchase or otherwise obtain or lease any real or personal property.
 - (c) To obtain employment.
 - (d) To obtain access to medical records or information contained in medical records.
 - (e) To commit any illegal act.
- (2)
- (a) A person who violates this section is guilty of a felony punishable by imprisonment for not less than two (2) nor more than fifteen (15) years or a fine of not more than Ten Thousand Dollars (\$ 10,000.00), or both.
 - (b) Notwithstanding the provisions of paragraph (a) of this subsection (2), if the violation involves an amount of less than Two Hundred Fifty Dollars (\$ 250.00), a person who violates this section may be found guilty of a misdemeanor punishable by imprisonment in the county jail for a term of not more than six (6) months, or by a fine of not more than One Thousand Dollars (\$ 1,000.00), or both, in the discretion of the court.
 - (c) For purposes of determining the amount of the violation, the value of all goods, property, services and other things of value obtained or attempted to be obtained by the use of an individual's identity information shall be aggregated.

- (3) This section does not prohibit the person from being charged with, convicted of, or sentenced for any other violation of law committed by that person using information obtained in violation of this section.
- (4) This section does not apply to a person who obtains or attempts to obtain personal identity information of another person pursuant to the discovery process of a civil action, an administrative proceeding or an arbitration proceeding.
- (5) Upon the request of a person whose identifying information was appropriated, the Attorney General may provide assistance to the victim in obtaining information to correct inaccuracies or errors in the person's credit report or other identifying information; however, no legal representation shall be afforded such person by the Office of the Attorney General.
- (6) A person convicted under this section or under Section 97-19-85 shall be ordered to pay restitution as provided in Section 99-37-1 et seq., and any legal interest in addition to any other fine or imprisonment which may be imposed.

SECTION 36. The following shall be codified as Section 97-43-3.1., Mississippi Code of 1972:

97-43-3.1.

- (1) It shall be unlawful for any person to conduct, organize, supervise or manage, directly or indirectly, an organized theft or fraud enterprise. Organized theft or fraud enterprise applies to conduct proscribed in the following provisions:
 - (a) Section 97-23-93, which relates to shoplifting;
 - (b) Sections 97-45-3 and 97-45-5, which relate to computer fraud;
 - (c) Section 97-45-19, which relates to fraudulent use of identity;
 - (d) Section 97-9-79, which relates to false information;
 - (e) Section 97-19-83, which relates to fraud by mail or other means of communication;
 - (f) Section 97-19-85, which relates to the fraudulent use of a social security number, credit card or debit card number or other identifying information; and
 - (g) Section 97-45-19, which relates to obtaining personal identity information of another person without authorization.
- (2) It shall be unlawful for any person who has, with criminal intent, received any proceeds or services derived, directly or indirectly, from an organized theft or fraud enterprise.
- (3) For the purposes of this section, an "organized theft or fraud enterprise" means any association of two (2) or more persons who engage in the conduct of or are associated for the purpose of effectuating the transfer or sale of merchandise, services or information that has a pecuniary value that causes a loss to the victim.
- (4) The value of the merchandise or services or the pecuniary loss involved in a violation of this section may be aggregated in determining the grade of the offense where the acts or conduct constituting a violation were committed pursuant to one (1) scheme or course of conduct, whether from the same person or several persons, or were committed in furtherance of or in conjunction with an organized theft or fraud enterprise.
- (5) Any person convicted under this section shall be, upon conviction, guilty of a felony and punished by a term of imprisonment of not more than twenty (20) years or fined not more than Twenty-five Thousand Dollars (\$ 25,000.00), or both.

SECTION 37. Section 41-29-139, Mississippi Code of 1972, is amended as follows:

41-29-139.

- (a) Except as authorized by this article, it is unlawful for any person knowingly or intentionally:

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- (1) To sell, barter, transfer, manufacture, distribute, dispense or possess with intent to sell, barter, transfer, manufacture, distribute or dispense, a controlled substance; or
 - (2) To create, sell, barter, transfer, distribute, dispense or possess with intent to create, sell, barter, transfer, distribute or dispense, a counterfeit substance.
- (b) Except as otherwise provided in* * * Section 41-29-142, any person who violates subsection (a) of this section **IN THE FOLLOWING AMOUNTS** shall be **, IF CONVICTED,** sentenced as follows:
- (1) In the case of controlled substances classified in Schedule I or II, as set out in Sections 41-29-113 and 41-29-115, except thirty (30) grams or less of marijuana or synthetic cannabinoids, and except a first offender as defined in Section 41-29-149(e) who violates subsection (a) of this section with respect to less than one (1) kilogram but more than thirty (30) grams of marijuana or synthetic cannabinoids, such person may, upon conviction* * * **FOR AN AMOUNT OF THE CONTROLLED SUBSTANCE OF:**
 - (A) **LESS THAN TWO (2) GRAMS OR TEN (10) DOSAGE UNITS, BE IMPRISONED FOR NOT MORE THAN EIGHT (8) YEARS OR FINED NOT MORE THAN FIFTY THOUSAND DOLLARS (\$ 50,000.00), OR BOTH.**
 - (B) **TWO (2) GRAMS OR TEN (10) DOSAGE UNITS OR MORE BUT LESS THAN TEN (10) GRAMS OR TWENTY (20) DOSAGE UNITS, BE IMPRISONED FOR NOT LESS THAN THREE (3) YEARS NOR MORE THAN TWENTY (20) YEARS OR FINED NOT MORE THAN TWO HUNDRED FIFTY THOUSAND DOLLARS (\$ 250,000.00), OR BOTH.**
 - (C) **TEN (10) GRAMS OR TWENTY (20) DOSAGE UNITS OR MORE, BUT LESS THAN THIRTY (30) GRAMS OR FORTY (40) DOSAGE UNITS, BE IMPRISONED FOR NOT LESS FIVE (5) YEARS NOR MORE THAN THIRTY (30) YEARS OR FINED NOT MORE THAN FIVE HUNDRED THOUSAND DOLLARS (\$ 500,000.00).**
 - (2) In the case of a first offender who violates subsection (a) of this section with an amount less than one (1) kilogram but more than thirty (30) grams of marijuana or synthetic cannabinoids as classified in Schedule I, as set out in Section 41-29-113, such person is guilty of a felony and, upon conviction, may be imprisoned for not more than* * * **FIVE (5)** years or fined not more than Thirty Thousand Dollars (\$ 30,000.00), or both;
 - (3) In the case of thirty (30) grams or less of marijuana or synthetic cannabinoids, such person may, upon conviction, be imprisoned for not more than three (3) years or fined not more than Three Thousand Dollars (\$ 3,000.00), or both;
 - (4) In the case of controlled substances classified in Schedules III and IV, as set out in Sections 41-29-117 and 41-29-119, such person may, upon conviction* * * **FOR AN AMOUNT OF THE CONTROLLED SUBSTANCE OF:**
 - (A) **LESS THAN TWO (2) GRAMS OR TEN (10) DOSAGE UNITS, BE IMPRISONED FOR NOT MORE THAN EIGHT (8) YEARS OR FINED NOT MORE THAN FIVE THOUSAND DOLLARS (\$ 5,000.00), OR BOTH;**
 - (B) **TWO (2) GRAMS OR TEN (10) DOSAGE UNITS OR MORE BUT LESS THAN TEN (10) GRAMS OR TWENTY (20) DOSAGE UNITS, BE IMPRISONED FOR NOT MORE THAN EIGHT (8) YEARS OR FINED NOT MORE THAN FIFTY THOUSAND DOLLARS (\$ 50,000.00), OR BOTH;**
 - (C) **TEN (10) GRAMS OR TWENTY (20) DOSAGE UNITS OR MORE BUT LESS THAN THIRTY (30) GRAMS OR FORTY (40) DOSAGE UNITS, BE IMPRISONED FOR NOT MORE THAN FIFTEEN (15) YEARS OR FINED NOT MORE THAN ONE HUNDRED THOUSAND DOLLARS (\$ 100,000.00).**

- (5) In the case of controlled substances classified in Schedule V, as set out in Section 41-29-121, such person may, upon conviction* * * **FOR AN AMOUNT OF THE CONTROLLED SUBSTANCE OF:**
- (A) **LESS THAN TWO (2) GRAMS OR TEN (10) DOSAGE UNITS, BE IMPRISONED FOR NOT MORE THAN ONE (1) YEAR OR FINED NOT MORE THAN FIVE THOUSAND DOLLARS (\$ 5,000.00), OR BOTH;**
 - (B) **TWO (2) GRAMS OR TEN (10) DOSAGE UNITS OR MORE BUT LESS THAN TEN (10) GRAMS OR TWENTY (20) DOSAGE UNITS, BE IMPRISONED FOR NOT MORE THAN FIVE (5) YEARS OR FINED NOT MORE THAN TEN THOUSAND DOLLARS (\$ 10,000.00), OR BOTH;**
 - (C) **TEN (10) GRAMS OR TWENTY (20) DOSAGE UNITS OR MORE BUT LESS THAN THIRTY (30) GRAMS OR FORTY (40) DOSAGE UNITS, BE IMPRISONED FOR NOT MORE THAN TEN (10) YEARS OR FINED NOT MORE THAN TWENTY THOUSAND DOLLARS (\$ 20,000.00).**

- (c) It is unlawful for any person knowingly or intentionally to possess any controlled substance unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his professional practice, or except as otherwise authorized by this article. The penalties for any violation of this subsection (c) with respect to a controlled substance classified in Schedules I, II, III, IV or V, as set out in Section 41-29-113, 41-29-115, 41-29-117, 41-29-119 or 41-29-121, including marijuana or synthetic cannabinoids, shall be based on dosage unit as defined herein or the weight of the controlled substance as set forth herein as appropriate:

"Dosage unit (d.u.)" means a tablet or capsule, or in the case of a liquid solution, one (1) milliliter. In the case of lysergic acid diethylamide (LSD) the term, "dosage unit" means a stamp, square, dot, microdot, tablet or capsule of a controlled substance.

For any controlled substance that does not fall within the definition of the term "dosage unit," the penalties shall be based upon the weight of the controlled substance.

The weight set forth refers to the entire weight of any mixture or substance containing a detectable amount of the controlled substance.

If a mixture or substance contains more than one (1) controlled substance, the weight of the mixture or substance is assigned to the controlled substance that results in the greater punishment.

Any person who violates this subsection with respect to:

- (1) A controlled substance classified in Schedule I or II, except marijuana or synthetic cannabinoids, in the following amounts shall be charged and sentenced as follows:
- (A) Less than one-tenth (0.1) gram or* * * **TWO (2) dosage unit S * * * SHALL** be charged as a misdemeanor* * * **AND, UPON CONVICTION, MAY BE IMPRISONED** * * * for up to one (1) year* * * **OR FINED** not more than One Thousand Dollars (\$ 1,000.00) , **OR BOTH** .
 - (B) One-tenth (0.1) gram **OR TWO (2) DOSAGE UNITS OR MORE** but less than two (2) grams or* * * ten (10) dosage units,* * * **MAY BE IMPRISONED** for not* * * more than* * * **THREE (3) years* * * OR** a fine of not more than Fifty Thousand Dollars (\$ 50,000.00) , **OR BOTH** .
 - (C) Two (2) grams **OR TEN (10) DOSAGE UNITS OR MORE** but less than ten (10) grams or* * * twenty (20) dosage units,* * * **MAY BE IMPRISONED** for not* * * more than* * * **EIGHT (8) years and* * * FINED** not more than Two Hundred Fifty Thousand Dollars (\$ 250,000.00) , **OR BOTH** .
 - (D) Ten (10) grams **OR TWENTY (20) DOSAGE UNITS OR MORE** but less than thirty (30) grams or* * * forty (40) dosage units,* * * **MAY BE IMPRISONED** for not less than* * *

THREE (3) years nor more than* * * **TWENTY (20)** years and* * * **FINED** not more than Five Hundred Thousand Dollars (\$ 500,000.00) , **OR BOTH** .

* * *

- (2) Marijuana or synthetic cannabinoids in the following amounts shall be charged and sentenced as follows:
- (A) Thirty (30) grams or less by a fine of not less than One Hundred Dollars (\$ 100.00) nor more than Two Hundred Fifty Dollars (\$ 250.00). The provisions of this paragraph shall be enforceable by summons, provided the offender provides proof of identity satisfactory to the arresting officer and gives written promise to appear in court satisfactory to the arresting officer, as directed by the summons. A second conviction under this section within two (2) years shall be punished by a fine of Two Hundred Fifty Dollars (\$ 250.00) and not less than five (5) days nor more than sixty (60) days in the county jail and mandatory participation in a drug education program, approved by the Division of Alcohol and Drug Abuse of the State Department of Mental Health, unless the court enters a written finding that such drug education program is inappropriate. A third or subsequent conviction under this section within two (2) years is a misdemeanor punishable by a fine of not less than Two Hundred Fifty Dollars (\$ 250.00) nor more than Five Hundred Dollars (\$ 500.00) and confinement for not less than five (5) days nor more than six (6) months in the county jail. Upon a first or second conviction under this section, the courts shall forward a report of such conviction to the Mississippi Bureau of Narcotics which shall make and maintain a private, nonpublic record for a period not to exceed two (2) years from the date of conviction. The private, nonpublic record shall be solely for the use of the courts in determining the penalties which attach upon conviction under this section and shall not constitute a criminal record for the purpose of private or administrative inquiry and the record of each conviction shall be expunged at the end of the period of two (2) years following the date of such conviction;
- (B) Additionally, a person who is the operator of a motor vehicle, who possesses on his person or knowingly keeps or allows to be kept in a motor vehicle within the area of the vehicle normally occupied by the driver or passengers, more than one (1) gram, but not more than thirty (30) grams, of marijuana or synthetic cannabinoids is guilty of a misdemeanor and , upon conviction , may be fined not more than One Thousand Dollars (\$ 1,000.00) and confined for not more than ninety (90) days in the county jail. For the purposes of this subsection, such area of the vehicle shall not include the trunk of the motor vehicle or the areas not normally occupied by the driver or passengers if the vehicle is not equipped with a trunk. A utility or glove compartment shall be deemed to be within the area occupied by the driver and passengers;
- (C) More than thirty (30) grams but less than two hundred fifty (250) grams may be fined not more than One Thousand Dollars (\$ 1,000.00), or confined in the county jail for not more than one (1) year, or both; or fined not more than Three Thousand Dollars (\$ 3,000.00), or imprisoned in the State Penitentiary for not more than three (3) years, or both;
- (D) Two hundred fifty (250) grams but less than five hundred (500) grams, by imprisonment for not less than two (2) years nor more than eight (8) years* * * **OR** by a fine of not more than Fifty Thousand Dollars (\$ 50,000.00) , **OR BOTH** ;
- (E) Five hundred (500) grams but less than one (1) kilogram, by imprisonment for not less than four (4) years nor more than sixteen (16) years* * * **OR** a fine of less than Two Hundred Fifty Thousand Dollars (\$ 250,000.00) , **OR BOTH** ;
- (F) One (1) kilogram but less than five (5) kilograms, by imprisonment for not less than six (6) years nor more than twenty-four (24) years* * * **OR** a fine of not more than Five Hundred Thousand Dollars (\$ 500,000.00) , **OR BOTH** ;

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- (G) Five (5) kilograms or more, by imprisonment for not less than ten (10) years nor more than thirty (30) years* * * **OR** a fine of not more than One Million Dollars (\$ 1,000,000.00) , **OR BOTH** .
- (3) A controlled substance classified in Schedule III, IV or V as set out in Sections 41-29-117 through 41-29-121, upon conviction, may be punished as follows:
- (A) Less than fifty (50) grams or less than one hundred (100) dosage units is a misdemeanor and punishable by not more than one (1) year* * * **OR** a fine of not more than One Thousand Dollars (\$ 1,000.00) , **OR BOTH** .
- (B) Fifty (50) grams* * * or one hundred (100) dosage units **OR MORE** but less than **ONE HUNDRED FIFTY (150) GRAMS OR** five hundred (500) dosage units, by imprisonment for not less than one (1) year nor more than four (4) years* * * **OR** a fine of not more than Ten Thousand Dollars (\$ 10,000.00) , **OR BOTH** .
- (C) One hundred fifty (150) grams or Five Hundred (500) dosage units **OR MORE** but less than three hundred (300) grams or* * * one thousand (1,000) dosage units, by imprisonment for not less than two (2) years nor more than eight (8) years* * * **OR** a fine of not more than Fifty Thousand Dollars (\$ 50,000.00) , **OR BOTH** .
- (D) Three hundred (300) grams **OR ONE THOUSAND (1,000) DOSAGE UNITS OR MORE** but less than five hundred (500) grams or* * * two thousand five hundred (2,500) dosage units, by imprisonment for not less than four (4) years nor more than sixteen (16) years* * * **OR** a fine of not more than Two Hundred Fifty Thousand Dollars (\$ 250,000.00) , **OR BOTH** .

* * *

(d)

- (1) It is unlawful for a person who is not authorized by the State Board of Medical Licensure, State Board of Pharmacy, or other lawful authority to use, or to possess with intent to use, paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of the Uniform Controlled Substances Law. Any person who violates this subsection is guilty of a misdemeanor and, upon conviction, may be confined in the county jail for not more than six (6) months, or fined not more than Five Hundred Dollars (\$ 500.00), or both; however, no person shall be charged with a violation of this subsection when such person is also charged with the possession of one (1) ounce or less of marijuana or synthetic cannabinoids under subsection (c)(2)(A) of this section.
- (2) It is unlawful for any person to deliver, sell, possess with intent to deliver or sell, or manufacture with intent to deliver or sell, paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of the Uniform Controlled Substances Law. Any person who violates this subsection is guilty of a misdemeanor and, upon conviction, may be confined in the county jail for not more than six (6) months, or fined not more than Five Hundred Dollars (\$ 500.00), or both.
- (3) Any person eighteen (18) years of age or over who violates subsection (d)(2) of this section by delivering or selling paraphernalia to a person under eighteen (18) years of age who is at least three (3) years his junior is guilty of a misdemeanor and, upon conviction, may be confined in the county jail for not more than one (1) year, or fined not more than One Thousand Dollars (\$ 1,000.00), or both.

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- (4) It is unlawful for any person to place in any newspaper, magazine, handbill, or other publication any advertisement, knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as paraphernalia. Any person who violates this subsection is guilty of a misdemeanor and, upon conviction, may be confined in the county jail for not more than six (6) months, or fined not more than Five Hundred Dollars (\$ 500.00), or both.
- (e) It shall be unlawful for any physician practicing medicine in this state to prescribe, dispense or administer any amphetamine or amphetamine-like anorectics and/or central nervous system stimulants classified in Schedule II, pursuant to Section 41-29-115, for the exclusive treatment of obesity, weight control or weight loss. Any person who violates this subsection, upon conviction, is guilty of a misdemeanor and may be confined for a period not to exceed six (6) months, or fined not more than One Thousand Dollars (\$ 1,000.00), or both.

* * *

(* * * F) (1) Any person trafficking in controlled substances shall be guilty of a felony and, upon conviction, shall be imprisoned for a term of* * * NOT LESS THAN TEN (10) YEARS NOR MORE THAN FORTY (40) years . * * * THE TEN-YEAR MANDATORY sentence shall not be reduced or suspended* * * . THE person SHALL NOT be eligible for probation or parole, the provisions of Sections 41-29-149, 47-5-139, 47-7-3 and 47-7-33, Mississippi Code of 1972, to the contrary notwithstanding DURING THE SENTENCE and shall be fined not less than Five Thousand Dollars (\$ 5,000.00) nor more than One Million Dollars (\$ 1,000,000.00).

(2) "Trafficking in controlled substances" as used herein means* * * :

- (A) A VIOLATION OF SUBSECTION (A) OF THIS SECTION INVOLVING THIRTY (30) GRAMS OR FORTY (40) DOSAGE UNITS OR MORE OF A SCHEDULE I OR II SUBSTANCE EXCEPT MARIJUANA;
- (B) A VIOLATION OF SUBSECTION (C) OF THIS SECTION INVOLVING FIVE HUNDRED (500) GRAMS OR TWO THOUSAND FIVE HUNDRED (2,500) DOSAGE UNITS OF A SCHEDULE III, IV OR V SUBSTANCE;
- (C) A VIOLATION OF SUBSECTION (C) OF THIS SECTION INVOLVING THIRTY (30) GRAMS OR FORTY (40) DOSAGE UNITS OR MORE OF A SCHEDULE I OR II SUBSTANCE EXCEPT MARIJUANA; OR
- (D) A VIOLATION OF SUBSECTION (A) OF THIS SECTION INVOLVING ONE (1) KILOGRAM OR MORE OF MARIJUANA OR SYNTHETIC CANNABINOIDS.

(3) * * * THE PROVISIONS OF THIS SUBSECTION SHALL NOT APPLY TO ANY PERSON WHO FURNISHES INFORMATION AND ASSISTANCE TO THE BUREAU, OR ITS DESIGNEE, WHICH, IN THE OPINION OF THE TRIAL JUDGE OBJECTIVELY SHOULD OR WOULD HAVE AIDED IN THE ARREST OR PROSECUTION OF OTHERS WHO VIOLATE THIS SUBSECTION. THE ACCUSED SHALL HAVE ADEQUATE OPPORTUNITY TO DEVELOP AND MAKE A RECORD OF ALL INFORMATION AND ASSISTANCE SO FURNISHED.

(G) ANY PERSON TRAFFICKING IN SCHEDULE I OR II SUBSTANCES, EXCEPT MARIJUANA, OF TWO HUNDRED (200) GRAMS OR MORE SHALL BE GUILTY OF AGGRAVATED TRAFFICKING AND, UPON CONVICTION, SHALL BE SENTENCED TO A TERM OF NOT LESS THAN TWENTY-FIVE (25) YEARS NOR MORE THAN LIFE IN PRISON. THE TWENTY-FIVE-YEAR SENTENCE SHALL BE A MANDATORY SENTENCE AND SHALL NOT BE REDUCED OR SUSPENDED. THE PERSON SHALL NOT BE ELIGIBLE FOR PROBATION OR PAROLE, THE PROVISIONS OF SECTIONS 41-29-149, 47-5-139, 47-7-3 AND 47-7-33, MISSISSIPPI CODE OF 1972, TO THE CONTRARY NOTWITHSTANDING DURING THE SENTENCE AND SHALL BE

FINED NOT LESS THAN FIVE THOUSAND DOLLARS (\$ 5,000.00) NOR MORE THAN ONE MILLION DOLLARS (\$ 1,000,000.00).

(H)

- (1) NOTWITHSTANDING ANY PROVISION OF THIS SECTION, A PERSON WHO HAS BEEN CONVICTED OF AN OFFENSE UNDER THIS SECTION THAT REQUIRES THE JUDGE TO IMPOSE A PRISON SENTENCE WHICH CANNOT BE SUSPENDED OR REDUCED AND IS INELIGIBLE FOR PROBATION OR PAROLE MAY, AT THE DISCRETION OF THE COURT, RECEIVE A SENTENCE OF IMPRISONMENT THAT IS NO LESS THAN TWENTY-FIVE PERCENT (25%) OF THE SENTENCE PRESCRIBED BY THE APPLICABLE STATUTE. IN CONSIDERING WHETHER TO APPLY THE DEPARTURE FROM THE SENTENCE PRESCRIBED, THE COURT SHALL CONCLUDE THAT:
 - (A) THE OFFENDER WAS NOT A LEADER OF THE CRIMINAL ENTERPRISE;
 - (B) THE OFFENDER DID NOT USE VIOLENCE OR A WEAPON DURING THE CRIME;
 - (C) THE OFFENSE DID NOT RESULT IN A DEATH OR SERIOUS BODILY INJURY OF A PERSON NOT A PARTY TO THE CRIMINAL ENTERPRISE; AND
 - (D) THE INTERESTS OF JUSTICE ARE NOT SERVED BY THE IMPOSITION OF THE PRESCRIBED MANDATORY SENTENCE.
- (2) IF THE COURT REDUCES THE PRESCRIBED SENTENCE PURSUANT TO THIS SUBSECTION, IT MUST SPECIFY ON THE RECORD THE CIRCUMSTANCES WARRANTING THE DEPARTURE.

SECTION 38. Section 41-29-313, Mississippi Code of 1972, is amended as follows:

41-29-313.

(1)

- (a) Except as authorized in this section, it is unlawful for any person to knowingly or intentionally:
 - (i) Purchase, possess, transfer, manufacture, attempt to manufacture or distribute any two (2) or more of the listed precursor chemicals or drugs in any amount with the intent to unlawfully manufacture a controlled substance;
 - (ii) Purchase, possess, transfer, manufacture, attempt to manufacture or distribute any two (2) or more of the listed precursor chemicals or drugs in any amount, knowing, or under circumstances where one reasonably should know, that the listed precursor chemical or drug will be used to unlawfully manufacture a controlled substance;
- (b) The term "precursor drug or chemical" means a drug or chemical that, in addition to legitimate uses, may be used in manufacturing a controlled substance in violation of this chapter. The term includes any salt, optical isomer or salt of an optical isomer, whenever the existence of a salt, optical isomer or salt of optical isomer is possible within the specific chemical designation. The chemicals or drugs listed in this section are included by whatever official, common, usual, chemical or trade name designated. A "precursor drug or chemical" includes, but is not limited to, the following:
 - (i) Ether;
 - (ii) Anhydrous ammonia;
 - (iii) Ammonium nitrate;
 - (iv) Pseudoephedrine;
 - (v) Ephedrine;
 - (vi) Denatured alcohol (Ethanol);

- (vii) Lithium;
 - (viii) Freon;
 - (ix) Hydrochloric acid;
 - (x) Hydriodic acid;
 - (xi) Red phosphorous;
 - (xii) Iodine;
 - (xiii) Sodium metal;
 - (xiv) Sodium hydroxide;
 - (xv) Muriatic acid;
 - (xvi) Sulfuric acid;
 - (xvii) Hydrogen chloride gas;
 - (xviii) Potassium;
 - (xix) Methanol;
 - (xx) Isopropyl alcohol;
 - (xxi) Hydrogen peroxide;
 - (xxii) Hexanes;
 - (xxiii) Heptanes;
 - (xxiv) Acetone;
 - (xxv) Toluene;
 - (xxvi) Xylenes.
- (c) Any person who violates this subsection (1), upon conviction, is guilty of a felony and may be imprisoned for a period not to exceed* * * EIGHT (8) years* * * OR shall be fined not less than Five Thousand Dollars (\$ 5,000.00) nor more than* * * FIFTY THOUSAND DOLLARS (\$ 50,000.00) , or both* * * .
- (D) ANY PERSON WHO VIOLATES THIS SUBSECTION (1) WHILE ALSO IN POSSESSION OF TWO (2) GRAMS OR LESS OF A CONTROLLED SUBSTANCE THAT CAN BE MANUFACTURED BY USING THE PRECURSOR DRUGS OR CHEMICALS, UPON CONVICTION, IS GUILTY OF A FELONY AND MAY BE IMPRISONED FOR A PERIOD NOT TO EXCEED EIGHT (8) YEARS OR A FINE OF NOT LESS THAN FIFTY THOUSAND DOLLARS (\$ 50,000.00), OR BOTH.
- (E) ANY PERSON WHO VIOLATES THIS SUBSECTION (1) WHILE ALSO IN POSSESSION OF MORE THAN TWO (2) GRAMS BUT LESS THAN TEN (10) GRAMS OF A CONTROLLED SUBSTANCE THAT CAN BE MANUFACTURED BY USING THE PRECURSOR DRUGS OR CHEMICALS, UPON CONVICTION, IS GUILTY OF A FELONY AND MAY BE IMPRISONED FOR A PERIOD NOT TO EXCEED TEN (10) YEARS OR A FINE OF NOT LESS THAN FIFTY THOUSAND DOLLARS (\$ 50,000.00), OR BOTH.
- (F) ANY PERSON WHO VIOLATES THIS SUBSECTION (1) WHILE ALSO IN POSSESSION OF MORE THAN TEN (10) GRAMS BUT LESS THAN THIRTY (30) GRAMS OF A CONTROLLED SUBSTANCE THAT CAN BE MANUFACTURED BY USING THE PRECURSOR DRUGS OR CHEMICALS, UPON CONVICTION, IS GUILTY OF A FELONY AND MAY BE IMPRISONED FOR A PERIOD NO LESS THAN THREE (3) YEARS NOR

MORE THAN TWENTY (20) YEARS OR A FINE OF NOT LESS THAN TWO HUNDRED FIFTY THOUSAND DOLLARS (\$ 250,000.00), OR BOTH.

(G) ANY PERSON WHO VIOLATES THIS SUBSECTION (1) WHILE ALSO IN POSSESSION OF A QUANTITY OF MORE THAN THIRTY (30) GRAMS OF A CONTROLLED SUBSTANCE THAT CAN BE MANUFACTURED BY USING THE PRECURSOR DRUGS OR CHEMICALS, UPON CONVICTION, IS GUILTY OF A FELONY AND MAY BE IMPRISONED FOR A PERIOD NO LESS THAN THREE (3) YEARS NOR MORE THAN TWENTY (20) YEARS OR A FINE OF NOT LESS THAN TWO HUNDRED FIFTY THOUSAND DOLLARS (\$ 250,000.00), OR BOTH.

(2)

(a) It is unlawful for any person to knowingly or intentionally steal or unlawfully take or carry away any amount of anhydrous ammonia or to break, cut, or in any manner damage the valve or locking mechanism on an anhydrous ammonia tank with the intent to steal or unlawfully take or carry away anhydrous ammonia.

(b)

(i) It is unlawful for any person to purchase, possess, transfer or distribute any amount of anhydrous ammonia knowing, or under circumstances where one reasonably should know, that the anhydrous ammonia will be used to unlawfully manufacture a controlled substance.

(ii) The possession of any amount of anhydrous ammonia in a container unauthorized for containment of anhydrous ammonia pursuant to Section 75-57-9 shall be prima facie evidence of intent to use the anhydrous ammonia to unlawfully manufacture a controlled substance.

(c)

(i) It is unlawful for any person to purchase, possess, transfer or distribute two hundred fifty (250) dosage units or fifteen (15) grams in weight (dosage unit and weight as defined in Section 41-29-139) of pseudoephedrine or ephedrine, knowing, or under circumstances where one reasonably should know, that the pseudoephedrine or ephedrine will be used to unlawfully manufacture a controlled substance.

(ii) Except as provided in this subparagraph, possession of one or more products containing more than twenty-four (24) grams of ephedrine or pseudoephedrine shall constitute a rebuttable presumption of intent to use the product as a precursor to methamphetamine or another controlled substance. The rebuttable presumption established by this subparagraph shall not apply to the following persons who are lawfully possessing the identified drug products in the course of legitimate business:

1. A retail distributor of the drug products described in this subparagraph possessing a valid business license or wholesaler;
2. A wholesale drug distributor, or its agents, licensed by the Mississippi State Board of Pharmacy;
3. A manufacturer of drug products described in this subparagraph, or its agents, licensed by the Mississippi State Board of Pharmacy;
4. A pharmacist licensed by the Mississippi State Board of Pharmacy; or
5. A licensed health care professional possessing the drug products described in this subparagraph (ii) in the course of carrying out his profession.

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- (d) Any person who violates this subsection (2), upon conviction, is guilty of a felony and may be imprisoned for a period not to exceed five (5) years and shall be fined not more than Five Thousand Dollars (\$ 5,000.00), or both fine and imprisonment.
- (3) Nothing in this section shall preclude any farmer from storing or using any of the listed precursor drugs or chemicals listed in this section in the normal pursuit of farming operations.
- (4) Nothing in this section shall preclude any wholesaler, retailer or pharmacist from possessing or selling the listed precursor drugs or chemicals in the normal pursuit of business.
- (5) Any person who violates the provisions of this section with children under the age of eighteen (18) years present may be subject to a term of imprisonment or a fine, or both, of twice that provided in this section.
- (6) Any person who violates the provisions of this section when the offense occurs in any hotel or apartment building or complex may be subject to a term of imprisonment or a fine, or both, of twice that provided in this section. For the purposes of this subsection (6), the following terms shall have the meanings ascribed to them:
- (a) "Hotel" means a hotel, inn, motel, tourist court, apartment house, rooming house or any other place where sleeping accommodations are furnished or offered for pay if four (4) or more rooms are available for transient guests.
- (b) "Apartment building" means any building having four (4) or more dwelling units, including, without limitation, a condominium building.
- (7) Any person who violates the provisions of this section who has in his possession any firearm, either at the time of the commission of the offense or at the time any arrest is made, may be subject to a term of imprisonment or a fine, or both, of twice that provided in this section.
- (8) Any person who violates the provisions of this section upon any premises upon which any booby trap has been installed or rigged may be subject to a term of imprisonment or a fine, or both, of twice that provided in this section. For the purposes of this subsection, the term "booby trap" means any concealed or camouflaged device designed to cause bodily injury when triggered by any action of a person making contact with the device. The term includes guns, ammunition or explosive devices attached to trip wires or other triggering mechanisms, sharpened stakes, nails, spikes, electrical devices, lines or wires with hooks attached, and devices designed for the production of toxic fumes or gases.

SECTION 39. The following shall be codified as Section 97-3-2, Mississippi Code of 1972:

97-3-2.

- (1) The following shall be classified as crimes of violence:
- (a) Driving under the influence as provided in Sections 63-11-30(5) and 63-11-30(12)(d);
- (b) Murder and attempted murder as provided in Sections 97-1-7(2), 97-3-19, 97-3-23 and 97-3-25;
- (c) Aggravated assault as provided in Sections 97-3-7(2)(a) and (b) and 97-3-7(4)(a);
- (d) Manslaughter as provided in Sections 97-3-27, 97-3-29, 97-3-31, 97-3-33, 97-3-35, 97-3-39, 97-3-41, 97-3-43, 97-3-45 and 97-3-47;
- (e) Killing of an unborn child as provided in Sections 97-3-37(2)(a) and 97-3-37(2)(b);
- (f) Kidnapping as provided in Section 97-3-53;
- (g) Human trafficking as provided in Section 97-3-54.1;
- (h) Poisoning as provided in Section 97-3-61;
- (i) Rape as provided in Sections 97-3-65 and 97-3-71;

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- (j) Robbery as provided in Sections 97-3-73 and 97-3-79;
 - (k) Sexual battery as provided in Section 97-3-95;
 - (l) Drive-by shooting or bombing as provided in Section 97-3-109;
 - (m) Carjacking as provided in Section 97-3-117;
 - (n) Felonious neglect, abuse or battery of a child as provided in Section 97-5-39;
 - (o) Burglary of a dwelling as provided in Sections 97-17-23 and 97-17-37;
 - (p) Use of explosives or weapons of mass destruction as provided in Section 97-37-25;
 - (q) Statutory rape as provided in Section 97-3-65(1), but this classification is rebuttable on hearing by a judge;
 - (r) Exploitation of a child as provided in Section 97-5-33;
 - (s) Gratification of lust as provided in Section 97-5-23; and
 - (t) Shooting into a dwelling as provided in Section 97-37-29.
- (2) In any felony offense with a maximum sentence of no less than five (5) years, upon conviction, the judge may find and place in the sentencing order, on the record in open court, that the offense, while not listed in subsection (1) of this section, shall be classified as a crime of violence if the facts show that the defendant used physical force, or made a credible attempt or threat of physical force against another person as part of the criminal act. No person convicted of a crime of violence listed in this section is eligible for parole or for early release from the custody of the Department of Corrections until the person has served at least fifty percent (50%) of the sentence imposed by the court.

SECTION 40. Section 47-7-3, Mississippi Code of 1972, is amended as follows:

47-7-3.

- (1) Every prisoner who has been convicted of any offense against the State of Mississippi, and is confined in the execution of a judgment of such conviction in the Mississippi Department of Corrections for a definite term or terms of one (1) year or over, or for the term of his or her natural life, whose record of conduct shows that such prisoner has observed the rules of the department, and who has served not less than one-fourth (1/4) of the total of such term or terms for which such prisoner was sentenced, or, if sentenced to serve a term or terms of thirty (30) years or more, or, if sentenced for the term of the natural life of such prisoner, has served not less than ten (10) years of such life sentence, may be released on parole as hereinafter provided, except that:
- (a) No prisoner convicted as a confirmed and habitual criminal under the provisions of Sections 99-19-81 through 99-19-87 shall be eligible for parole;
 - (b) Any person who shall have been convicted of a sex crime shall not be released on parole except for a person under the age of nineteen (19) who has been convicted under Section 97-3-67;

* * *

(* * * **C**) (i) No person shall be eligible for parole who shall, on or after January 1, 1977, be convicted of robbery or attempted robbery through the display of a firearm until he shall have served ten (10) years if sentenced to a term or terms of more than ten (10) years or if sentenced for the term of the natural life of such person. If such person is sentenced to a term or terms of ten (10) years or less, then such person shall not be eligible for parole. The provisions of this paragraph (* * * **C**) **(l)** shall also apply to any person who shall commit robbery or attempted robbery on or after July 1, 1982, through the display of a deadly weapon. This paragraph (* * * **C**)(i) shall not apply to persons convicted after September 30, 1994;

- (ii) No person shall be eligible for parole who shall, on or after October 1, 1994, be convicted of robbery, attempted robbery or carjacking as provided in Section 97-3-115 et seq., through the display of a firearm or drive-by shooting as provided in Section 97-3-109. The provisions of this paragraph (* * * **C**) (ii) shall also apply to any person who shall commit robbery, attempted robbery, carjacking or a drive-by shooting on or after October 1, 1994, through the display of a deadly weapon . **THIS PARAGRAPH (C)(II) SHALL NOT APPLY TO PERSONS CONVICTED AFTER JULY 1, 2014 ;**

(* * * **D**) No person shall be eligible for parole who, on or after July 1, 1994, is charged, tried, convicted and sentenced to life imprisonment without eligibility for parole under the provisions of Section 99-19-101;

(* * * **E**) No person shall be eligible for parole who is charged, tried, convicted and sentenced to life imprisonment under the provisions of Section 99-19-101;

* * *

(* * * **F**) No person shall be eligible for parole who is convicted or whose suspended sentence is revoked after June 30, 1995, except that an offender convicted of only nonviolent crimes after June 30, 1995, may be eligible for parole if the offender meets the requirements in subsection (1) and this paragraph. In addition to other requirements, if an offender is convicted of a drug or driving under the influence felony, the offender must complete a drug and alcohol rehabilitation program prior to parole or the offender may be required to complete a post-release drug and alcohol program as a condition of parole. For purposes of this paragraph, "nonviolent crime" means a felony other than homicide, robbery, manslaughter, sex crimes, arson, burglary of an occupied dwelling, aggravated assault, kidnapping, felonious abuse of vulnerable adults, felonies with enhanced penalties, the sale or manufacture of a controlled substance under the Uniform Controlled Substances Law, felony child abuse, or exploitation or any crime under Section 97-5-33 or Section 97-5-39(2) or 97-5-39(1)(b), 97-5-39(1)(c) or a violation of Section 63-11-30(5). An offender convicted of a violation under Section 41-29-139(a), not exceeding the amounts specified under Section 41-29-139(b), may be eligible for parole. In addition, an offender incarcerated for committing the crime of possession of a controlled substance under the Uniform Controlled Substances Law after July 1, 1995, shall be eligible for parole. **THIS PARAGRAPH (F) SHALL NOT APPLY TO PERSONS CONVICTED ON OR AFTER JULY 1, 2014;**

(G)

(I) NO PERSON WHO, ON OR AFTER JULY 1, 2014, IS CONVICTED OF A CRIME OF VIOLENCE PURSUANT TO SECTION 97-3-2, A SEX CRIME OR AN OFFENSE THAT SPECIFICALLY PROHIBITS PAROLE RELEASE, SHALL BE ELIGIBLE FOR PAROLE. ALL PERSONS CONVICTED OF ANY OTHER OFFENSE ON OR AFTER JULY 1, 2014, ARE ELIGIBLE FOR PAROLE AFTER THEY HAVE SERVED ONE-FOURTH (1/4) OF THE SENTENCE OR SENTENCES IMPOSED BY THE TRIAL COURT.

(II) NOTWITHSTANDING THE PROVISIONS IN PARAGRAPH (I) OF THIS SUBSECTION, A PERSON SERVING A SENTENCE WHO HAS REACHED THE AGE OF SIXTY (60) OR OLDER AND WHO HAS SERVED NO LESS THAN TEN (10) YEARS OF THE SENTENCE OR SENTENCES IMPOSED BY THE TRIAL COURT SHALL BE ELIGIBLE FOR PAROLE. ANY PERSON ELIGIBLE FOR PAROLE UNDER THIS SUBSECTION SHALL BE REQUIRED TO HAVE A PAROLE HEARING BEFORE THE BOARD PRIOR TO PAROLE RELEASE. NO INMATE SHALL BE ELIGIBLE FOR PAROLE UNDER THIS PARAGRAPH OF THIS SUBSECTION IF:

1. THE INMATE IS SENTENCED AS A HABITUAL OFFENDER UNDER SECTIONS 99-19-81 THROUGH 99-19-87;

2. THE INMATE IS SENTENCED FOR A CRIME OF VIOLENCE UNDER SECTION 97-3-2;
3. THE INMATE IS SENTENCED FOR AN OFFENSE THAT SPECIFICALLY PROHIBITS PAROLE RELEASE;
4. THE INMATE IS SENTENCED FOR TRAFFICKING IN CONTROLLED SUBSTANCES UNDER SECTION 41-29-139(F);
5. THE INMATE IS SENTENCED FOR A SEX CRIME; OR
6. THE INMATE HAS NOT SERVED ONE-FOURTH (1/4) OF THE SENTENCE IMPOSED BY THE COURT.

(III) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (1)(A) OF THIS SECTION, ANY NONVIOLENT OFFENDER WHO HAS SERVED TWENTY-FIVE PERCENT (25%) OR MORE OF HIS SENTENCE MAY BE PAROLED IF THE SENTENCING JUDGE OR IF THE SENTENCING JUDGE IS RETIRED, DISABLED OR INCAPACITATED, THE SENIOR CIRCUIT JUDGE, RECOMMENDS PAROLE TO THE PAROLE BOARD AND THE PAROLE BOARD APPROVES.

- (2) Notwithstanding any other provision of law, an inmate shall not be eligible to receive earned time, good time or any other administrative reduction of time which shall reduce the time necessary to be served for parole eligibility as provided in subsection (1) of this section* * *.
- (3) The State Parole Board shall, by rules and regulations, establish a method of determining a tentative parole hearing date for each eligible offender taken into the custody of the Department of Corrections. The tentative parole hearing date shall be determined within ninety (90) days after the department has assumed custody of the offender.* * * THE PAROLE HEARING DATE SHALL OCCUR WHEN THE OFFENDER IS WITHIN THIRTY (30) DAYS OF THE MONTH OF HIS PAROLE ELIGIBILITY DATE. THE PAROLE ELIGIBILITY DATE SHALL NOT BE EARLIER THAN ONE-FOURTH (1/4) OF THE PRISON SENTENCE OR SENTENCES IMPOSED BY THE COURT.
- (4) Any inmate within twenty-four (24) months of his parole eligibility date and who meets the criteria established by the classification board shall receive priority for placement in any educational development and job training programs THAT ARE PART OF HIS OR HER PAROLE CASE PLAN . Any inmate refusing to participate in an educational development or job training program THAT IS PART OF THE CASE PLAN may be* * * IN JEOPARDY OF NONCOMPLIANCE WITH THE CASE PLAN AND MAY BE DENIED PAROLE .

SECTION 41. Section 47-5-138.1, Mississippi Code of 1972, is amended as follows:

47-5-138.1.

- (1) In addition to any other administrative reduction of sentence, an offender in trusty status as defined by the classification board of the Department of Corrections may be awarded a trusty - time allowance of thirty (30) days' reduction of sentence for each thirty (30) days of participation during any calendar month in an approved program while in trusty status, including satisfactory participation in education or instructional programs, satisfactory participation in work projects and satisfactory participation in any special incentive program.
- (2) An offender in trusty status shall not be eligible for a reduction of sentence under this section if:
 - (a) The offender was sentenced to life imprisonment;
 - (b) The offender was convicted as an habitual offender under Sections 99-19-81 through 99-19-87;
 - (c) The offender was convicted of a sex crime;

- (d) The offender has not served the mandatory time required for parole eligibility, as prescribed under Section 47-7-3, for a conviction of robbery or attempted robbery through the display of a deadly weapon, carjacking through the display of a deadly weapon or a drive-by shooting; **OR**

* * *

(* * * **E**) The offender was convicted of trafficking in controlled substances under Section 41-29-139.

SECTION 42. The following shall be codified in Chapter 7, Title 47, Mississippi Code of 1972:

47-7-___. (1) Notwithstanding Sections 47-5-138, 47-5-139, 47-5-138.1 or 47-5-142, no person convicted of a criminal offense on or after July 1, 2014, shall be released by the department until he or she has served no less than fifty percent (50%) of a sentence for a crime of violence pursuant to Section 97-3-2 or twenty-five percent (25%) of any other sentence imposed by the court.

(2) This section shall not apply to:

- (a) Offenders sentenced to life imprisonment;
- (b) Offenders convicted as habitual offenders pursuant to Sections 99-19-81 through 99-19-87;
- (c) Offenders serving a sentence for a sex offense; or
- (d) Offenders serving a sentence for trafficking pursuant to Section 41-29-139(f).

SECTION 43. The following shall be codified in Chapter 7, Title 47, Mississippi Code of 1972:

47-7-___. (1) In consultation with the Parole Board, the department shall develop a case plan for all parole eligible inmates to guide an inmate's rehabilitation while in the department's custody and to reduce the likelihood of recidivism after release.

(2) Within ninety (90) days of admission, the department shall complete a case plan on all inmates which shall include, but not limited to:

- (a) Programming and treatment requirements based on the results of a risk and needs assessment;
- (b) Any programming or treatment requirements contained in the sentencing order; and
- (c) General behavior requirements in accordance with the rules and policies of the department.

(3) The department shall provide the inmate with a written copy of the case plan and the inmate's caseworker shall explain the conditions set forth in the case plan.

- (a) Within ninety (90) days of admission, the caseworker shall notify the inmate of their parole eligibility date as calculated in accordance with Section 47-7-3(3);
- (b) At the time a parole-eligible inmate receives the case plan, the department shall send the case plan to the Parole Board for approval.

(4) The department shall ensure that the case plan is achievable prior to inmate's parole eligibility date.

(5) The caseworker shall meet with the inmate every eight (8) weeks from the date the offender received the case plan to review the inmate's case plan progress.

(6) Every four (4) months the department shall electronically submit a progress report on each parole-eligible inmate's case plan to the Parole Board. The board may meet to review an inmate's case

plan and may provide written input to the caseworker on the inmate's progress toward completion of the case plan.

- (7) The Parole Board shall provide semiannually to the Oversight Task Force the number of parole hearings held, the number of prisoners released to parole without a hearing and the number of parolees released after a hearing.

SECTION 44. The following shall be codified in Chapter 7, Title 47, Mississippi Code of 1972:

47-7-___. (1) Each inmate eligible for parole pursuant to Section 47-7-3,

shall be released from incarceration to parole supervision on the inmate's

parole eligibility date, without a hearing before the board, if:

- (a) The inmate has met the requirements of the parole case plan established pursuant to Section 43 of this act;
 - (b) A victim of the offense has not requested the board conduct a hearing;
 - (c) The inmate has not received a serious or major violation report within the past six (6) months;
 - (d) The inmate has agreed to the conditions of supervision; and
 - (e) The inmate has a discharge plan approved by the board.
- (2) At least thirty (30) days prior to an inmate's parole eligibility date, the department shall notify the board in writing of the inmate's compliance or noncompliance with the case plan. If an inmate fails to meet a requirement of the case plan, prior to the parole eligibility date, he or she shall have a hearing before the board to determine if completion of the case plan can occur while in the community.
 - (3) Any inmate for whom there is insufficient information for the department to determine compliance with the case plan shall have a hearing with the board.
 - (4) A hearing shall be held with the board if requested by the victim following notification of the inmate's parole release date pursuant to Section 47-7-17.
 - (5) A hearing shall be held by the board if a law enforcement official from the community to which the inmate will return contacts the board or the department and requests a hearing to consider information relevant to public safety risks posed by the inmate if paroled at the initial parole eligibility date. The law enforcement official shall submit an explanation documenting these concerns for the board to consider.
 - (6) If a parole hearing is held, the board may determine the inmate has sufficiently complied with the case plan or that the incomplete case plan is not the fault of the inmate and that granting parole is not incompatible with public safety, the board may then parole the inmate with appropriate conditions. If the board determines that the inmate has sufficiently complied with the case plan but the discharge plan indicates that the inmate does not have appropriate housing immediately upon release, the board may parole the inmate to a transitional reentry center with the condition that the inmate spends no more than six (6) months in the center. If the board determines that the inmate has not substantively complied with the requirement(s) of the case plan it may deny parole. If the board denies parole, the board may schedule a subsequent parole hearing and, if a new date is scheduled, the board shall identify the corrective action the inmate will need to take in order to be granted parole. Any inmate not released at the time of the inmate's initial parole date shall have a parole hearing at least every year.

SECTION 45. Section 47-7-17, Mississippi Code of 1972, is amended as follows:

47-7-17. Within one (1) year after his admission and at such intervals thereafter as it may determine, the board shall secure and consider all pertinent information regarding each offender, except any

under sentence of death or otherwise ineligible for parole, including the circumstances of his offense, his previous social history, his previous criminal record, including any records of law enforcement agencies or of a youth court regarding that offender's juvenile criminal history, his conduct, employment and attitude while in the custody of the department, **THE CASE PLAN CREATED TO PREPARE THE OFFENDER FOR PAROLE,** and the reports of such physical and mental examinations as have been made. The board shall furnish at least three (3) months' written notice to each such offender of the date on which he is eligible for parole.

Before ruling on the application for parole of any offender, the board may* * * **REQUIRE A PAROLE-ELIGIBLE** offender* * * **TO HAVE A HEARING AS REQUIRED IN THIS CHAPTER BEFORE THE BOARD AND TO BE INTERVIEWED** . The hearing shall be held* * * **NO LATER THAN THIRTY (30) DAYS PRIOR** to the month of eligibility* * * . No application for parole of a person convicted of a capital offense shall be considered by the board unless and until notice of the filing of such application shall have been published at least once a week for two (2) weeks in a newspaper published in or having general circulation in the county in which the crime was committed. The board shall , **WITHIN THIRTY (30) DAYS PRIOR TO THE SCHEDULED HEARING,** also give notice of the filing of the application for parole to the victim of the offense for which the prisoner is incarcerated and being considered for parole or, in case the offense be homicide, a designee of the immediate family of the victim, provided the victim or designated family member has furnished in writing a current address to the board for such purpose.* * * Parole **RELEASE** shall , **AT THE HEARING,** be ordered only for the best interest of society, not as an award of clemency; it shall not be considered to be a reduction of sentence or pardon. An offender shall be placed on parole only when arrangements have been made for his proper employment or for his maintenance and care, and when the board believes that he is able and willing to fulfill the obligations of a law-abiding citizen. **WHEN THE BOARD DETERMINES THAT THE OFFENDER WILL NEED TRANSITIONAL HOUSING UPON RELEASE IN ORDER TO IMPROVE THE LIKELIHOOD OF HIM OR HER BECOMING A LAW-ABIDING CITIZEN, THE BOARD MAY PAROLE THE OFFENDER WITH THE CONDITION THAT THE INMATE SPENDS NO MORE THAN SIX (6) MONTHS IN A TRANSITIONAL REENTRY CENTER** .* * * **AT LEAST FIFTEEN (15) DAYS** prior to the release of an offender on parole, the director of records of the department shall give the written notice which is required pursuant to Section 47-5-177. Every offender while on parole shall remain in the legal custody of the department from which he was released and shall be amenable to the orders of the board.* * * Upon determination by the board that an offender is eligible for release by parole, notice shall also be given **WITHIN AT LEAST FIFTEEN (15) DAYS BEFORE RELEASE,** by the board to the victim of the offense or the victim's family member, as indicated above, regarding the date when the offender's release shall occur, provided a current address of the victim or the victim's family member has been furnished in writing to the board for such purpose.

Failure to provide notice to the victim or the victim's family member of the filing of the application for parole or of any decision made by the board regarding parole shall not constitute grounds for vacating an otherwise lawful parole determination nor shall it create any right or liability, civilly or criminally, against the board or any member thereof.

A letter of protest against granting an offender parole shall not be treated as the conclusive and only reason for not granting parole.

The board may adopt such other rules not inconsistent with law as it may deem proper or necessary with respect to the eligibility of offenders for parole, the conduct of parole hearings, or conditions to be imposed upon parolees, including a condition that the parolee submit, as provided in Section 47-5-601 to any type of breath, saliva or urine chemical analysis test, the purpose of which is to detect the possible presence of alcohol or a substance prohibited or controlled by any law of the State of Mississippi or the United States. The board shall have the authority to adopt rules* * * **RELATED TO THE PLACEMENT OF** certain offenders* * * on unsupervised parole **AND FOR THE OPERATION OF TRANSITIONAL REENTRY CENTERS. HOWEVER,** in no case shall an offender be placed on unsupervised parole before he has served a minimum of* * * **FIFTY PERCENT (50%) OF THE PERIOD** of supervised parole.

SECTION 46. Section 47-5-157, Mississippi Code of 1972, is amended as follows:

47-5-157. When an offender is entitled to a discharge from the custody of the department, or is released therefrom on parole, pardon, or otherwise, the commissioner or his designee shall prepare and deliver to him a written discharge or release, as the case may be, dated and signed by him with seal annexed, giving the offender's name, the name of the offense or offenses for which he was convicted, the term of sentence imposed and the date thereof, the county in which he was sentenced, the amount of commutation received, if any, the trade he has learned, if any, his proficiency in same, and such description of the offender as may be practicable **AND THE DISCHARGE PLAN DEVELOPED AS REQUIRED BY LAW**. * * * **AT LEAST FIFTEEN (15) DAYS** prior to the release of an offender as described herein, the director of records of the department shall give the written notice which is required pursuant to Section 47-5-177.* * * **THE OFFENDER** shall be furnished, if needed, suitable civilian clothes, **A MISSISSIPPI DRIVER'S LICENSE, OR A STATE IDENTIFICATION CARD THAT IS NOT A DEPARTMENT-ISSUED IDENTIFICATION CARD AND** all money held to his credit by any official of the correctional system shall be delivered to him.

The amount of money which an offender is entitled to receive from the State of Mississippi when he is discharged from the state correctional system shall be determined as follows:

- (a) If he has continuously served his sentence in one (1) year or less flat time, he shall be given Fifteen Dollars (\$ 15.00).
- (b) If he has served his sentence in more than one (1) year flat time and in less than ten (10) years flat time, he shall be given Twenty-five Dollars (\$ 25.00).
- (c) If he has continuously served his sentence in ten (10) or more years flat time, he shall be given Seventy-five Dollars (\$ 75.00).
- (d) If he has continuously served his sentence in twenty (20) or more years flat time, he shall be given One Hundred Dollars (\$ 100.00).

There shall be given in addition to the above specified monies in subsections (a), (b), (c) and (d), a bus ticket to the county of conviction or to a state line of Mississippi.

SECTION 47. Section 47-7-2, Mississippi Code of 1972, is amended as follows:

47-7-2. For purposes of this chapter, the following words shall have the meaning ascribed herein unless the context shall otherwise require:

- (a) "Adult" means a person who is seventeen (17) years of age or older, or any person convicted of any crime not subject to the provisions of the youth court law, or any person "certified" to be tried as an adult by any youth court in the state.
- (b) "Board" means the State Parole Board.
- (c) **"PAROLE CASE PLAN" MEANS AN INDIVIDUALIZED, WRITTEN ACCOUNTABILITY AND BEHAVIOR CHANGE STRATEGY DEVELOPED BY THE DEPARTMENT IN COLLABORATION WITH THE PAROLE BOARD TO PREPARE OFFENDERS FOR RELEASE ON PAROLE AT THE PAROLE ELIGIBILITY DATE. THE CASE PLAN SHALL FOCUS ON THE OFFENDER'S CRIMINAL RISK FACTORS THAT, IF ADDRESSED, REDUCE THE LIKELIHOOD OF REOFFENDING.**
 - (* * * **D**) "Commissioner" means the Commissioner of Corrections.
 - (* * * **E**) "Correctional system" means the facilities, institutions, programs and personnel of the department utilized for adult offenders who are committed to the custody of the department.
- (f) **"CRIMINAL RISK FACTORS" MEANS CHARACTERISTICS THAT INCREASE A PERSON'S LIKELIHOOD OF REOFFENDING. THESE CHARACTERISTICS INCLUDE: ANTISOCIAL BEHAVIOR; ANTISOCIAL PERSONALITY; CRIMINAL THINKING; CRIMINAL ASSOCIATES; DYSFUNCTIONAL FAMILY; LOW LEVELS OF EMPLOYMENT OR EDUCATION; POOR USE OF LEISURE AND RECREATION; AND SUBSTANCE ABUSE.**
 - (* * * **G**) "Department" means the Mississippi Department of Corrections.

(* * * **H**) "Detention" means the temporary care of juveniles and adults who require secure custody for their own or the community's protection in a physically restricting facility prior to adjudication, or retention in a physically restricting facility upon being taken into custody after an alleged parole or probation violation.

(i) "DISCHARGE PLAN" MEANS AN INDIVIDUALIZED WRITTEN DOCUMENT THAT PROVIDES INFORMATION TO SUPPORT THE OFFENDER IN MEETING THE BASIC NEEDS IDENTIFIED IN THE PRE-RELEASE ASSESSMENT. THIS INFORMATION SHALL INCLUDE, BUT IS NOT LIMITED TO: CONTACT NAMES, PHONE NUMBERS, AND ADDRESSES OF REFERRALS AND RESOURCES.

(j) "EVIDENCE-BASED PRACTICES" MEANS SUPERVISION POLICIES, PROCEDURES, AND PRACTICES THAT SCIENTIFIC RESEARCH DEMONSTRATES REDUCE RECIDIVISM.

(* * * **K**) "Facility" or "institution" means any facility for the custody, care, treatment and study of offenders which is under the supervision and control of the department.

(* * * **L**) "Juvenile," "minor" or "youthful" means a person less than seventeen (17) years of age.

(* * * **M**) "Offender" means any person convicted of a crime or offense under the laws and ordinances of the state and its political subdivisions.

(N) "PRE-RELEASE ASSESSMENT" MEANS A DETERMINATION OF AN OFFENDER'S ABILITY TO ATTEND TO BASIC NEEDS, INCLUDING, BUT NOT LIMITED TO, TRANSPORTATION, CLOTHING AND FOOD, FINANCIAL RESOURCES, PERSONAL IDENTIFICATION DOCUMENTS, HOUSING, EMPLOYMENT, EDUCATION, AND HEALTH CARE, FOLLOWING RELEASE.

(* * * **O**) "Special meetings" means those meetings called by the chairman with at least twenty-four (24) hours' notice or a unanimous waiver of notice.

(P) "SUPERVISION PLAN" MEANS A PLAN DEVELOPED BY THE COMMUNITY CORRECTIONS DEPARTMENT TO MANAGE OFFENDERS ON PROBATION AND PAROLE IN A WAY THAT REDUCES THE LIKELIHOOD THEY WILL COMMIT A NEW CRIMINAL OFFENSE OR VIOLATE THE TERMS OF SUPERVISION AND THAT INCREASES THE LIKELIHOOD OF OBTAINING STABLE HOUSING, EMPLOYMENT AND SKILLS NECESSARY TO SUSTAIN POSITIVE CONDUCT.

(Q) "TECHNICAL VIOLATION" MEANS AN ACT OR OMISSION BY THE PROBATIONER THAT VIOLATES A CONDITION OR CONDITIONS OF PROBATION PLACED ON THE PROBATIONER BY THE COURT OR THE PROBATION OFFICER.

(R) "TRANSITIONAL REENTRY CENTER" MEANS A STATE-OPERATED OR STATE-CONTRACTED FACILITY USED TO HOUSE OFFENDERS LEAVING THE PHYSICAL CUSTODY OF THE DEPARTMENT OF CORRECTIONS ON PAROLE, PROBATION OR POST-RELEASE SUPERVISION WHO ARE IN NEED OF TEMPORARY HOUSING AND SERVICES THAT REDUCE THEIR RISK TO REOFFEND.

(* * * **S**) "Unit of local government" means a county, city, town, village or other general purpose political subdivision of the state.

(T) "RISK AND NEEDS ASSESSMENT" MEANS THE DETERMINATION OF A PERSON'S RISK TO REOFFEND USING AN ACTUARIAL ASSESSMENT TOOL VALIDATED ON MISSISSIPPI CORRECTIONS POPULATIONS AND THE NEEDS THAT, WHEN ADDRESSED, REDUCE THE RISK TO REOFFEND.

SECTION 48. The following shall be codified in Chapter 7, Title 47, Mississippi Code of 1972:

47-7-___. (1) The department shall create a discharge plan for any offender returning to the community, regardless of whether the person will discharge from the custody of the department, or is released on parole, pardon, or

otherwise. At least ninety (90) days prior to an offender's earliest release date, the commissioner shall conduct a pre-release assessment and complete a written discharge plan based on the assessment results. The discharge plan for parole eligible offenders shall be sent to the parole board at least thirty (30) days prior to the offender's parole eligibility date for approval. The board may suggest changes to the plan that it deems necessary to ensure a successful transition.

- (2) The pre-release assessment shall identify whether an inmate requires assistance obtaining the following basic needs upon release: transportation, clothing and food, financial resources, identification documents, housing, employment, education, health care and support systems. The discharge plan shall include information necessary to address these needs and the steps being taken by the department to assist in this process. Based on the findings of the assessment, the commissioner shall:
 - (a) Arrange transportation for inmates from the correctional facility to their release destination;
 - (b) Ensure inmates have clean, seasonally appropriate clothing, and provide inmates with a list of food providers and other basic resources immediately accessible upon release;
 - (c) Ensure inmates have a driver's license or a state-issued identification card that is not a Department of Corrections identification card;
 - (d) Assist inmates in identifying safe, affordable housing upon release. If accommodations are not available, determine whether temporary housing is available for at least ten (10) days after release. If temporary housing is not available, the discharge plan shall reflect that satisfactory housing has not been established and the person may be a candidate for transitional reentry center placement;
 - (e) Refer inmates without secured employment to employment opportunities;
 - (f) Provide inmates with contact information of a health care facility/provider in the community in which they plan to reside;
 - (g) Notify family members of the release date and release plan, if inmate agrees; and
 - (h) Refer inmates to a community or a faith-based organization that can offer support within the first twenty-four (24) hours of release;
- (3) A written discharge plan shall be provided to the offender and supervising probation officer or parole officer, if applicable.
- (4) A discharge plan created for a parole-eligible offender shall also include supervision conditions and the intensity of supervision based on the assessed risk to recidivate and whether there is a need for transitional housing. The board shall approve discharge plans before an offender is released on parole pursuant to Section 47-7-X.

SECTION 49. 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 conducting 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) 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;**
 - (* * * **F**) 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;
 - (* * * **G**) To cooperate fully with periodic independent internal investigations of the department and to file the report with the Governor and the Legislature;
 - (* * * **H**) 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 50. Section 47-5-173, Mississippi Code of 1972, is amended as follows:

47-5-173. The commissioner, or his designees, may grant leave to an offender and may take into consideration sickness or death in the offender's family or the seeking of employment by the offender in connection with application for parole, for a period of time not to exceed ten (10) days.* * * **AT LEAST FIFTEEN (15) DAYS** prior to the release of an offender on leave, the director of records of the department shall give the written notice required pursuant to Section 47-5-177. However, if an offender is granted leave because of sickness or death in the offender's family, written notice shall not be required but the inmate shall be accompanied by a correctional officer or a law enforcement officer. In all other cases the commissioner, or his designees, shall provide required security when deemed necessary. The commissioner, or his designees, in granting leave, shall take into consideration the conduct and work performance of the offender.

SECTION 51. Section 47-5-177, Mississippi Code of 1972, is amended as follows:

47-5-177. * * * **AT LEAST FIFTEEN (15) DAYS** prior to the release of an offender from the custody of the department because of discharge, parole, pardon, temporary personal leave or pass, or otherwise, except for sickness or death in the offender's family, the director of records of the department shall give written or electronic notice of such release to the sheriff of the county and to the chief of police of the municipality where the offender was convicted. If the offender is paroled to a county other than the county of conviction, the director of records shall give written or electronic notice of the release to the sheriff, district attorney and circuit judge of the county and to the chief of police of the municipality where the offender is paroled and to the sheriff of the county and to the chief of police of the municipality where the offender was convicted. The department shall notify the parole officer of the county where the offender is paroled or discharged to probation of any chronic mental disorder incurred by the offender, of any type of infectious disease for which the offender has been examined and treated, and of any medications provided to the offender for such conditions.

The commissioner shall require the director of records to clearly identify the notice of release of an offender who has been convicted of arson at any time. The fact that the offender to be released had been convicted of arson at any time shall appear prominently on the notice of release and the sheriff

shall notify all officials who are responsible for investigation of arson within the county of such offender's release and the chief of police shall notify all such officials within the municipality of such offender's release.

SECTION 52. Section 47-7-5, Mississippi Code of 1972, is amended as follows:

47-7-5.

- (1) The State Parole Board, created under former Section 47-7-5, is hereby created, continued and reconstituted and shall be composed of five (5) members. The Governor shall appoint the members with the advice and consent of the Senate. All terms shall be at the will and pleasure of the Governor. Any vacancy shall be filled by the Governor, with the advice and consent of the Senate. The Governor shall appoint a chairman of the board.
- (2) Any person who is appointed to serve on the board shall possess at least a bachelor's degree or a high school diploma and four (4) years' work experience. Each member shall devote his full time to the duties of his office and shall not engage in any other business or profession or hold any other public office. A member shall not receive compensation or per diem in addition to his salary as prohibited under Section 25-3-38. Each member shall keep such hours and workdays as required of full-time state employees under Section 25-1-98. Individuals shall be appointed to serve on the board without reference to their political affiliations. Each board member, including the chairman, may be reimbursed for actual and necessary expenses as authorized by Section 25-3-41. **EACH MEMBER OF THE BOARD SHALL COMPLETE ANNUAL TRAINING DEVELOPED BASED ON GUIDANCE FROM THE NATIONAL INSTITUTE OF CORRECTIONS, THE ASSOCIATION OF PAROLING AUTHORITIES INTERNATIONAL, OR THE AMERICAN PROBATION AND PAROLE ASSOCIATION. EACH FIRST-TIME APPOINTEE OF THE BOARD SHALL, WITHIN SIXTY (60) DAYS OF APPOINTMENT, OR AS SOON AS PRACTICAL, COMPLETE TRAINING FOR FIRST-TIME PAROLE BOARD MEMBERS DEVELOPED IN CONSIDERATION OF INFORMATION FROM THE NATIONAL INSTITUTE OF CORRECTIONS, THE ASSOCIATION OF PAROLING AUTHORITIES INTERNATIONAL, OR THE AMERICAN PROBATION AND PAROLE ASSOCIATION.**
- (3) The board shall have exclusive responsibility for the granting of parole as provided by Sections 47-7-3 and 47-7-17 and shall have exclusive authority for revocation of the same. The board shall have exclusive responsibility for investigating clemency recommendations upon request of the Governor.
- (4) The board, its members and staff, shall be immune from civil liability for any official acts taken in good faith and in exercise of the board's legitimate governmental authority.
- (5) The budget of the board shall be funded through a separate line item within the general appropriation bill for the support and maintenance of the department. Employees of the department which are employed by or assigned to the board shall work under the guidance and supervision of the board. There shall be an executive secretary to the board who shall be responsible for all administrative and general accounting duties related to the board. The executive secretary shall keep and preserve all records and papers pertaining to the board.
- (6) The board shall have no authority or responsibility for supervision of offenders granted a release for any reason, including, but not limited to, probation, parole or executive clemency or other offenders requiring the same through interstate compact agreements. The supervision shall be provided exclusively by the staff of the Division of Community Corrections of the department.
- (7)
 - (a) The Parole Board is authorized to select and place offenders in an electronic monitoring program under the conditions and criteria imposed by the Parole Board. The conditions, restrictions and requirements of Section 47-7-17 and Sections 47-5-1001 through 47-5-1015

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shall apply to the Parole Board and any offender placed in an electronic monitoring program by the Parole Board.

- (b) Any offender placed in an electronic monitoring program under this subsection shall pay the program fee provided in Section 47-5-1013. The program fees shall be deposited in the special fund created in Section 47-5-1007.
 - (c) The department shall have absolute immunity from liability for any injury resulting from a determination by the Parole Board that an offender be placed in an electronic monitoring program.
- (8)
- (a) The Parole Board shall maintain a central registry of paroled inmates. The Parole Board shall place the following information on the registry: name, address, photograph, crime for which paroled, the date of the end of parole or flat-time date and other information deemed necessary. The Parole Board shall immediately remove information on a parolee at the end of his parole or flat-time date.
 - (b) When a person is placed on parole, the Parole Board shall inform the parolee of the duty to report to the parole officer any change in address ten (10) days before changing address.
 - (c) The Parole Board shall utilize an Internet website or other electronic means to release or publish the information.
 - (d) Records maintained on the registry shall be open to law enforcement agencies and the public and shall be available no later than July 1, 2003.
- (9) An affirmative vote of at least four (4) members of the Parole Board shall be required to grant parole to an inmate convicted of capital murder or a sex crime.
- (10) This section shall stand repealed on July 1, * * * 2018 .

SECTION 53. Section 47-7-9, Mississippi Code of 1972, is amended as follows:

47-7-9.

- (1) The circuit judges and county judges in the districts to which Division of Community Corrections personnel have been assigned shall have the power to request of the department transfer or removal of the division personnel from their court.
- (2)
- (a) Division personnel shall investigate all cases referred to them for investigation by the board, the division or by any court in which they are authorized to serve. They shall furnish to each person released under their supervision a written statement of the conditions of probation, parole, earned-release supervision, post-release supervision or suspension and shall instruct* * * **THE PERSON** regarding the same. **THEY SHALL ADMINISTER A RISK AND NEEDS ASSESSMENT ON EACH PERSON UNDER THEIR SUPERVISION TO MEASURE CRIMINAL RISK FACTORS AND INDIVIDUAL NEEDS. THEY SHALL USE THE RESULTS OF THE RISK AND NEEDS ASSESSMENT TO GUIDE SUPERVISION RESPONSES CONSISTENT WITH EVIDENCE-BASED PRACTICES AS TO THE LEVEL OF SUPERVISION AND THE PRACTICES USED TO REDUCE RECIDIVISM. THEY SHALL DEVELOP A SUPERVISION PLAN FOR EACH PERSON ASSESSED AS MODERATE TO HIGH RISK TO REOFFEND.** They shall keep informed concerning the conduct and conditions of persons under their supervision and use all suitable methods **THAT ARE CONSISTENT WITH EVIDENCE-BASED PRACTICES** to aid and encourage them and to bring about improvements in their conduct and condition **AND TO REDUCE THE RISK OF RECIDIVISM** . They shall keep detailed records of their work and shall make such reports in writing as the court or the board may require.

- (b) **DIVISION PERSONNEL SHALL COMPLETE ANNUAL TRAINING ON EVIDENCE-BASED PRACTICES AND CRIMINAL RISK FACTORS, AS WELL AS INSTRUCTIONS ON HOW TO TARGET THESE FACTORS TO REDUCE RECIDIVISM.**

(* * * **C**) The division personnel duly assigned to court districts are hereby vested with all the powers of police officers or sheriffs to make arrests or perform any other duties required of policemen or sheriffs which may be incident to the division personnel responsibilities. All probation and parole officers hired on or after July 1, 1994, will be placed in the Law Enforcement Officers Training Program and will be required to meet the standards outlined by that program.

(* * * **D**) It is the intention of the Legislature that insofar as practicable the case load of each division personnel supervising offenders in the community (hereinafter field supervisor) shall not exceed the number of cases that may be adequately handled.

(3)

- (a) Division personnel shall be provided to perform investigation for the court as provided in this subsection. Division personnel shall conduct presentence investigations on all persons convicted of a felony in any circuit court of the state, prior to sentencing and at the request of the circuit court judge of the court of conviction. The presentence evaluation report shall consist of a complete record of the offender's criminal history, educational level, employment history, psychological condition and such other information as the department or judge may deem necessary. Division personnel shall also prepare written victim impact statements at the request of the sentencing judge as provided in Section 99-19-157.
- (b) In order that offenders in the custody of the department on July 1, 1976, may benefit from the kind of evaluations authorized in this section, an evaluation report to consist of the information required hereinabove, supplemented by an examination of an offender's record while in custody, shall be compiled by the division upon all offenders in the custody of the department on July 1, 1976. After a study of such reports by the State Parole Board those cases which the board believes would merit some type of executive clemency shall be submitted by the board to the Governor with its recommendation for the appropriate executive action.
- (c) The department is authorized to accept gifts, grants and subsidies to conduct this activity.

SECTION 54. The following shall be codified in Chapter 7, Title 47, Mississippi Code of 1972:

- 47-7-___. (1) The department shall have the authority to impose graduated sanctions as an alternative to judicial modification or revocation, as provided in Sections 47-7-27 and 47-7-37, for offenders on probation, parole, or post-release supervision who commit technical violations of the conditions of supervision as defined by Section 47-7-2.
- (2) The commissioner shall develop a standardized graduated sanctions system, which shall include a grid to guide field officers in determining the suitable response to a technical violation. The commissioner shall promulgate rules and regulations for the development and application of the system of sanctions. Field officers shall be required to conform to the sanction grid developed.
- (3) The system of sanctions shall include a list of sanctions for the most common types of violations. When determining the sanction to impose, the field officer shall take into account the offender's assessed risk level, previous violations and sanctions, and severity of the current and prior violations.
- (4) Field officers shall notify the sentencing court when a probationer has committed a technical violation or the parole board when a parolee has committed a technical violation of the type of violation and the sanction imposed. When the technical violation is an arrest for a new criminal

offense, the field officer shall notify the court within forty-eight (48) hours of becoming aware of the arrest.

- (5) The graduated sanctions that the department may impose include, but shall not be limited to:
- (a) Verbal warnings;
 - (b) Increased reporting;
 - (c) Increased drug and alcohol testing;
 - (d) Mandatory substance abuse treatment;
 - (e) Loss of earned-discharge credits; and
 - (f) Incarceration in a county jail for no more than two (2) days. Incarceration as a sanction shall not be used more than two (2) times per month for a total period incarcerated of no more than four (4) days.
- (6) The system shall also define positive reinforcements that offenders will receive for compliance with conditions of supervision. These positive reinforcements shall include, but not limited to:
- (a) Verbal recognition;
 - (b) Reduced reporting; and
 - (c) Credits for earned discharge which shall be awarded pursuant to Section 70 of this act.
- (7) The Department of Corrections shall provide semiannually to the Oversight Task Force the number and percentage of offenders who have one or more violations during the year, the average number of violations per offender during the year and the total and average number of incarceration sanctions as defined in subsection (5) of this section imposed during the year.

SECTION 55. The following shall be codified in Chapter 7, Title 47, Mississippi Code of 1972:

47-7-___. (1) The commissioner shall establish rules and regulations for implementing the earned-discharge program that allows offenders on probation and parole to reduce the period of supervision for complying with conditions of probation. The department shall have the authority to award earned-discharge credits to all offenders placed on probation, parole, or post-release supervision who are in compliance with the terms and conditions of supervision. An offender serving a Mississippi sentence for an eligible offense in any jurisdiction under the Interstate Compact for Adult Offender Supervision shall be eligible for earned-discharge credits under this section.

- (2) For each full calendar month of compliance with the conditions of supervision, earned-discharge credits equal to the number of days in that month shall be deducted from the offenders sentence discharge date established in this act. Credits begin to accrue for eligible offenders after the first full calendar month of compliance supervision conditions. For the purposes of this section, an offender is deemed to be in compliance with the conditions of supervision if there was no violation of the conditions of supervision.
- (3) No earned-discharge credits may accrue for a calendar month in which a violation report has been submitted, the offender has absconded from supervision, the offender is serving a term of imprisonment in a technical violation center, or for the months between the submission of the violation report and the final action on the violation report by the court or the board.

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- (4) Earned-discharge credits shall be applied to the sentence within thirty (30) days of the end of the month in which the credits were earned. At least every six (6) months, an offender who is serving a sentence eligible for earned-discharge credits shall be notified of the current sentence discharge date.
- (5) Once the combination of time served on probation, parole or post-release supervision, and earned-discharge credits satisfy the term of probation, parole, or post-release supervision, the board or sentencing court shall order final discharge of the offender. No less than sixty (60) days prior to the date of final discharge, the department shall notify the sentencing court and the board of the impending discharge.
- (6) The department shall provide semiannually to the Oversight Task Force the number and percentage of offenders who qualify for earned discharge in one or more months of the year and the average amount of credits earned within the year.

SECTION 56. Section 47-7-27, Mississippi Code of 1972, is amended as follows:

47-7-27.

- (1) The board may, at any time and upon a showing of probable violation of parole, issue a warrant for the return of any paroled offender to the custody of the department. The warrant shall authorize all persons named therein to return the paroled offender to actual custody of the department from which he was paroled.* * *
- (2) Any field supervisor may arrest an offender without a warrant or may deputize any other person with power of arrest by giving him a written statement setting forth that the offender has, in the judgment of that field supervisor, violated the conditions of his parole or earned-release supervision. The written statement delivered with the offender by the arresting officer to the official in charge of the department facility from which the offender was released or other place of detention designated by the department shall be sufficient warrant for the detention of the offender.
- (3) The field supervisor, after making an arrest, shall present to the detaining authorities a similar statement of the circumstances of violation. The field supervisor shall at once notify the board or department of the arrest and detention of the offender and shall submit a written report showing in what manner the offender has violated the conditions of parole or earned-release supervision. An offender for whose return a warrant has been issued by the board shall, after the issuance of the warrant, be deemed a fugitive from justice.
- (4) **WHENEVER AN OFFENDER IS ARRESTED ON A WARRANT FOR AN ALLEGED VIOLATION OF PAROLE AS HEREIN PROVIDED, THE BOARD SHALL HOLD AN INFORMAL PRELIMINARY HEARING WITHIN SEVENTY-TWO (72) HOURS TO DETERMINE WHETHER THERE IS REASONABLE CAUSE TO BELIEVE THE PERSON HAS VIOLATED A CONDITION OF PAROLE. A PRELIMINARY HEARING SHALL NOT BE REQUIRED WHEN THE OFFENDER IS NOT UNDER ARREST ON A WARRANT OR THE OFFENDER SIGNED A WAIVER OF A PRELIMINARY HEARING. THE PRELIMINARY HEARING MAY BE CONDUCTED ELECTRONICALLY.**

(* * * **5**) The right of the State of Mississippi to extradite persons and return fugitives from justice, from other states to this state, shall not be impaired by this chapter and shall remain in full force and effect. An offender convicted of a felony committed while on parole, whether in the State of Mississippi or another state, shall immediately have his parole revoked upon presentment of a certified copy of the commitment order to the board. If an offender is on parole and the offender is convicted of a felony for a crime committed prior to the offender being placed on parole, whether in the State of Mississippi or another state, the offender may have his parole revoked upon presentment of a certified copy of the commitment order to the board.

(* * * **6**) (A) **THE BOARD SHALL HOLD A HEARING FOR ANY PAROLEE WHO IS DETAINED AS A RESULT OF A WARRANT OR A VIOLATION REPORT WITHIN TWENTY-ONE (21) DAYS OF THE PAROLEE'S ADMISSION TO DETENTION. THE BOARD MAY, IN ITS DISCRETION,**

TERMINATE THE PAROLE OR MODIFY THE TERMS AND CONDITIONS THEREOF. IF THE BOARD REVOKES PAROLE FOR A TECHNICAL VIOLATION THE BOARD SHALL IMPOSE A PERIOD OF IMPRISONMENT TO BE SERVED IN A TECHNICAL VIOLATION CENTER OPERATED BY THE DEPARTMENT NOT TO EXCEED NINETY (90) DAYS FOR THE FIRST TECHNICAL VIOLATION AND NOT TO EXCEED ONE HUNDRED TWENTY (120) DAYS FOR THE SECOND TECHNICAL VIOLATION. FOR THE THIRD TECHNICAL VIOLATION, THE BOARD MAY IMPOSE A PERIOD OF IMPRISONMENT TO BE SERVED IN A TECHNICAL VIOLATION CENTER FOR UP TO ONE HUNDRED AND EIGHTY (180) DAYS OR THE BOARD MAY IMPOSE THE REMAINDER OF THE SUSPENDED PORTION OF THE SENTENCE. FOR THE FOURTH AND ANY SUBSEQUENT TECHNICAL VIOLATION, THE BOARD MAY IMPOSE UP TO THE REMAINDER OF THE SUSPENDED PORTION OF THE SENTENCE. THE PERIOD OF IMPRISONMENT IN A TECHNICAL VIOLATION CENTER IMPOSED UNDER THIS SECTION SHALL NOT BE REDUCED IN ANY MANNER.

(B) IF THE BOARD DOES NOT HOLD A HEARING OR DOES NOT TAKE ACTION ON THE VIOLATION WITHIN THE TWENTY-ONE-DAY TIME FRAME IN PARAGRAPH (A) OF THIS SUBSECTION, THE PAROLEE SHALL BE RELEASED FROM DETENTION AND SHALL RETURN TO PAROLE STATUS. THE BOARD MAY SUBSEQUENTLY HOLD A HEARING AND MAY REVOKE PAROLE OR MAY CONTINUE PAROLE AND MODIFY THE TERMS AND CONDITIONS OF PAROLE. IF THE BOARD REVOKES PAROLE FOR A TECHNICAL VIOLATION THE BOARD SHALL IMPOSE A PERIOD OF IMPRISONMENT TO BE SERVED IN A TECHNICAL VIOLATION CENTER OPERATED BY THE DEPARTMENT NOT TO EXCEED NINETY (90) DAYS FOR THE FIRST TECHNICAL VIOLATION AND NOT TO EXCEED ONE HUNDRED TWENTY (120) DAYS FOR THE SECOND TECHNICAL VIOLATION. FOR THE THIRD TECHNICAL VIOLATION, THE BOARD MAY IMPOSE A PERIOD OF IMPRISONMENT TO BE SERVED IN A TECHNICAL VIOLATION CENTER FOR UP TO ONE HUNDRED EIGHTY (180) DAYS OR THE BOARD MAY IMPOSE THE REMAINDER OF THE SUSPENDED PORTION OF THE SENTENCE. FOR THE FOURTH AND ANY SUBSEQUENT TECHNICAL VIOLATION, THE BOARD MAY IMPOSE UP TO THE REMAINDER OF THE SUSPENDED PORTION OF THE SENTENCE. THE PERIOD OF IMPRISONMENT IN A TECHNICAL VIOLATION CENTER IMPOSED UNDER THIS SECTION SHALL NOT BE REDUCED IN ANY MANNER.

(C) FOR A PAROLEE CHARGED WITH A TECHNICAL VIOLATION WHO HAS NOT BEEN DETAINED AWAITING THE REVOCATION HEARING, THE BOARD MAY HOLD A HEARING WITHIN A REASONABLE TIME. THE BOARD MAY REVOKE PAROLE OR MAY CONTINUE PAROLE AND MODIFY THE TERMS AND CONDITIONS OF PAROLE. IF THE BOARD REVOKES PAROLE FOR A TECHNICAL VIOLATION THE BOARD SHALL IMPOSE A PERIOD OF IMPRISONMENT TO BE SERVED IN A TECHNICAL VIOLATION CENTER OPERATED BY THE DEPARTMENT NOT TO EXCEED NINETY (90) DAYS FOR THE FIRST TECHNICAL VIOLATION AND NOT TO EXCEED ONE HUNDRED TWENTY (120) DAYS FOR THE SECOND TECHNICAL VIOLATION. FOR THE THIRD TECHNICAL VIOLATION, THE BOARD MAY IMPOSE A PERIOD OF IMPRISONMENT TO BE SERVED IN A TECHNICAL VIOLATION CENTER FOR UP TO ONE HUNDRED EIGHTY (180) DAYS OR THE BOARD MAY IMPOSE THE REMAINDER OF THE SUSPENDED PORTION OF THE SENTENCE. FOR THE FOURTH AND ANY SUBSEQUENT TECHNICAL VIOLATION, THE BOARD MAY IMPOSE UP TO THE REMAINDER OF THE SUSPENDED PORTION OF THE SENTENCE. THE PERIOD OF IMPRISONMENT IN A TECHNICAL VIOLATION CENTER IMPOSED UNDER THIS SECTION SHALL NOT BE REDUCED IN ANY MANNER.

(7) UNLESS GOOD CAUSE FOR THE DELAY IS ESTABLISHED IN THE RECORD OF THE PROCEEDING, THE PAROLE REVOCATION CHARGE SHALL BE DISMISSED IF THE REVOCATION HEARING IS NOT HELD WITHIN THE THIRTY (30) DAYS OF THE ISSUANCE OF THE WARRANT.

(* * * 8) The chairman and each member of the board and the designated parole revocation hearing officer may, in the discharge of their duties, administer oaths, summon and examine witnesses, and take other steps as may be necessary to ascertain the truth of any matter about which they have the right to inquire.

- (9) THE BOARD SHALL PROVIDE SEMIANNUALLY TO THE OVERSIGHT TASK FORCE THE NUMBER OF WARRANTS ISSUED FOR AN ALLEGED VIOLATION OF PAROLE, THE AVERAGE TIME BETWEEN DETENTION ON A WARRANT AND PRELIMINARY HEARING, THE AVERAGE TIME BETWEEN DETENTION ON A WARRANT AND REVOCATION HEARING, THE NUMBER OF NINETY-DAY SENTENCES IN A TECHNICAL VIOLATION CENTER ISSUED BY THE BOARD, THE NUMBER OF ONE-HUNDRED-TWENTY-DAY SENTENCES IN A TECHNICAL VIOLATION CENTER ISSUED BY THE BOARD, THE NUMBER OF ONE-HUNDRED-EIGHTY-DAY SENTENCES ISSUED BY THE BOARD, AND THE NUMBER AND AVERAGE LENGTH OF THE SUSPENDED SENTENCES IMPOSED BY THE BOARD IN RESPONSE TO A VIOLATION.

SECTION 57. Section 47-7-34, Mississippi Code of 1972, is amended as follows:

47-7-34.

- (1) When a court imposes a sentence upon a conviction for any felony committed after June 30, 1995, the court, in addition to any other punishment imposed if the other punishment includes a term of incarceration in a state or local correctional facility, may impose a term of post-release supervision. However, the total number of years of incarceration plus the total number of years of post-release supervision shall not exceed the maximum sentence authorized to be imposed by law for the felony committed. The defendant shall be placed under post-release supervision upon release from the term of incarceration. The period of supervision shall be established by the court.
- (2) The period of post-release supervision shall be conducted in the same manner as a like period of supervised probation, including a requirement that the defendant shall abide by any terms and conditions as the court may establish. Failure to successfully abide by the terms and conditions shall be grounds to terminate the period of post-release supervision and to recommit the defendant to the correctional facility from which he was previously released. Procedures for termination and recommitment shall be conducted in the same manner as procedures for the revocation of probation and imposition of a suspended sentence AS REQUIRED PURSUANT TO SECTION 47-7-37 .
- (3) Post-release supervision programs shall be operated through the probation and parole unit of the Division of Community Corrections of the department. The maximum amount of time that the Mississippi Department of Corrections may supervise an offender on the post-release supervision program is five (5) years.

SECTION 58. Section 47-7-37, Mississippi Code of 1972, is amended as follows:

47-7-37.

- (1) The period of probation shall be fixed by the court, and may at any time be extended or terminated by the court, or judge in vacation. Such period with any extension thereof shall not exceed five (5) years, except that in cases of desertion and/or failure to support minor children, the period of probation may be fixed and/or extended by the court for so long as the duty to support such minor children exists. THE TIME SERVED ON PROBATION OR POST-RELEASE SUPERVISION MAY BE REDUCED PURSUANT TO SECTION 55 OF THIS ACT.
- (2) At any time during the period of probation , the court, or judge in vacation, may issue a warrant for violating any of the conditions of probation or suspension of sentence and cause the probationer to be arrested. Any probation and parole officer may arrest a probationer without a warrant, or may deputize any other officer with power of arrest to do so by giving him a written statement setting forth that the probationer has, in the judgment of the probation and parole officer,

violated the conditions of probation. Such written statement delivered with the probationer by the arresting officer to the official in charge of a county jail or other place of detention shall be sufficient warrant for the detention of the probationer.

- (3) WHENEVER AN OFFENDER IS ARRESTED ON A WARRANT FOR AN ALLEGED VIOLATION OF PROBATION AS HEREIN PROVIDED, THE DEPARTMENT SHALL HOLD AN INFORMAL PRELIMINARY HEARING WITHIN SEVENTY-TWO (72) HOURS OF THE ARREST TO DETERMINE WHETHER THERE IS REASONABLE CAUSE TO BELIEVE THE PERSON HAS VIOLATED A CONDITION OF PROBATION. A PRELIMINARY HEARING SHALL NOT BE REQUIRED WHEN THE OFFENDER IS NOT UNDER ARREST ON A WARRANT OR THE OFFENDER SIGNED A WAIVER OF A PRELIMINARY HEARING. THE PRELIMINARY HEARING MAY BE CONDUCTED ELECTRONICALLY. IF REASONABLE CAUSE IS FOUND, THE OFFENDER MAY BE CONFINED NO MORE THAN TWENTY-ONE (21) DAYS FROM THE ADMISSION TO DETENTION UNTIL A REVOCATION HEARING IS HELD. IF THE REVOCATION HEARING IS NOT HELD WITHIN TWENTY-ONE (21) DAYS, THE PROBATIONER SHALL BE RELEASED FROM CUSTODY AND RETURNED TO PROBATION STATUS.
- (4) If a probationer or offender is subject to registration as a sex offender, the court must make a finding that the probationer or offender is not a danger to the public prior to release with or without bail. In determining the danger posed by the release of the offender or probationer, the court may consider the nature and circumstances of the violation and any new offenses charged; the offender or probationer's past and present conduct, including convictions of crimes and any record of arrests without conviction for crimes involving violence or sex crimes; any other evidence of allegations of unlawful sexual conduct or the use of violence by the offender or probationer; the offender or probationer's family ties, length of residence in the community, employment history and mental condition; the offender or probationer's history and conduct during the probation or other supervised release and any other previous supervisions, including disciplinary records of previous incarcerations; the likelihood that the offender or probationer will engage again in a criminal course of conduct; the weight of the evidence against the offender or probationer; and any other facts the court considers relevant.
- (5)
- (A) The probation and parole officer after making an arrest shall present to the detaining authorities a similar statement of the circumstances of violation. The probation and parole officer shall at once notify the court of the arrest and detention of the probationer and shall submit a report in writing showing in what manner the probationer has violated the conditions of probation. * * * WITHIN TWENTY-ONE (21) DAYS OF arrest AND DETENTION by warrant as herein provided, the court* * * shall cause the probationer to be brought before it and may continue or revoke all or any part of the probation or the suspension of sentence* * *. IF THE COURT REVOKES PROBATION FOR A TECHNICAL VIOLATION, THE COURT SHALL IMPOSE A PERIOD OF IMPRISONMENT TO BE SERVED IN EITHER A TECHNICAL VIOLATION CENTER OR A RESTITUTION CENTER NOT TO EXCEED NINETY (90) DAYS FOR THE FIRST TECHNICAL VIOLATION AND NOT TO EXCEED ONE HUNDRED TWENTY (120) DAYS FOR THE SECOND TECHNICAL VIOLATION. FOR THE THIRD TECHNICAL VIOLATION, THE COURT MAY IMPOSE A PERIOD OF IMPRISONMENT TO BE SERVED IN EITHER A TECHNICAL VIOLATION CENTER OR A RESTITUTION CENTER FOR UP TO ONE HUNDRED EIGHTY (180) DAYS OR THE COURT MAY IMPOSE THE REMAINDER OF THE SUSPENDED PORTION OF THE SENTENCE. FOR THE FOURTH AND ANY SUBSEQUENT TECHNICAL VIOLATION, THE COURT MAY IMPOSE UP TO THE REMAINDER OF THE SUSPENDED PORTION OF THE SENTENCE. THE PERIOD OF IMPRISONMENT IN A TECHNICAL VIOLATION CENTER IMPOSED UNDER THIS SECTION SHALL NOT BE REDUCED IN ANY MANNER.

- (B) IF THE OFFENDER IS NOT DETAINED AS A RESULT OF THE WARRANT, THE COURT SHALL CAUSE THE PROBATIONER TO BE BROUGHT BEFORE IT WITHIN A REASONABLE TIME AND MAY CONTINUE OR REVOKE ALL OR ANY PART OF THE PROBATION OR THE SUSPENSION OF SENTENCE, AND MAY CAUSE THE SENTENCE IMPOSED TO BE EXECUTED OR MAY IMPOSE ANY PART OF THE SENTENCE WHICH MIGHT HAVE BEEN IMPOSED AT THE TIME OF CONVICTION. IF THE COURT REVOKES PROBATION FOR A TECHNICAL VIOLATION, THE COURT SHALL IMPOSE A PERIOD OF IMPRISONMENT TO BE SERVED IN EITHER A TECHNICAL VIOLATION CENTER OR A RESTITUTION CENTER NOT TO EXCEED NINETY (90) DAYS FOR THE FIRST TECHNICAL VIOLATION AND NOT TO EXCEED ONE HUNDRED TWENTY (120) DAYS FOR THE SECOND TECHNICAL VIOLATION. FOR THE THIRD TECHNICAL VIOLATION, THE COURT MAY IMPOSE A PERIOD OF IMPRISONMENT TO BE SERVED IN EITHER A TECHNICAL VIOLATION CENTER OR A RESTITUTION CENTER FOR UP TO ONE HUNDRED EIGHTY (180) DAYS OR THE COURT MAY IMPOSE THE REMAINDER OF THE SUSPENDED PORTION OF THE SENTENCE. FOR THE FOURTH AND ANY SUBSEQUENT TECHNICAL VIOLATION, THE COURT MAY IMPOSE UP TO THE REMAINDER OF THE SUSPENDED PORTION OF THE SENTENCE. THE PERIOD OF IMPRISONMENT IN A TECHNICAL VIOLATION CENTER IMPOSED UNDER THIS SECTION SHALL NOT BE REDUCED IN ANY MANNER.
- (C) IF THE COURT DOES NOT HOLD A HEARING OR DOES NOT TAKE ACTION ON THE VIOLATION WITHIN THE TWENTY-ONE-DAY PERIOD, THE OFFENDER SHALL BE RELEASED FROM DETENTION AND SHALL RETURN TO PROBATION STATUS. THE COURT MAY SUBSEQUENTLY HOLD A HEARING AND MAY REVOKE PROBATION OR MAY CONTINUE PROBATION AND MODIFY THE TERMS AND CONDITIONS OF PROBATION. IF THE COURT REVOKES PROBATION FOR A TECHNICAL VIOLATION, THE COURT SHALL IMPOSE A PERIOD OF IMPRISONMENT TO BE SERVED IN EITHER A TECHNICAL VIOLATION CENTER OPERATED BY THE DEPARTMENT OR A RESTITUTION CENTER NOT TO EXCEED NINETY (90) DAYS FOR THE FIRST TECHNICAL VIOLATION AND NOT TO EXCEED ONE HUNDRED TWENTY (120) DAYS FOR THE SECOND TECHNICAL VIOLATION. FOR THE THIRD TECHNICAL VIOLATION, THE COURT MAY IMPOSE A PERIOD OF IMPRISONMENT TO BE SERVED IN EITHER A TECHNICAL VIOLATION CENTER OR A RESTITUTION CENTER FOR UP TO ONE HUNDRED AND EIGHTY (180) DAYS OR THE COURT MAY IMPOSE THE REMAINDER OF THE SUSPENDED PORTION OF THE SENTENCE. FOR THE FOURTH AND ANY SUBSEQUENT TECHNICAL VIOLATION, THE COURT MAY IMPOSE UP TO THE REMAINDER OF THE SUSPENDED PORTION OF THE SENTENCE. THE PERIOD OF IMPRISONMENT IN A TECHNICAL VIOLATION CENTER IMPOSED UNDER THIS SECTION SHALL NOT BE REDUCED IN ANY MANNER.
- (D) FOR AN OFFENDER CHARGED WITH A TECHNICAL VIOLATION WHO HAS NOT BEEN DETAINED AWAITING THE REVOCATION HEARING, THE COURT MAY HOLD A HEARING WITHIN A REASONABLE TIME. THE COURT MAY REVOKE PROBATION OR MAY CONTINUE PROBATION AND MODIFY THE TERMS AND CONDITIONS OF PROBATION. IF THE COURT REVOKES PROBATION FOR A TECHNICAL VIOLATION THE COURT SHALL IMPOSE A PERIOD OF IMPRISONMENT TO BE SERVED IN EITHER A TECHNICAL VIOLATION CENTER OPERATED BY THE DEPARTMENT OR A RESTITUTION CENTER NOT TO EXCEED NINETY (90) DAYS FOR THE FIRST TECHNICAL VIOLATION AND NOT TO EXCEED ONE HUNDRED TWENTY (120) DAYS FOR THE SECOND TECHNICAL VIOLATION. FOR THE THIRD TECHNICAL VIOLATION, THE COURT MAY IMPOSE A PERIOD OF IMPRISONMENT TO BE SERVED IN EITHER A TECHNICAL VIOLATION CENTER OR A RESTITUTION CENTER FOR UP TO ONE HUNDRED EIGHTY (180) DAYS OR THE COURT MAY IMPOSE THE REMAINDER OF THE SUSPENDED PORTION OF THE SENTENCE. FOR THE FOURTH AND ANY SUBSEQUENT TECHNICAL VIOLATION,

THE COURT MAY IMPOSE UP TO THE REMAINDER OF THE SUSPENDED PORTION OF THE SENTENCE. THE PERIOD OF IMPRISONMENT IN A TECHNICAL VIOLATION CENTER IMPOSED UNDER THIS SECTION SHALL NOT BE REDUCED IN ANY MANNER.

- (6) If the probationer is arrested in a circuit court district in the State of Mississippi other than that in which he was convicted, the probation and parole officer, upon the written request of the sentencing judge, shall furnish to the circuit court or the county court of the county in which the arrest is made, or to the judge of such court, a report concerning the probationer, and such court or the judge in vacation shall have authority, after a hearing, to continue or revoke all or any part of probation or all or any part of the suspension of sentence, and may in case of revocation proceed to deal with the case as if there had been no probation. In such case, the clerk of the court in which the order of revocation is issued shall forward a transcript of such order to the clerk of the court of original jurisdiction, and the clerk of that court shall proceed as if the order of revocation had been issued by the court of original jurisdiction. Upon the revocation of probation or suspension of sentence of any offender, such offender shall be placed in the legal custody of the State Department of Corrections and shall be subject to the requirements thereof.
- (7) Any probationer who removes himself from the State of Mississippi without permission of the court placing him on probation, or the court to which jurisdiction has been transferred, shall be deemed and considered a fugitive from justice and shall be subject to extradition as now provided by law. No part of the time that one is on probation shall be considered as any part of the time that he shall be sentenced to serve.
- (8) The arresting officer, except when a probation and parole officer, shall be allowed the same fees as now provided by law for arrest on warrant, and such fees shall be taxed against the probationer and paid as now provided by law.
- (9) The arrest, revocation and recommitment procedures of this section also apply to persons who are serving a period of post-release supervision imposed by the court.
- (10) UNLESS GOOD CAUSE FOR THE DELAY IS ESTABLISHED IN THE RECORD OF THE PROCEEDING, THE PROBATION REVOCATION CHARGE SHALL BE DISMISSED IF THE REVOCATION HEARING IS NOT HELD WITHIN THIRTY (30) DAYS OF THE WARRANT BEING ISSUED.
- (11) THE DEPARTMENT OF CORRECTIONS SHALL PROVIDE SEMIANNUALLY TO THE OVERSIGHT TASK FORCE THE NUMBER OF WARRANTS ISSUED FOR AN ALLEGED VIOLATION OF PROBATION OR POST-RELEASE SUPERVISION, THE AVERAGE TIME BETWEEN DETENTION ON A WARRANT AND PRELIMINARY HEARING, THE AVERAGE TIME BETWEEN DETENTION ON A WARRANT AND REVOCATION HEARING, THE NUMBER OF NINETY-DAY SENTENCES IN A TECHNICAL VIOLATION CENTER ISSUED BY THE COURT, THE NUMBER OF ONE-HUNDRED-TWENTY-DAY SENTENCES IN A TECHNICAL VIOLATION CENTER ISSUED BY THE COURT, THE NUMBER OF ONE-HUNDRED-EIGHTY-DAY SENTENCES ISSUED BY THE COURT, AND THE NUMBER AND AVERAGE LENGTH OF THE SUSPENDED SENTENCES IMPOSED BY THE COURT IN RESPONSE TO A VIOLATION.

SECTION 59. Section 47-5-901, Mississippi Code of 1972, is amended as follows:

47-5-901.

- (1) Any person committed, sentenced or otherwise placed under the custody of the Department of Corrections, on order of the sentencing court and subject to the other conditions of this subsection, may serve all or any part of his sentence in the county jail of the county wherein such person was convicted if the Commissioner of Corrections determines that physical space is not available for confinement of such person in the state correctional institutions. Such determination shall be promptly made by the Department of Corrections upon receipt of notice of the conviction of such person. The commissioner shall certify in writing that space is not available to the sheriff or other

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- officer having custody of the person. Any person serving his sentence in a county jail shall be classified in accordance with Section 47-5-905.
- (2) If state prisoners are housed in county jails due to a lack of capacity at state correctional institutions, the Department of Corrections shall determine the cost for food and medical attention for such prisoners. The cost of feeding and housing offenders confined in such county jails shall be based on actual costs or contract price per prisoner. In order to maximize the potential use of county jail space, the Department of Corrections is encouraged to negotiate a reasonable per day cost per prisoner, which in no event may exceed Twenty Dollars (\$ 20.00) per day per offender.
- (3)
- (a) Upon vouchers submitted by the board of supervisors of any county housing persons due to lack of space at state institutions, the Department of Corrections shall pay to such county, out of any available funds, the actual cost of food, or contract price per prisoner, not to exceed Twenty Dollars (\$ 20.00) per day per offender, as determined under subsection (2) of this section for each day an offender is so confined beginning the day that the Department of Corrections receives a certified copy of the sentencing order and will terminate on the date on which the offender is released or otherwise removed from the custody of the county jail. The department, or its contracted medical provider, will pay to a provider of a medical service for any and all incarcerated persons from a correctional or detention facility an amount based upon negotiated fees as agreed to by the medical care service providers and the department and/or its contracted medical provider. In the absence of negotiated discounted fee schedule, medical care service providers will be paid by the department, or its contracted medical service provider, an amount no greater than the reimbursement rate applicable based on the Mississippi Medicaid reimbursement rate. The board of supervisors of any county shall not be liable for any cost associated with medical attention for prisoners who are pretrial detainees or for prisoners who have been convicted that exceeds the Mississippi Medicaid reimbursement rate or the reimbursement provided by the Department of Corrections, whichever is greater. This limitation applies to all medical care services, durable and nondurable goods, prescription drugs and medications. Such payment shall be placed in the county general fund and shall be expended only for food and medical attention for such persons.
- (b) Upon vouchers submitted by the board of supervisors of any county housing offenders in county jails pending a probation or parole revocation hearing, the department shall pay* * * the reimbursement costs provided in paragraph (a).
- (c) If the probation or parole of an offender is revoked, the additional cost of housing the offender pending the revocation hearing shall be assessed as part of the offender's court cost and shall be remitted to the department.
- (4) A person, on order of the sentencing court, may serve not more than twenty-four (24) months of his sentence in a county jail if the person is classified in accordance with Section 47-5-905 and the county jail is an approved county jail for housing state inmates under federal court order. The sheriff of the county shall have the right to petition the Commissioner of Corrections to remove the inmate from the county jail. The county shall be reimbursed in accordance with subsection (2) **OF THIS SECTION** .
- (5) The Attorney General of the State of Mississippi shall defend the employees of the Department of Corrections and officials and employees of political subdivisions against any action brought by any person who was committed to a county jail under the provisions of this section.
- (6) This section does not create in the Department of Corrections, or its employees or agents, any new liability, express or implied, nor shall it create in the Department of Corrections any administrative authority or responsibility for the construction, funding, administration or operation of county or other local jails or other places of confinement which are not staffed and operated on a full-time basis by the Department of Corrections. The correctional system under the jurisdiction of the

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Department of Corrections shall include only those facilities fully staffed by the Department of Corrections and operated by it on a full-time basis.

- (7) An offender returned to a county for post-conviction proceedings shall be subject to the provisions of Section 99-19-42 and the county shall not receive the per - day allotment for such offender after the time prescribed for returning the offender to the Department of Corrections as provided in Section 99-19-42.

SECTION 60. Section 47-5-911, Mississippi Code of 1972, is amended as follows:

47-5-911. Sections 47-5-901 through 47-5-911 shall stand repealed on July 1, * * * 2016 .

SECTION 61. The following shall be codified in Chapter 7, of Title 47, Mississippi Code of 1972:

- 47-7-___. (1) The Department of Corrections shall establish technical violation centers to detain probation and parole violators revoked by the court or parole board.
- (2) The department shall place an offender in a violation center for a technical violation as ordered by the board pursuant to Section 47-7-27 and the sentencing court pursuant to Section 47-7-37.
- (3) The violation centers shall be equipped to address the underlying factors that led to the offender's violation as identified based on the results of a risk and needs assessment. At a minimum each violation center shall include substance abuse services shown to reduce recidivism and a reduction in the use of illicit substances or alcohol, education programs, employment preparation and training programs and behavioral programs.
- (4) As required by Section 47-5-20(b), the department shall notify, by certified mail, each member of the board of supervisors of the county in which the violation center shall be located of the department's intent to convert an existing department facility to a technical violation center.
- (5) The department shall establish rules and regulations for the implementation and operation of the technical violation centers.
- (6) The Department of Corrections shall provide to the Oversight Task Force semiannually the average daily population of the technical violation centers, the number of admissions to the technical violation centers, and the average time served in the technical violation centers.

SECTION 62. Section 47-5-10, Mississippi Code of 1972, is amended as follows:

47-5-10. The department shall have the following powers and duties:

- (a) To accept adult offenders committed to it by the courts of this state for incarceration, care, custody, treatment and rehabilitation;
- (b) To provide for the care, custody, study, training, supervision and treatment of adult offenders committed to the department;
- (c) To maintain, administer and exercise executive and administrative supervision over all state correctional institutions and facilities used for the custody, training, care, treatment and after-care supervision of adult offenders committed to the department; provided, however, that such supervision shall not extend to any institution or facility for which executive and administrative supervision has been provided by law through another agency;
- (d) To plan, develop and coordinate a statewide, comprehensive correctional program designed to train and rehabilitate offenders in order to prevent, control and retard recidivism;
- (e) To maintain records of persons committed to it, and to establish programs of research, statistics and planning:
- (i) An offender's records shall include a single cover sheet that contains the following information about the offender: name, including any aliases; department inmate number; social security

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number; photograph; court of conviction; cause number; date of conviction; date of sentence; total number of days in the department's custody or number of days creditable toward time served on each charge; date of actual custody; and date of any revocation of a suspended sentence;

- (ii) The department shall maintain an offender's cover sheet in the course of its regularly conducted business activities and shall include an offender's cover sheet in each request from a court, prosecutor or law enforcement agency for a summary of an offender's records with the department, also known as a "pen-pack." The cover sheet shall conform to Rules 803(6) and 803(8) of the Mississippi Rules of Evidence for admission as an exception to the hearsay rule and may be admissible when properly authenticated according to evidentiary rules and when offered for the purpose of enhanced sentencing under Section 41-29-147, 99-19-81 or 99-19-83 or other similar purposes; and
- (iii) This subsection is not intended to conflict with an offender's right of confrontation in criminal proceedings under the state or federal constitution;
- (f) To investigate the grievances of any person committed to the department, and to inquire into any alleged misconduct by employees; and for this purpose it may issue subpoenas and compel the attendance of witnesses and the production of writings and papers, and may examine under oath any witnesses who may appear before it;
- (g) To administer programs of training and development of personnel of the department;
- (h) To develop and implement diversified programs and facilities to promote, enhance, provide and assure the opportunities for the successful custody, training and treatment of adult offenders properly committed to the department or confined in any facility under its control. Such programs and facilities may include , but not be limited to , institutions, group homes, halfway houses, diagnostic centers, work and educational release centers, **TECHNICAL VIOLATION CENTERS**, restitution centers, counseling and supervision of probation, parole, suspension and compact cases, presentence investigating and other state and local community-based programs and facilities;
- (i) To receive, hold and use, as a corporate body, any real, personal and mixed property donated to the department, and any other corporate authority as shall be necessary for the operation of any facility at present or hereafter;
- (j) To provide those personnel, facilities, programs and services the department shall find necessary in the operation of a modern correctional system for the custody, care, study and treatment of adult offenders placed under its jurisdiction by the courts and other agencies in accordance with law;
- (k) To develop the capacity and administrative network necessary to deliver advisory consultation and technical assistance to units of local government for the purpose of assisting them in developing model local correctional programs for adult offenders;
- (l) To cooperate with other departments and agencies and with local communities for the development of standards and programs for better correctional services in this state;
- (m) To administer all monies and properties of the department;
- (n) To report annually to the Legislature and the Governor on the committed persons, institutions and programs of the department;
- (o) To cooperate with the courts and with public and private agencies and officials to assist in attaining the purposes of this chapter and Chapter 7 of this title. The department may enter into agreements and contracts with other departments of federal, state or local government and with private agencies concerning the discharge of its responsibilities or theirs. The department shall have the authority to accept and expend or use gifts, grants and subsidies from public and private sources;

- (p) To make all rules and regulations and exercise all powers and duties vested by law in the department;
 - (q) The department may require a search of all persons entering the grounds and facilities at the correctional system;
 - (r) **TO SUBMIT, IN A TIMELY MANNER, TO THE OVERSIGHT TASK FORCE ESTABLISHED IN SECTION 68 OF THIS ACT ANY REPORTS REQUIRED BY LAW OR REGULATION OR REQUESTED BY THE TASK FORCE.**
- (* * * **S**) To discharge any other power or duty imposed or established by law.

SECTION 63. Section 47-5-26, Mississippi Code of 1972, is amended as follows:

47-5-26.

- (1) The commissioner shall employ the following personnel:
 - (a) A Deputy Commissioner for Administration and Finance, who shall supervise and implement all fiscal policies and programs within the department, supervise and implement all hiring and personnel matters within the department, supervise the department's personnel director, supervise and implement all purchasing within the department and supervise and implement all data processing activities within the department, and who shall serve as the Chief Executive Officer of the Division of Administration and Finance. He shall possess either:
 - (i) A master's degree from an accredited four-year college or university in public or business administration, accounting, economics or a directly related field, and four (4) years of experience in work related to the above-described duties, one (1) year of which must have included line or functional supervision; or
 - (ii) A bachelor's degree from an accredited four-year college or university in public or business administration, accounting, economics or a directly related field, and six (6) years of experience in work related to the above-described duties, one (1) year of which must have included line or functional supervision. Certification by the State of Mississippi as a certified public accountant may be substituted for one (1) year of the required experience.
 - (b) A Deputy Commissioner for Community Corrections, who shall initiate and administer programs, including, but not limited to, supervision of probationers, parolees and suspensioners, counseling, community-based treatment, interstate compact administration and enforcement, prevention programs, halfway houses and group homes, **TECHNICAL VIOLATION CENTERS**, restitution centers, presentence investigations, and work and educational releases, and shall serve as the Chief Executive Officer of the Division of Community Services. The Deputy Commissioner for Community Corrections is charged with full and complete cooperation with the State Parole Board and shall make monthly reports to the Chairman of the Parole Board in the form and type required by the chairman, in his discretion, for the proper performance of the probation and parole functions. After a plea or verdict of guilty to a felony is entered against a person and before he is sentenced, the Deputy Commissioner for Community Corrections shall procure from any available source and shall file in the presentence records any information regarding any criminal history of the person such as fingerprints, dates of arrests, complaints, civil and criminal charges, investigative reports of arresting and prosecuting agencies, reports of the National Crime Information Center, the nature and character of each offense, noting all particular circumstances thereof and any similar data about the person. The Deputy Commissioner for Community Corrections shall keep an accurate and complete duplicate record of this file and shall furnish the duplicate to the department. This file shall be placed in and shall constitute a part of the inmate's master file. The Deputy Commissioner for Community Corrections shall furnish this file to the State Parole Board when the file is needed in the course of its official duties. He shall possess either:
 - (i) a master's degree in counseling, corrections psychology, guidance, social work, criminal justice or some related field and at least four (4) years' full-time experience in such field,

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including at least one (1) year of supervisory experience; or (ii) a bachelor's degree in a field described in subparagraph (i) of this paragraph and at least six (6) years' full-time work in corrections, one (1) year of which shall have been at the supervisory level.

- (c) A Deputy Commissioner for Institutions, who shall administer institutions, reception and diagnostic centers, prerelease centers and other facilities and programs provided therein, and shall serve as the Chief Executive Officer of the Division of Institutions. He shall possess either: (i) a master's degree in counseling, criminal justice, psychology, guidance, social work, business or some related field, and at least four (4) years' full-time experience in corrections, including at least one (1) year of correctional management experience; or (ii) a bachelor's degree in a field described in subparagraph (i) of this paragraph and at least six (6) years' full-time work in corrections, four (4) years of which shall have been at the correctional management level.
- (2) The commissioner shall employ an administrative assistant for parole matters, who shall be an employee of the department assigned to the State Parole Board and who shall work under the guidance and supervision of the board.
- (3) The administrative assistant for parole matters shall receive an annual salary to be established by the Legislature. The salaries of department employees not established by the Legislature shall receive an annual salary established by the State Personnel Board.
- (4) The commissioner shall employ a superintendent for the Parchman facility, Central Mississippi Correctional Facility and South Mississippi Correctional Institution of the Department of Corrections. The Superintendent of the Mississippi State Penitentiary shall reside on the grounds of the Parchman facility. Each superintendent shall appoint an officer in charge when he is absent. Each superintendent shall develop and implement a plan for the prevention and control of an inmate riot and shall file a report with the Chairman of the Senate Corrections Committee and the Chairman of the House Penitentiary Committee on the first day of each regular session of the Legislature regarding the status of the plan.

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

SECTION 64.

- (1) As used in this section, "fiscal note" means the estimated dollar cost to the state for the first year and the annual cost thereafter. The term "ten-year fiscal note" means the estimated dollar cost to the state over the ten-year period following passage or adoption of the subject of the fiscal note.
- (2) Whenever legislation is introduced in the Legislature, which would establish a new criminal offense or would amend the sentencing provisions of an existing criminal offense, the Department of Corrections shall provide a fiscal note and a ten-year fiscal note on the proposed legislation upon the request of any member of the Legislature. The fiscal note shall be published in electronic form on the Mississippi Legislature website as provided in Section 5-1-85.
- (3) State agencies and political subdivisions shall cooperate with the department in preparing fiscal notes and the ten-year fiscal notes. Such agencies and political subdivisions shall submit requested information to the department in a timely fashion.
- (4) In preparing fiscal notes and the ten-year fiscal notes, the department must accurately report to the Legislature information provided to the department by state agencies and political subdivisions.
- (5) The department may request information from nongovernmental agencies and organizations to assist in preparing the fiscal note and the ten-year fiscal note.

SECTION 65.

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- (1) Semiannually, the circuit clerks of each county, the municipal court clerks of each municipality, and the justice court clerks of each county shall report to the Administrative Office of Courts the following information:
 - (a) Individual misdemeanor and felony case records by offense, from the circuit clerk for all circuit and county court criminal proceedings, and from the municipal and justice court clerks for all misdemeanors, electronically when available, containing the date on which the criminal charges were filed, charge code and name of indicted offenses, count number of indicted offenses, the disposition of the charges, date disposed, date sentenced, charge code and name of sentenced offenses, and sentence length.
 - (b) Data should be kept individually by case number and misdemeanor charges or indicted felony offense, and include, for criminal docket purposes, demographic information necessary for tracking individuals across multiple databases should be collected, including date of birth, city and state of residence, race, and gender.
- (2) The Administrative Office of Courts shall be empowered to establish a uniform reporting format for all court clerks described in subsection (1) of this section. Such reporting format shall emphasize the need for reporting information in a sortable, electronic format. All clerks who submit required information in other formats shall report to the Administrative Office of Courts a schedule for conversion to technology to enable the reporting of all required data in a sortable, electronic format.
- (3) Semiannual reports shall be made to the Administrative Office of Courts by December 31, 2014, or as soon thereafter as practicable, and every year thereafter, and on June 30, 2015, or as soon thereafter as practicable, and every year thereafter. On August 1, 2015, and each year thereafter, the Administrative Office of Courts shall provide to PEER sortable, electronic copies of all reports required by this section.
- (4) The Administrative Office of Courts shall share the information required under this section with the Oversight Task Force.

SECTION 66.

- (1) The Mississippi Department of Corrections shall collect the following information:
 - (a) Prison data shall include:
 - (i) The number of offenders entering prison on a new offense;
 - (ii) The number of offenders entering prison as a revocation of supervision;
 - (iii) The average sentence length for new prison sentences by offense type;
 - (iv) The average sentence length for offenders entering prison for a probation revocation;
 - (v) The average sentence length for offenders entering prison for a parole revocation;
 - (vi) The average percentage of prison sentence served in prison by offense type;
 - (vii) The average length of stay by offense type;
 - (viii) Recidivism rates. For the purposes of this report, "recidivism" means conviction of a new felony offense within three (3) years of release from prison;
 1. Recidivism rates by offense type;
 2. Recidivism rates by risk level;
 - (ix) Total prison population;
 1. By offense type;
 2. By type of admission into prison.
 - (b) Probation data shall include:

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- (i) The number of offenders supervised on probation;
 - (ii) The number of offenders placed on probation;
 - (iii) The number of probationers revoked for a technical violation and sentenced to a term of imprisonment in a technical violation center;
 - (iv) The number of probationers revoked for a technical violation and sentenced to a term of imprisonment in another type of department of correction;
 - (v) The number of probationers who are convicted of a new felony offense and sentenced to a term of imprisonment;
 - (vi) The number of probationers held on a violation in a county jail awaiting a revocation hearing; and
 - (vii) The average length of stay in a county jail for probationers awaiting a revocation hearing.
- (c) Post-release supervision data shall include:
- (i) The number of offenders supervised on post-release supervision;
 - (ii) The number of offenders placed on post-release supervision;
 - (iii) The number of post-release probationers revoked for a technical violation and sentenced to a term of imprisonment in a technical violation center;
 - (iv) The number of post-release probationers revoked for a technical violation and sentenced to a term of imprisonment in another type of department of correction facility;
 - (v) The number of post-release probationers who are convicted of a new felony offense and sentenced to a term of imprisonment;
 - (vi) The number of post-release probationers held on a violation in a county jail awaiting a revocation hearing; and
 - (vii) The average length of stay in a county jail for post-release probationers awaiting a revocation hearing.
- (2) The Department of Corrections shall semiannually report information required in subsection (1) of this section to the Oversight Task Force, and upon request, shall report the information to the PEER Committee.

SECTION 67.

- (1) The Parole Board, with the assistance of the Department of Corrections, shall collect the following information:
- (a) The number of offenders supervised on parole;
 - (b) The number of offenders released on parole;
 - (c) The number of parole hearings held;
 - (d) The parole grant rate for parolees released with and without a hearing;
 - (e) The average length of time offenders spend on parole;
 - (f) The number and percentage of parolees revoked for a technical violation and returned for a term of imprisonment in a technical violation center;
 - (g) The number and percentage of parolees revoked for a technical violation and returned for a term of imprisonment in another type of Department of Corrections' facility;
 - (h) The number and percentage of parolees who are convicted of a new offense and returned for a term of imprisonment on their current crime as well as the new crime;

- (i) The number of parolees held on a violation in county jail awaiting a revocation hearing; and
 - (j) The average length of stay in a county jail for parolees awaiting a revocation hearing.
- (2) The Parole Board shall semiannually report information required in subsection (1) to the Oversight Task Force, and upon request, shall report such information to the PEER Committee.

SECTION 68.

- (1) There is hereby established a committee to be known as the Corrections and Criminal Justice Oversight Task Force, hereinafter called the Oversight Task Force, which must exercise the powers and fulfill the duties described in this chapter.
- (2) The Oversight Task Force shall be composed of the following members:
- (a) The Lieutenant Governor shall appoint two (2) members;
 - (b) The Speaker of the House of Representatives shall appoint two (2) members;
 - (c) The Commissioner of the Department of Corrections, or his designee;
 - (d) The Chief Justice of the Mississippi Supreme Court shall appoint one (1) member of the circuit court;
 - (e) The Governor shall appoint one (1) member from the Parole Board;
 - (f) The Director of the Joint Legislative Committee on Performance Evaluation and Expenditure Review, or his designee;
 - (g) The Attorney General shall appoint one (1) member representing the victims' community;
 - (h) The Mississippi Association of Supervisors shall appoint one (1) person to represent the association;
 - (i) The President of the Mississippi Prosecutors' Association;
 - (j) The President of the Mississippi Sheriffs' Association, or his designee; and
 - (k) The Office of the State Public Defender shall appoint one (1) person to represent the public defender's office.
- (3) The task force shall meet on or before July 15, 2015, at the call of the Commissioner of the Department of Corrections and organize itself by electing one (1) of its members as chair and such other officers as the task force may consider necessary. Thereafter, the task force shall meet at least biannually and at the call of the chair or by a majority of the members. A quorum consists of seven (7) members.
- (4) The task force shall have the following powers and duties:
- (a) Track and assess outcomes from the recommendations in the Corrections and Criminal Justice Task Force report of December 2013;
 - (b) Prepare and submit an annual report no later than the first day of the second full week of each regular session of the Legislature on the outcome and performance measures to the Legislature, Governor and Chief Justice. The report shall include recommendations for improvements, recommendations on transfers of funding based on the success or failure of implementation of the recommendations, and a summary of savings. The report may also present additional recommendations to the Legislature on future legislation and policy options to enhance public safety and control corrections costs;
 - (c) Monitor compliance with sentencing standards, assess their impact on the correctional resources of the state and determine if the standards advance the adopted sentencing policy goals of the state;

- (d) Review the classifications of crimes and sentences and make recommendations for change when supported by information that change is advisable to further the adopted sentencing policy goals of the state;
- (e) Develop a research and analysis system to determine the feasibility, impact on resources, and budget consequences of any proposed or existing legislation affecting sentence length;
- (f) Request, review, and receive data and reports on performance outcome measures as related to this act;
- (g) To undertake such additional studies or evaluations as the Oversight Task Force considers necessary to provide sentencing reform information and analysis;
- (h) Prepare and conduct annual continuing legal education seminars regarding the sentencing guidelines to be presented to judges, prosecuting attorneys and their deputies, and public defenders and their deputies, as so required;
- (i) The Oversight Task Force shall use clerical and professional employees of the Department of Corrections for its staff;
- (j) The Oversight Task Force may employ or retain other professional staff, upon the determination of the necessity for other staff;
- (k) The Oversight Task Force may employ consultants to assist in the evaluations and, when necessary, the implementation of the recommendations of the Corrections and Criminal Justice Task Force report of December 2013;
- (l) The Oversight Task Force is encouraged to apply for and may expend grants, gifts, or federal funds it receives from other sources to carry out its duties and responsibilities.

SECTION 69. Section 9-7-122, Mississippi Code of 1972, is amended as follows:

9-7-122.

- (1) Except as otherwise provided herein, no circuit clerk elected for a full term of office commencing on or after January 1, 1996, shall exercise any functions of office or be eligible to take the oath of office unless and until the circuit clerk has filed in the office of the chancery clerk a certificate of completion of a course of training and education conducted by the Mississippi Judicial College of the University of Mississippi Law Center within six (6) months of the beginning of the term for which such circuit clerk is elected. A circuit clerk who has completed the course of training and education and has satisfied his annual continuing education course requirements, and who is then elected for a succeeding term of office subsequent to the initial term for which he completed the training course, shall not be required to repeat the training and education course upon reelection. A circuit clerk that has served either a full term of office or part of a term of office before January 1, 1996, shall be exempt from the requirements of this subsection.
- (2) In addition to meeting the requirements of subsection (1) of this section, after taking office by election or otherwise, each circuit clerk shall be required to file annually in the office of the chancery clerk a certificate of completion of a course of continuing education conducted by the Mississippi Judicial College. No circuit clerk shall have to comply with this subsection unless he will have been in office for five (5) months or more during a calendar year.
- (3) Each circuit clerk elected for a term commencing on or after January 1, 1992, shall be required to file annually the certificate required in subsection (2) of this action commencing January 1, 1993.
- (4) The requirements for obtaining the certificates in this section shall be as provided in subsection (6) of this section.
- (5) Upon the failure of any circuit clerk to file with the chancery clerk the certificates of completion as provided in this section, such circuit clerk shall, in addition to any other fine or punishment provided by law for such conduct, not be entitled to any fee, compensation or salary, from any source, for

services rendered as circuit clerk, for the period of time during which such certificate remains unfiled.

- (6) The Mississippi Judicial College of the University of Mississippi Law Center shall prepare and conduct courses of training for basic and continuing education for circuit clerks of this state. The basic course of training shall be known as the "Circuit Clerks Training Course" and shall consist of at least thirty-two (32) hours of training. The continuing education course shall be known as the "Continuing Education Course for Circuit Clerks" and shall consist of at least eighteen (18) hours of training. The content of the basic and continuing education courses and when and where such courses are to be conducted shall be determined by the judicial college. The judicial college shall issue certificates of completion to those circuit clerks who complete such courses.
- (7) The expenses of the training, including training of those elected as circuit clerk who have not yet begun their term of office, shall be borne as an expense of the office of the circuit clerk.
- (8) Circuit clerks shall be allowed credit toward their continuing education course requirements for attendance at circuit court proceedings if the presiding circuit court judge certifies that the circuit clerk was in actual attendance at a term or terms of court; provided, however, that at least twelve (12) hours per year of the continuing education course requirements must be completed at a regularly established program or programs conducted by the Mississippi Judicial College.
- (9) BY AUGUST 1, 2015, AND EACH YEAR THEREAFTER, THE ADMINISTRATIVE OFFICE OF COURTS SHALL CERTIFY TO THE MISSISSIPPI JUDICIAL COLLEGE THE NAMES OF ALL CIRCUIT CLERKS WHO HAVE FAILED TO PROVIDE THE INFORMATION REQUIRED BY SECTION 65 OF THIS ACT. THE JUDICIAL COLLEGE SHALL NOT ISSUE A CERTIFICATE OF CONTINUING EDUCATION REQUIRED BY SUBSECTION (2) OF THIS SECTION TO ANY SUCH CLERK, AND SHALL REPORT TO THE STATE AUDITOR, AND THE BOARD OF SUPERVISORS OF THE COUNTY THE CLERK IS ELECTED FROM THAT THE CLERK SHALL NOT BE ENTITLED TO RECEIVE THE COMPENSATION SET OUT IN SUBSECTION (5) OF THIS SECTION. A CLERK MAY BE CERTIFIED AFTER COMING INTO COMPLIANCE WITH THE REQUIREMENTS OF SECTION 65 OF THIS ACT.

SECTION 70. Section 9-11-27, Mississippi Code of 1972, is amended as follows:

9-11-27.

- (1) The board of supervisors of each county shall, at its own expense, appoint one (1) person to serve as clerk of the justice court system of the county, and may appoint such other employees for the justice court of the county as it deems necessary, including a person or persons to serve as deputy clerk or deputy clerks. The board of supervisors of each county with two (2) judicial districts may, at its own expense, appoint two (2) persons to serve as clerks of the justice court system of the county, one (1) for each judicial district, and may appoint such other employees for the justice court system of the county as it deems necessary including persons to serve as deputy clerks. The clerk and deputy clerks shall be empowered to file and record actions and pleadings, to receive and receipt for monies, to acknowledge affidavits, to issue warrants in criminal cases upon direction by a justice court judge in the county, to approve the sufficiency of bonds in civil and criminal cases, to certify and issue copies of all records, documents and pleadings filed in the justice court and to issue all process necessary for the operation of the justice court. The clerk or deputy clerks may refuse to accept a personal check in payment of any fine or cost or to satisfy any other payment required to be made to the justice court. All orders from the justice court judge to the clerk of the justice court shall be written. All cases, civil and criminal, shall be assigned by the clerk to the justice court judges of the county in the manner provided in Section 11-9-105 and Section 99-33-2. A deputy clerk who works in an office separate from the clerk and who is the head deputy clerk of the separate office may be designated to be trained as a clerk as provided in Section 9-11-29.
- (2) BY AUGUST 1, 2015, AND EACH YEAR THEREAFTER, THE ADMINISTRATIVE OFFICE OF COURTS SHALL REPORT THE NAMES OF ALL JUSTICE COURT CLERKS WHO HAVE

FAILED TO COMPLY WITH THE REPORTING REQUIREMENTS OF SECTION 65 OF THIS ACT TO THE BOARDS OF SUPERVISORS THAT SELECTED THEM. EACH CLERK SHALL BE GIVEN THREE (3) MONTHS FROM THE DATE ON WHICH THE BOARD WAS GIVEN NOTICE TO COME INTO COMPLIANCE WITH THE REQUIREMENTS OF SECTION 65 OF THIS ACT. THE ADMINISTRATIVE OFFICE OF COURTS SHALL NOTIFY THE BOARD OF SUPERVISORS OF ANY JUSTICE COURT CLERK WHO FAILS TO COME INTO COMPLIANCE AFTER THE THREE-MONTH NOTICE REQUIRED IN THIS SUBSECTION. ANY NONCOMPLIANT CLERKS SHALL BE TERMINATED FOR FAILURE TO COMPLY WITH SECTION 65 OF THIS ACT REPORTING REQUIREMENT.

SECTION 71. Section 21-23-12, Mississippi Code of 1972, is amended as follows:

21-23-12.

- (1) Every person appointed as clerk of the municipal court shall be required annually to attend and complete a comprehensive course of training and education conducted or approved by the Mississippi Judicial College of the University of Mississippi Law Center. Attendance shall be required beginning with the first training seminar conducted after said clerk is appointed.
- (2) The Mississippi Judicial College of the University of Mississippi Law Center shall prepare and conduct a course of training and education for municipal court clerks of the state. The course shall consist of at least twelve (12) hours of training per year. After completion of the first year's requirement, a maximum of six (6) hours training, over and above the required twelve (12) hours, may be carried forward from the previous year. The content of the course of training and when and where it is to be conducted shall be determined by the judicial college. A certificate of completion shall be furnished to those municipal court clerks who complete such course, and each certificate shall be made a permanent record of the minutes of the board of aldermen or city council in the municipality from which the municipal clerk is appointed.
- (3) Upon the failure of any person appointed as clerk of the municipal court to file the certificate of completion as provided in subsection (2) of this section, within the first year of appointment, such person shall then not be allowed to carry out any of the duties of the office of clerk of the municipal court and shall not be entitled to compensation for the period of time during which such certificate remains unfiled.
- (4) AFTER AUGUST 1, 2015, AND EACH YEAR THEREAFTER, THE ADMINISTRATIVE OFFICE OF COURTS SHALL NOTIFY THE JUDICIAL COLLEGE OF THE NAME OF ANY MUNICIPAL COURT CLERK WHO HAS NOT COMPLIED WITH THE REQUIREMENTS OF SECTION 65 OF THIS ACT. THE MISSISSIPPI JUDICIAL COLLEGE SHALL NOT PROVIDE SUCH CLERK WITH A CERTIFICATE OF COMPLETION OF COURSE WORK UNTIL SUCH TIME THAT THE ADMINISTRATIVE OFFICE OF COURTS HAS REPORTED THAT THE CLERK IS IN COMPLIANCE WITH THE REQUIREMENTS OF SECTION 65 OF THIS ACT. FURTHER, THE ADMINISTRATIVE OFFICE OF COURTS SHALL REPORT THE NAMES OF ALL NONCOMPLIANT CLERKS TO THE STATE AUDITOR AND TO THE MAYOR OF THE MUNICIPALITY THAT EMPLOYS THE CLERK.

SECTION 72. Section 47-5-138, Mississippi Code of 1972, is brought forward as follows:

47-5-138.

- (1) The department may promulgate rules and regulations to carry out an earned time allowance program based on the good conduct and performance of an inmate. An inmate is eligible to receive an earned time allowance of one-half (1/2) of the period of confinement imposed by the court except those inmates excluded by law. When an inmate is committed to the custody of the department, the department shall determine a conditional earned time release date by subtracting the earned time allowance from an inmate's term of sentence. This subsection does not apply to any sentence imposed after June 30, 1995.

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- (2) An inmate may forfeit all or part of his earned time allowance for a serious violation of rules. No forfeiture of the earned time allowance shall be effective except upon approval of the commissioner, or his designee, and forfeited earned time may not be restored.
- (3)
 - (a) For the purposes of this subsection, "final order" means an order of a state or federal court that dismisses a lawsuit brought by an inmate while the inmate was in the custody of the Department of Corrections as frivolous, malicious or for failure to state a claim upon which relief could be granted.
 - (b) On receipt of a final order, the department shall forfeit:
 - (i) Sixty (60) days of an inmate's accrued earned time if the department has received one (1) final order as defined herein;
 - (ii) One hundred twenty (120) days of an inmate's accrued earned time if the department has received two (2) final orders as defined herein;
 - (iii) One hundred eighty (180) days of an inmate's accrued earned time if the department has received three (3) or more final orders as defined herein.
 - (c) The department may not restore earned time forfeited under this subsection.
- (4) An inmate who meets the good conduct and performance requirements of the earned time allowance program may be released on his conditional earned time release date.
- (5) For any sentence imposed after June 30, 1995, an inmate may receive an earned time allowance of four and one-half (4-1/2) days for each thirty (30) days served if the department determines that the inmate has complied with the good conduct and performance requirements of the earned time allowance program. The earned time allowance under this subsection shall not exceed fifteen percent (15%) of an inmate's term of sentence; however, beginning July 1, 2006, no person under the age of twenty-one (21) who has committed a nonviolent offense, and who is under the jurisdiction of the Department of Corrections, shall be subject to the fifteen percent (15%) limitation for earned time allowances as described in this subsection (5).
- (6) Any inmate, who is released before the expiration of his term of sentence under this section, shall be placed under earned-release supervision until the expiration of the term of sentence. The inmate shall retain inmate status and remain under the jurisdiction of the department. The period of earned-release supervision shall be conducted in the same manner as a period of supervised parole. The department shall develop rules, terms and conditions for the earned-release supervision program. The commissioner shall designate the appropriate hearing officer within the department to conduct revocation hearings for inmates violating the conditions of earned-release supervision.
- (7) If the earned-release supervision is revoked, the inmate shall serve the remainder of the sentence, but the time the inmate served on earned-release supervision before revocation, shall be applied to reduce his sentence.

SECTION 73. Section 47-5-142, Mississippi Code of 1972, is brought forward as follows:

47-5-142.

- (1) In order to provide incentive for offenders to achieve positive and worthwhile accomplishments for their personal benefit or the benefit of others, and in addition to any other administrative reductions of the length of an offender's sentence, any offender shall be eligible, subject to the provisions of this section, to receive meritorious earned time as distinguished from earned time for good conduct and performance.
- (2) Subject to approval by the commissioner of the terms and conditions of the program or project, meritorious earned time may be awarded for the following: (a) successful completion of educational

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or instructional programs; (b) satisfactory participation in work projects; and (c) satisfactory participation in any special incentive program.

- (3) The programs and activities through which meritorious earned time may be received shall be published in writing and posted in conspicuous places at all facilities of the department and such publication shall be made available to all offenders in the custody of the department.
- (4) The commissioner shall make a determination of the number of days of reduction of sentence which may be awarded an offender as meritorious earned time for participation in approved programs or projects; the number of days shall be determined by the commissioner on the basis of each particular program or project.
- (5) No offender shall be awarded any meritorious earned time while assigned to the maximum security facilities for disciplinary purposes.
- (6) All meritorious earned time shall be forfeited by the offender in the event of escape and/or aiding and abetting an escape.
- (7) Any officer or employee of the department who shall willfully violate the provisions of this section and be convicted therefor shall be removed from office or employment.
- (8) An offender may forfeit all or any part of his meritorious earned time allowance for just cause upon the written order of the commissioner or his designee. Any meritorious earned time allowance forfeited under this section shall not be restored nor shall it be re-earned by the offender.

SECTION 74. Section 97-9-79, Mississippi Code of 1972, is brought forward as follows:

97-9-79. Any person who shall make or cause to be made any false statement or representation as to his or another person's identity, social security account number or other identifying information to a law enforcement officer in the course of the officer's duties with the intent to mislead the officer shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than Five Thousand Dollars (\$ 5,000.00) or imprisoned for a term not to exceed one (1) year, or both.

SECTION 75. Section 97-19-83, Mississippi Code of 1972, is brought forward as follows:

97-19-83.

- (1) Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money, property or services, or for unlawfully avoiding the payment or loss of money, property or services, or for securing business or personal advantage by means of false or fraudulent pretenses, representations or promises, or to sell, dispose of, loan, exchange, alter, give away, distribute, supply, or furnish or procure for unlawful use any counterfeit or spurious coin, obligation, security or other article, or anything represented to be or intimated or held out to be such counterfeit or spurious article, for the purpose of executing such scheme or artifice or attempting so to do, transmits or causes to be transmitted by mail, telephone, newspaper, radio, television, wire, electromagnetic waves, microwaves, or other means of communication or by person, any writings, signs, signals, pictures, sounds, data, or other matter across county or state jurisdictional lines, shall, upon conviction, be punished by a fine of not more than Ten Thousand Dollars (\$ 10,000.00) or by imprisonment for not more than five (5) years, or by both such fine and imprisonment.
- (2) For the purposes of venue under the provisions of this section, any violation of this section may be prosecuted in the county in which the delivery or transmission originated, the county in which the delivery or transmission was made, or the county in which any act in execution or furtherance of the scheme occurred.
- (3) This section shall not prohibit the prosecution under any other criminal statute of the state.

SECTION 76. Section 97-19-85, Mississippi Code of 1972, is brought forward as follows:

97-19-85.

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- (1) Any person who shall make or cause to be made any false statement or representation as to his or another person's or entity's identity, social security account number, credit card number, debit card number or other identifying information for the purpose of fraudulently obtaining or with the intent to obtain goods, services or any thing of value, shall be guilty of a felony and upon conviction thereof for a first offense shall be fined not more than Five Thousand Dollars (\$ 5,000.00) or imprisoned for a term not to exceed five (5) years, or both. For a second or subsequent offense such person, upon conviction, shall be fined not more than Ten Thousand Dollars (\$ 10,000.00) or imprisoned for a term not to exceed ten (10) years, or both. In addition to the fines and imprisonment provided in this section, a person convicted under this section shall be ordered to pay restitution as provided in Section 99-37-1 et seq.
- (2) A person is guilty of fraud under subsection (1) who:
- Shall furnish false information willfully, knowingly and with intent to deceive anyone as to his true identity or the true identity of another person; or
 - Willfully, knowingly, and with intent to deceive, uses a social security account number to establish and maintain business or other records; or
 - With intent to deceive, falsely represents a number to be the social security account number assigned to him or another person, when in fact the number is not the social security account number assigned to him or such other person; or
 - With intent to deceive, falsely represents to be a representative of an entity in order to open banking accounts, obtain credit cards, or other services and supplies in the entity's name; or
 - Knowingly alters a social security card, buys or sells a social security card or counterfeit or altered social security card, counterfeits a social security card, or possesses a social security card or counterfeit social security card with intent to sell or alter it.

SECTION 77. Section 45-33-41, Mississippi Code of 1972, is amended as follows:

45-33-41.

- (1) The Department of Corrections or any person having charge of a county or municipal jail or any juvenile detention facility shall provide written notification to an inmate or offender in the custody of the jail or other facility due to a conviction of or adjudication for a sex offense of the registration and notification requirements of Sections 45-33-25, 45-33-31, 45-33-32 and 45-33-59 at the time of the inmate's or offender's confinement and release from confinement, and shall receive a signed acknowledgment of receipt on both occasions.
- (2) At least* * * **FIFTEEN (15)** days prior to the inmate's release from confinement, the Department of Corrections shall notify the victim of the offense or a designee of the immediate family of the victim regarding the date when the offender's release shall occur, provided a current address of the victim or designated family member has been furnished in writing to the Director of Records for such purpose.

SECTION 78. Section 99-19-83, Mississippi Code of 1972, is amended as follows:

99-19-83. Every person convicted in this state of a felony who shall have been convicted twice previously of any felony or federal crime upon charges separately brought and arising out of separate incidents at different times and who shall have been sentenced to and served separate terms of one (1) year or more **, WHETHER SERVED CONCURRENTLY OR NOT,** in any state and/or federal penal institution, whether in this state or elsewhere, and where any one (1) of such felonies shall have been a crime of violence **, AS DEFINED BY SECTION 97-3-2,** shall be sentenced to life imprisonment, and such sentence shall not be reduced or suspended nor shall such person be eligible for parole* * * **, probation OR ANY OTHER FORM OF EARLY RELEASE FROM ACTUAL PHYSICAL CUSTODY WITHIN THE DEPARTMENT OF CORRECTIONS .**

SECTION 79. Section 99-19-81, Mississippi Code of 1972, is brought forward as follows:

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99-19-81. Every person convicted in this state of a felony who shall have been convicted twice previously of any felony or federal crime upon charges separately brought and arising out of separate incidents at different times and who shall have been sentenced to separate terms of one (1) year or more in any state and/or federal penal institution, whether in this state or elsewhere, shall be sentenced to the maximum term of imprisonment prescribed for such felony, and such sentence shall not be reduced or suspended nor shall such person be eligible for parole or probation.

SECTION 80. Section 99-19-84, Mississippi Code of 1972, is brought forward as follows:

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

SECTION 81. Section 99-19-87, Mississippi Code of 1972, is brought forward as follows:

99-19-87. Nothing in Sections 99-19-81 through 99-19-87 shall abrogate or affect punishment by death in any and all crimes now or hereafter punishable by death.

SECTION 82.

- (1) The Legislature recognizes that our military veterans have provided an invaluable service to our country. In doing so, many may have suffered the effects of, including, but not limited to, post-traumatic stress disorder, traumatic brain injury and depression, and may also suffer drug and alcohol dependency or addiction and co-occurring mental illness and substance abuse problems. As a result of this, some veterans come into contact with the criminal justice system and are charged with felony offenses. There is a critical need for the justice system to recognize these veterans, provide accountability for their wrongdoing, provide for the safety of the public, and provide for the treatment of our veterans. It is the intent of the Legislature to create a framework for which specialized veterans treatment courts may be established at the circuit court level and at the discretion of the circuit court judge.
- (2) Authorization. A circuit court judge may establish a Veterans Treatment Court program. The Veterans Treatment Court may, at the discretion of the circuit court judge, be a separate court program or as a component of an existing drug court program. At the discretion of the circuit court judge, the Veterans Treatment Court may be operated in one (1) county within the circuit court district, and allow veteran participants from all counties within the circuit court district to participate.
- (3) Eligibility. (a) In order to be eligible to participate in a Veterans Treatment Court program established under this section, the attorney representing the state must consent to the defendant's participation in the program. Further, the court in which the criminal case is pending must have found that the defendant is a veteran of the United States Armed Forces as defined in Title 38 USCS.
 - (b) Participation in the services of an alcohol and drug intervention component shall only be open to the individuals over whom the court has jurisdiction, except that the court may agree to provide the services for individuals referred from another Veterans Treatment Court. In cases transferred from another jurisdiction, the receiving judge shall act as a special master and make recommendations to the sentencing judge.
 - (c)
 - (i) As a condition of participation in a Veterans Treatment Court, a participant may be required to undergo a chemical test or a series of chemical tests as specified by the Veterans Treatment Court program. A participant may be held liable for costs associated with all chemical tests required under this section. However, a judge may waive any fees for testing.
 - (ii) A laboratory that performs chemical tests under this section shall report the results of the tests to the Veterans Treatment Courts.

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- (d) A person does not have the right to participate in a Veterans Treatment Court program under this article. The court having jurisdiction over a person for a matter before the court shall have the final determination about whether the person may participate in the Veterans Treatment Court program.
 - (e) A defendant shall be excluded from participating in a Veterans Treatment Court program if any one (1) of the following applies:
 - (i) The crime before the court is a crime of violence as set forth in paragraph (c) of this subsection.
 - (ii) The defendant does not demonstrate a willingness to participate in a treatment program.
 - (iii) The defendant has been previously convicted of a felony crime of violence including, but not limited to: murder, rape, sexual battery, statutory rape of a child under the age of sixteen (16), armed robbery, arson, aggravated kidnapping, aggravated assault, stalking, or any offense involving the discharge of a firearm or where serious bodily injury or death resulted to any person.
 - (f) The court in which the criminal case is pending shall allow an eligible defendant to choose whether to proceed through the Veterans Treatment Court program or otherwise through the justice system.
 - (g) Proof of matters under this section may be submitted to the court in which the criminal case is pending in any form the court determines to be appropriate, including military service and medical records, previous determinations of a disability by a veteran's organization or by the United States Department of Veterans Affairs, testimony or affidavits of other veterans or service members, and prior determinations of eligibility for benefits by any state or county veterans office.
- (4) Administrative Office of Courts. With regard to any Veterans Treatment Court established under this article, the Administrative Office of Courts may do the following:
- (a) Ensure that the structure of the intervention component complies with rules adopted under this article and applicable federal regulations.
 - (b) Revoke the authorization of a program upon a determination that the program does not comply with rules adopted under this article and applicable federal regulations.
 - (c) Enter into agreements and contracts to effectuate the purposes of this article with:
 - (i) Another department, authority, or agency of the state;
 - (ii) Another state;
 - (iii) The federal government;
 - (iv) A state-supported or private university; or
 - (v) A public or private agency, foundation, corporation, or individual.
 - (d) Directly, or by contract, approve and certify any intervention component established under this article.
 - (e) Require, as a condition of operation, that each veterans court created or funded under this article be certified by the Administrative Office of Courts.
 - (f) Adopt rules to implement this article.
- (5) State Drug Court Advisory Committee. (a) The State Drug Court Advisory Committee shall be responsible for developing statewide rules and policies as they relate to Veterans Treatment Court programs.
- (b) The State Drug Court Advisory Committee may also make recommendations to the Chief Justice, the Director of the Administrative Office of Courts and state officials concerning improvements to Veterans Treatment Court policies and procedures.

- (c) The State Drug Court Advisory Committee shall act as an arbiter of disputes arising out of the operation of Veterans Treatment Court programs established under this article and make recommendations to improve the Veterans Treatment Court programs.
- (6) Funding for Veterans Treatment Courts. (a) All monies received from any source by the Veterans Treatment Court program shall be accumulated in a fund to be used only for Veterans Treatment Court purposes. Any funds remaining in this fund at the end of the fiscal year shall not lapse into the General Fund, but shall be retained in the Veterans Treatment Court fund for the funding of further activities by the Veterans Treatment Court program.
- (b) A Veterans Treatment Court program may apply for and receive the following:
- (i) Gifts, bequests and donations from private sources.
 - (ii) Grant and contract money from governmental sources.
 - (iii) Other forms of financial assistance approved by the court to supplement the budget of the Veterans Treatment Court program.
- (7) Immunity. The coordinator and members of the professional and administrative staff of the Veterans Treatment Court program who perform duties in good faith under this article are immune from civil liability for:
- (a) Acts or omissions in providing services under this article; and
 - (b) The reasonable exercise of discretion in determining eligibility to participate in the Veterans Treatment Court program.
- (8) This section shall be codified as a separate article in Title 9, Mississippi Code of 1972.

SECTION 83. This act shall take effect and be in force from and after July 1, 2014.

History

MISSISSIPPI LEGISLATURE

2014 REGULAR SESSION

TO: JUDICIARY B; CORRECTIONS

BY: REPRESENTATIVES GIPSON, DIXON, SNOWDEN, TAYLOR

HOUSE BILL 585

(AS SENT TO GOVERNOR)

Sponsor(s)

Gipson

Classification

Subject: CRIMINAL OFFENSES (96%); ALTERNATIVE SENTENCING (94%); ALCOHOL ABUSE & ADDICTION (93%); PAROLE (93%); VIOLENT CRIME (93%); PRISONS (92%); CONTROLLED SUBSTANCES CRIME (92%); SUBSTANCE ABUSE (92%); LEGISLATORS (92%); VICTIMS RIGHTS (90%); MISCONDUCT (76%); COUNTY GOVERNMENT (63%); CONTROLLED SUBSTANCES (63%); CRIMINAL LAW (63%); JUVENILE JUSTICE (63%); LARCENY & THEFT (63%); LEGISLATION (62%); JUVENILE CRIME (62%); PETITIONS (62%); SUBSTANCE ABUSE TREATMENT (62%); LAW ENFORCEMENT (62%); CHILD ABUSE (62%)

Load-Date: April 2, 2014

THE STATE OF MISSISSIPPI BILL TEXT
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