

By: Representative Horan

To: Corrections

HOUSE BILL NO. 928
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 47-5-26, MISSISSIPPI CODE OF 1972, TO
2 REQUIRE THE COMMISSIONER OF THE DEPARTMENT OF CORRECTIONS TO
3 DESIGNATE AN EXECUTIVE DEPUTY COMMISSIONER; TO AMEND SECTION
4 47-5-8, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE EXECUTIVE
5 DEPUTY COMMISSIONER SHALL BE DIRECTLY RESPONSIBLE TO THE
6 COMMISSIONER OF CORRECTIONS; TO AMEND SECTION 47-7-5, MISSISSIPPI
7 CODE OF 1972, TO PROVIDE THAT MEMBERS OF THE PAROLE BOARD SHALL
8 RECEIVE COMPENSATION OR PER DIEM IN ADDITION TO THEIR SALARIES; TO
9 AMEND SECTION 97-37-5, MISSISSIPPI CODE OF 1972, TO EXPAND
10 AUTHORIZATION FOR CERTIFICATES OF REHABILITATION FOR PERSONS
11 CONVICTED OF CRIMES UNDER FEDERAL LAW, IN STATE MILITARY COURT OR
12 IN OTHER STATES; AND FOR RELATED PURPOSES.

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

14 **SECTION 1.** Section 47-5-26, Mississippi Code of 1972, is
15 amended as follows:

16 47-5-26. (1) The commissioner shall employ the following
17 personnel:

18 (a) A Deputy Commissioner for Administration and
19 Finance, who shall supervise and implement all fiscal policies and
20 programs within the department, supervise and implement all hiring
21 and personnel matters within the department, supervise the
22 department's personnel director, supervise and implement all
23 purchasing within the department and supervise and implement all



24 data processing activities within the department, and who shall
25 serve as the Chief Executive Officer of the Division of
26 Administration and Finance. He shall possess either:

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

33 (ii) A bachelor's degree from an accredited
34 four-year college or university in public or business
35 administration, accounting, economics or a directly related field,
36 and six (6) years of experience in work related to the
37 above-described duties, one (1) year of which must have included
38 line or functional supervision. Certification by the State of
39 Mississippi as a certified public accountant may be substituted
40 for one (1) year of the required experience.

41 (b) A Deputy Commissioner for Community Corrections,
42 who shall initiate and administer programs, including, but not
43 limited to, supervision of probationers, parolees and
44 suspensioners, counseling, community-based treatment, interstate
45 compact administration and enforcement, prevention programs,
46 halfway houses and group homes, technical violation centers,
47 restitution centers, presentence investigations, and work and
48 educational releases, and shall serve as the Chief Executive



49 Officer of the Division of Community Services. The Deputy
50 Commissioner for Community Corrections is charged with full and
51 complete cooperation with the State Parole Board and shall make
52 monthly reports to the Chairman of the Parole Board in the form
53 and type required by the chairman, in his discretion, for the
54 proper performance of the probation and parole functions. After a
55 plea or verdict of guilty to a felony is entered against a person
56 and before he is sentenced, the Deputy Commissioner for Community
57 Corrections shall procure from any available source and shall file
58 in the presentence records any information regarding any criminal
59 history of the person such as fingerprints, dates of arrests,
60 complaints, civil and criminal charges, investigative reports of
61 arresting and prosecuting agencies, reports of the National Crime
62 Information Center, the nature and character of each offense,
63 noting all particular circumstances thereof and any similar data
64 about the person. The Deputy Commissioner for Community
65 Corrections shall keep an accurate and complete duplicate record
66 of this file and shall furnish the duplicate to the department.
67 This file shall be placed in and shall constitute a part of the
68 inmate's master file. The Deputy Commissioner for Community
69 Corrections shall furnish this file to the State Parole Board when
70 the file is needed in the course of its official duties. He shall
71 possess either: (i) a master's degree in counseling, corrections
72 psychology, guidance, social work, criminal justice or some
73 related field and at least four (4) years' full-time experience in



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

79 (c) A Deputy Commissioner for Institutions, who shall
80 administer institutions, reception and diagnostic centers,
81 prerelease centers and other facilities and programs provided
82 therein, and shall serve as the Chief Executive Officer of the
83 Division of Institutions. He shall possess either: (i) a
84 master's degree in counseling, criminal justice, psychology,
85 guidance, social work, business or some related field, and at
86 least four (4) years' full-time experience in corrections,
87 including at least one (1) year of correctional management
88 experience; or (ii) a bachelor's degree in a field described in
89 subparagraph (i) of this paragraph and at least six (6) years'
90 full-time work in corrections, four (4) years of which shall have
91 been at the correctional management level.

92 (d) A Deputy Commissioner for Programs, Education,
93 Re-entry, and Vocational Rehabilitation Services who shall
94 initiate and administer programs, including but not limited to,
95 education services, religious services, moral rehabilitation,
96 alcohol and drug rehabilitation, and court re-entry. The Deputy
97 Commissioner for Programs, Education, Re-entry, and Vocational
98 Rehabilitation may coordinate with any educational institution to



99 develop a program for moral rehabilitation with an emphasis on
100 promoting effective programs for release. The Deputy Commissioner
101 for Programs, Education, Re-entry, and Vocational Rehabilitation
102 shall focus on re-entry programs aimed at reducing recidivism and
103 adequately preparing offenders for employment upon their release.
104 The programs shall incorporate a moral component focused on
105 providing offenders with an opportunity to make positive changes
106 while incarcerated that will enable them to be productive members
107 of society upon their release. Such deputy commissioner shall
108 possess either:

109 (i) A master's degree in counseling, corrections,
110 psychology, guidance, social work, criminal justice or some
111 related field and at least four (4) years' full-time experience in
112 such field, including at least one (1) year of supervisory
113 experience; or

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

118 Out of the deputy commissioners employed under this
119 subsection (1), as set out in paragraphs (a) through (d), the
120 commissioner shall designate one (1) of the commissioners as an
121 executive deputy commissioner who shall have the duties prescribed
122 under Section 47-5-8.



123 (2) The commissioner shall employ an administrative
124 assistant for parole matters who shall be selected by the State
125 Parole Board who shall be an employee of the department assigned
126 to the State Parole Board and who shall be located at the office
127 of the State Parole Board, and who shall work under the guidance,
128 supervision and direction of the board.

129 (3) The administrative assistant for parole matters shall
130 receive an annual salary to be established by the Legislature.
131 The salaries of department employees not established by the
132 Legislature shall receive an annual salary established by the
133 State Personnel Board.

134 (4) The commissioner shall employ a superintendent for the
135 Parchman facility, Central Mississippi Correctional Facility and
136 South Mississippi Correctional Institution of the Department of
137 Corrections. The Superintendent of the Mississippi State
138 Penitentiary shall reside on the grounds of the Parchman facility.
139 Each superintendent shall appoint an officer in charge when he is
140 absent.

141 Each superintendent shall develop and implement a plan for
142 the prevention and control of an inmate riot and shall file a
143 report with the Chairman of the Senate Corrections Committee and
144 the Chairman of the House Penitentiary Committee on the first day
145 of each regular session of the Legislature regarding the status of
146 the plan.



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

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

159 **SECTION 2.** Section 47-5-8, Mississippi Code of 1972, is
160 amended as follows:

161 47-5-8. (1) There is created the Mississippi Department of
162 Corrections, which shall be under the policy direction of the
163 Governor. The chief administrative officer of the department
164 shall be the Commissioner of Corrections.

165 (2) (a) There shall be an Executive Deputy Commissioner who
166 shall be directly responsible to the Commissioner of Corrections
167 within the department who shall serve as the Commissioner of
168 Corrections in the absence of the Commissioner and shall assume
169 any and all duties that the Commissioner of Corrections assigns,
170 including, but not limited to, supervising all other deputy



171 commissioners. The salary of the Executive Deputy Commissioner
172 shall not exceed the salary of the Commissioner of Corrections.

173 (* * *b) There shall be a Division of Administration
174 and Finance within the department, which shall have as its chief
175 administrative officer a Deputy Commissioner for Administration
176 and Finance who shall be appointed by the commissioner, and shall
177 be directly responsible to the commissioner.

178 (* * *c) There shall be a Division of Community
179 Corrections within the department, which shall have as its chief
180 administrative officer a Deputy Commissioner for Community
181 Corrections, who shall be appointed by the commissioner, and shall
182 be directly responsible to the commissioner. The Probation and
183 Parole Board shall continue to exercise the authority as provided
184 by law, but after July 1, 1976, the Division of Community
185 Corrections shall serve as the administrative agency for the
186 Probation and Parole Board.

187 (3) The department shall succeed to the exclusive control of
188 all records, books, papers, equipment and supplies, and all lands,
189 buildings and other real and personal property now or hereafter
190 belonging to or assigned to the use and benefit or under the
191 control of the Mississippi State Penitentiary and the Mississippi
192 Probation and Parole Board, except the records of parole process
193 and revocation and legal matters related thereto, and shall have
194 the exercise and control of the use, distribution and disbursement
195 of all funds, appropriations and taxes now or hereafter in



196 possession, levied, collected or received or appropriated for the
197 use, benefit, support and maintenance of these two (2) agencies
198 except as otherwise provided by law, and the department shall have
199 general supervision of all the affairs of the two (2) agencies
200 herein named except as otherwise provided by law, and the care and
201 conduct of all buildings and grounds, business methods and
202 arrangements of accounts and records, the organization of the
203 administrative plans of each institution, and all other matters
204 incident to the proper functioning of the two (2) agencies.

205 (4) The commissioner may lease the lands for oil, gas,
206 mineral exploration and other purposes, and contract with other
207 state agencies for the proper management of lands under such
208 leases or for the provision of other services, and the proceeds
209 thereof shall be paid into the General Fund of the state.

210 **SECTION 3.** Section 47-7-5, Mississippi Code of 1972, is
211 amended as follows:

212 47-7-5. (1) The State Parole Board, created under former
213 Section 47-7-5, is hereby created, continued and reconstituted and
214 shall be composed of five (5) members. The Governor shall appoint
215 the members with the advice and consent of the Senate. All terms
216 shall be at the will and pleasure of the Governor. Any vacancy
217 shall be filled by the Governor, with the advice and consent of
218 the Senate. The Governor shall appoint a chairman of the board.

219 (2) Any person who is appointed to serve on the board shall
220 possess at least a bachelor's degree or a high school diploma and



221 four (4) years' work experience. Each member shall devote his
222 full time to the duties of his office and shall not engage in any
223 other business or profession or hold any other public office. A
224 member shall * * * receive compensation or per diem in addition to
225 his or her salary * * *. Each member shall keep such hours and
226 workdays as required of full-time state employees under Section
227 25-1-98. Individuals shall be appointed to serve on the board
228 without reference to their political affiliations. Each board
229 member, including the chairman, may be reimbursed for actual and
230 necessary expenses as authorized by Section 25-3-41. Each member
231 of the board shall complete annual training developed based on
232 guidance from the National Institute of Corrections, the
233 Association of Paroling Authorities International, or the American
234 Probation and Parole Association. Each first-time appointee of
235 the board shall, within sixty (60) days of appointment, or as soon
236 as practical, complete training for first-time Parole Board
237 members developed in consideration of information from the
238 National Institute of Corrections, the Association of Paroling
239 Authorities International, or the American Probation and Parole
240 Association.

241 (3) The board shall have exclusive responsibility for the
242 granting of parole as provided by Sections 47-7-3 and 47-7-17 and
243 shall have exclusive authority for revocation of the same. The
244 board shall have exclusive responsibility for investigating
245 clemency recommendations upon request of the Governor.



246 (4) The board, its members and staff, shall be immune from
247 civil liability for any official acts taken in good faith and in
248 exercise of the board's legitimate governmental authority.

249 (5) The budget of the board shall be funded through a
250 separate line item within the general appropriation bill for the
251 support and maintenance of the department. Employees of the
252 department which are employed by or assigned to the board shall
253 work under the guidance and supervision of the board. There shall
254 be an executive secretary to the board who shall be responsible
255 for all administrative and general accounting duties related to
256 the board. The executive secretary shall keep and preserve all
257 records and papers pertaining to the board.

258 (6) The board shall have no authority or responsibility for
259 supervision of offenders granted a release for any reason,
260 including, but not limited to, probation, parole or executive
261 clemency or other offenders requiring the same through interstate
262 compact agreements. The supervision shall be provided exclusively
263 by the staff of the Division of Community Corrections of the
264 department.

265 (7) (a) The Parole Board is authorized to select and place
266 offenders in an electronic monitoring program under the conditions
267 and criteria imposed by the Parole Board. The conditions,
268 restrictions and requirements of Section 47-7-17 and Sections
269 47-5-1001 through 47-5-1015 shall apply to the Parole Board and



270 any offender placed in an electronic monitoring program by the
271 Parole Board.

272 (b) Any offender placed in an electronic monitoring
273 program under this subsection shall pay the program fee provided
274 in Section 47-5-1013. The program fees shall be deposited in the
275 special fund created in Section 47-5-1007.

276 (c) The department shall have absolute immunity from
277 liability for any injury resulting from a determination by the
278 Parole Board that an offender be placed in an electronic
279 monitoring program.

280 (8) (a) The Parole Board shall maintain a central registry
281 of paroled inmates. The Parole Board shall place the following
282 information on the registry: name, address, photograph, crime for
283 which paroled, the date of the end of parole or flat-time date and
284 other information deemed necessary. The Parole Board shall
285 immediately remove information on a parolee at the end of his
286 parole or flat-time date.

287 (b) When a person is placed on parole, the Parole Board
288 shall inform the parolee of the duty to report to the parole
289 officer any change in address ten (10) days before changing
290 address.

291 (c) The Parole Board shall utilize an Internet website
292 or other electronic means to release or publish the information.



293 (d) Records maintained on the registry shall be open to
294 law enforcement agencies and the public and shall be available no
295 later than July 1, 2003.

296 (9) An affirmative vote of at least four (4) members of the
297 Parole Board shall be required to grant parole to an inmate
298 convicted of capital murder or a sex crime.

299 (10) This section shall stand repealed on July 1, 2022.

300 **SECTION 4.** Section 97-37-5, Mississippi Code of 1972, is
301 amended as follows:

302 97-37-5. (1) It shall be unlawful for any person who has
303 been convicted of a felony under the laws of this state, any other
304 state, or of the United States to possess any firearm or any bowie
305 knife, dirk knife, butcher knife, switchblade knife, metallic
306 knuckles, blackjack, or any muffler or silencer for any firearm
307 unless such person has received a pardon for such felony, has
308 received a relief from disability pursuant to Section 925(c) of
309 Title 18 of the United States Code, or has received a certificate
310 of rehabilitation pursuant to subsection (3) of this section.

311 (2) Any person violating this section shall be guilty of a
312 felony and, upon conviction thereof, shall be fined not more than
313 Five Thousand Dollars (\$5,000.00), or committed to the custody of
314 the State Department of Corrections for not less than one (1) year
315 nor more than ten (10) years, or both.

316 (3) A person who has been convicted of a felony under the
317 laws of this state, under the laws of another state, under federal



318 law or in state military court may apply for a certificate of
319 rehabilitation as provided in this section. If the person was
320 convicted of a felony under the laws of this state, he or she may
321 apply to the court in which he was convicted for a certificate of
322 rehabilitation. If the person was convicted of a felony under the
323 laws of another state, under federal law or in state military
324 court, he or she may apply to the court in the person's county of
325 residence for a certificate of rehabilitation. A person convicted
326 of a felony under the laws of another state, under federal law or
327 in state military court shall attach a certified copy of his or
328 her judgment and a certified copy of his or her completion of
329 sentence to the petition for a certificate of rehabilitation. The
330 court may grant such certificate in its discretion upon a showing
331 to the satisfaction of the court that the applicant has been
332 rehabilitated and has led a useful, productive and law-abiding
333 life since the completion of his or her sentence and upon the
334 finding of the court that he or she will not be likely to act in a
335 manner dangerous to public safety.

336 (4) (a) A person who is discharged from court-ordered
337 mental health treatment may petition the court which entered the
338 commitment order for an order stating that the person qualifies
339 for relief from a firearms disability.

340 (b) In determining whether to grant relief, the court
341 must hear and consider evidence about:



342 (i) The circumstances that led to imposition of
343 the firearms disability under 18 * * * USCS, Section 922(d)(4);

344 (ii) The person's mental history;

345 (iii) The person's criminal history; and

346 (iv) The person's reputation.

347 (c) A court may not grant relief unless it makes and
348 enters in the record the following affirmative findings:

349 (i) That the person is no longer likely to act in
350 a manner dangerous to public safety; and

351 (ii) Removing the person's disability to purchase
352 a firearm is not against the public interest.

353 **SECTION 5.** This act shall take effect and be in force from
354 and after July 1, 2021.

