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Chapter No. 463
15/HR26/R1376SG
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HOUSE BILL NO. 906

Originated in House

Andrew Miller

Clerk

HOUSE BILL NO. 906

AN ACT TO REPEAL THE AUTHORITY OF THE MISSISSIPPI DEPARTMENT OF CORRECTIONS TO OPERATE REGIMENTED INMATE DISCIPLINE PROGRAMS AND TO PROHIBIT THE FUTURE SENTENCING OF STATE INMATES TO SUCH PROGRAMS; TO AMEND SECTION 47-5-110, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE DEPARTMENT TO IMPLEMENT EVIDENCE-BASED PROGRAMS FOR THE BENEFIT OF INMATES, EMPHASIZING THOSE PROGRAMS THAT ARE TARGETED TO REDUCING RECIDIVISM; TO AMEND SECTIONS 47-5-124, 47-5-940, 47-5-1205 AND 99-15-26 IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

SECTION 1. From and after January 1, 2017, no person to be sentenced to the custody of the Mississippi Department of Corrections shall be ordered to a Regimented Inmate Discipline (RID) program by any court of this state. The Department of Corrections shall either operate RID programs for inmates sentenced to such a program prior to January 1, 2017, or devise and implement suitable alternatives for any such inmates.

SECTION 2. Section 47-5-110, Mississippi Code of 1972, is amended as follows:

47-5-110. (1) Commitment to any institution or facility within the jurisdiction of the department shall be to the

department, not to a particular institution or facility. The commissioner shall assign a newly committed offender to an appropriate facility consistent with public safety; provided, however, that any offender who, in the opinion of the sentencing judge, requires confinement in a maximum security unit shall be assigned, upon initial commitment, to the Parchman facility. The commissioner may extend the place of confinement of eligible offenders as provided under subsection (2) of this section. He may transfer an offender from one (1) institution to another, consistent with the commitment and in accordance with treatment, training and security needs. The commissioner shall have the authority to transfer inmates from the various correctional facilities of the department to restitution centers if such inmates meet the qualifications prescribed in Section 99-37-19. The commissioner shall prepare appropriate standards of eligibility for such transfers of offenders from one (1) institution to another institution and transfers of offenders who meet the qualifications for placement in restitution centers. The commissioner shall have the authority to remove the offenders from restitution centers and to transfer them to other facilities of the department. The commissioner shall obtain the approval of the sentencing court before transferring an offender committed to the department to a restitution center. On the request of the chief executive officer of the affected unit of local government, the commissioner may transfer a person detained in a local facility to

a state facility. The commissioner shall determine the cost of care for that person to be borne by the unit of local government. The commissioner may assign to a community work center, any offender who is convicted under the Mississippi Implied Consent Law and who is sentenced to the custody of the Department of Corrections, except that if a death or a serious maiming has occurred during the commission of the violation of the Mississippi Implied Consent Law, then the offender so convicted may not be assigned to a community work center.

(2) The department may establish by rule or policy and procedure a community prerelease program which shall be subject to the following requirements:

(a) The commissioner may extend the limits of confinement of offenders serving sentences for violent or nonviolent crimes who have six (6) months or less remaining before release on parole, conditional release or discharge to participate in the program. Parole violators may be allowed to participate in the program.

(b) Any offender who is referred to the program shall remain an offender of the department and shall be subject to rules and regulations of the department pertaining to offenders of the department until discharged or released on parole or conditional release by the State Parole Board.

(c) The department shall require the offender to participate in work or educational or vocational programs and

other activities that may be necessary for the supervision and treatment of the offender.

(d) An offender assigned to the program shall be authorized to leave a community prerelease center only for the purpose and time necessary to participate in the program and activities authorized in paragraph (c) of this subsection.

(3) The commissioner shall have absolute immunity from liability for any injury resulting from a determination by the commissioner that an offender shall be allowed to participate in the community prerelease program.

(4) (a) The department may by rule or policy and procedure provide * * * evidence-based programs for the benefit of inmates, with emphasis on those that are targeted at reducing inmate recidivism and prerelease service for offenders at each of its major correctional facilities: Mississippi State Penitentiary, Central Mississippi Correctional Institution and South Mississippi Correctional Institution and other facilities where the department confines state inmates.

(b) The commissioner may establish * * * prerelease programs at the South Mississippi Correctional Institution. * * * The prerelease program may be located on the grounds of this facility or another facility designated by the commissioner.

(c) For purposes of this subsection, the term "evidence-based programs" shall have ascribed to it the meaning in Section 27-103-159.

SECTION 3. Section 47-5-940, Mississippi Code of 1972, is amended as follows:

47-5-940. (1) (a) The Department of Corrections may contract with the Bolivar County Regional Facility for a five-year pilot program dedicated to an intensive and comprehensive alcohol and other drug treatment program for not more than two hundred fifty (250) inmates. The Bolivar County Regional Facility shall have the option of canceling the contract for the drug treatment program after giving the Department of Corrections thirty (30) days' notice of its intent to cancel. The program shall be a prison-based treatment program designed to reduce substance abuse by inmates, correct dysfunctional thinking and behavioral patterns, and prepare inmates to make a successful and crime-free readjustment to the community.

(b) The Department of Corrections shall reimburse the Bolivar County Regional Facility at the per diem rate allowed under Section 47-5-933.

(2) (a) An inmate who is within eighteen (18) months of his earned release date or parole date may be placed in the program.

(b) The Department of Corrections shall remove any inmate within seventy-two (72) hours after being notified by the Bolivar County Regional Facility that the inmate is violent or refuses to participate in the drug treatment program.

(3) The program shall consist, but is not limited to, the following components:

(a) An assessment and placement component using a recidivism needs assessment of the inmates.

(b) An intensive and comprehensive treatment and rehabilitation component which addresses the specific drug or alcohol problem of the inmate. This component shall include relapse prevention strategies * * * and anger management strategies * * *.

(c) An aftercare post-release component that has a specific transition plan for each inmate. The transition plan must address specific post-release needs such as employment, housing, medical care, relapse prevention and treatment. The plan shall require personnel to assist the inmate with these needs and to assist in finding community-based programs for the inmate. The plan shall require the inmate to be tracked in at least thirty-day intervals to measure compliance with his established transition plan.

(d) A monitoring assessment of recidivism containing post-release history of substance abuse, breaches of trust, arrests, convictions, employment, community functioning, and marital and family interaction.

(4) The department shall file a report annually on the program with specific data on recidivism of inmates including the data required in subsection (3)(d).

(5) The program authorized under this section may be renewed if it meets performance requirements as may be determined by the Legislature.

(6) This section shall be repealed on July 3, * * * 2018.

SECTION 4. Section 47-5-124, Mississippi Code of 1972, is amended as follows:

47-5-124. (1) Beginning January 1, 1995, the Department of Corrections shall phase in the following uniform designations for all offenders housed by the Department of Corrections:

(a) Maximum security offenders - Red and white horizontal stripes which are three (3) inches wide;

(b) Medium security offenders - Black and white horizontal stripes which are three (3) inches wide; and

(c) Minimum security offenders - Green and white horizontal stripes which are three (3) inches wide.

No offender may wear any article of clothing that is not issued to the offender by the Department of Corrections. The word "convict" must be written on the back of the shirt or other upper outer garment of clothing.

(2) No convict incarcerated in a state correctional facility or a private correctional facility may be authorized or permitted to operate, use or have in his possession during the term of his incarceration any radio, television, record player, tape player, recorder, compact disc player, stereo or computer, except when such devices are used in a work incentive program * * * authorized

and administered by the Department of Corrections. The department shall develop and implement a plan to return such devices owned by inmates to the families of such inmates.

(3) No state correctional facility existing on August 23, 1994, and no correctional facility, public or private, constructed or contracted for under the provisions of this chapter shall include weight lifting equipment, except when such equipment is used in a work incentive program * * *.

(4) An inmate is prohibited from possessing individual air conditioners. However, the Department of Finance and Administration and Department of Corrections shall determine the feasibility and cost effectiveness of heating and refrigerated air conditioning equipment for the cooling and heating of a correctional facility constructed after August 23, 1994.

SECTION 5. Section 47-5-1205, Mississippi Code of 1972, is amended as follows:

47-5-1205. (1) The State Prison Emergency Construction and Management Board shall provide for the construction and shall equip additional housing and necessary support facilities for one thousand two hundred sixteen (1,216) medium security male offenders and for two hundred (200) male offenders sentenced to * * * evidence-based programs for the benefit of inmates at the South Mississippi Correctional Institution. The department may house offenders not sentenced to * * * such programs in the two

hundred (200) beds reserved for the program as it deems appropriate.

(2) The State Prison Emergency Construction and Management Board shall provide for the construction and shall equip additional housing and support facilities for seven hundred (700) medium security male offenders at the Central Mississippi Correctional Facility.

(3) The State Prison Emergency Construction and Management Board shall use funds from the "Corrections Facilities Emergency Construction Fund."

(4) The Department of Finance and Administration shall use its emergency powers to expedite the construction of these facilities. In the planning, design, procurement and construction of these facilities, the board shall make maximum utilization of plans, specifications and processes used in, completed or on-going construction projects for the Mississippi Department of Corrections.

SECTION 6. 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.

(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 * * * an effective evidence-based program or a properly controlled pilot study designed to contribute to the evidence-based research literature on programs targeted at

reducing recidivism. Such program or pilot study may be community based or institutionally based and should address risk factors identified in a formal assessment of the offender's risks and needs.

(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.

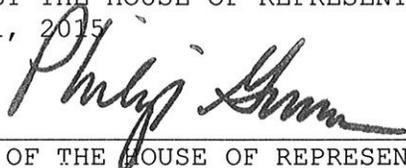
(4) Upon successful completion of the court-imposed conditions permitted by subsection (2) of this section, the court shall direct that the cause be dismissed and the case be closed.

(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.

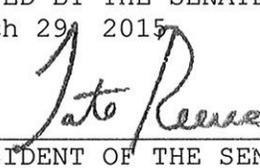
(6) This section shall take effect and be in force from and after March 31, 1983.

SECTION 7. This act shall take effect and be in force from and after July 1, 2015.

PASSED BY THE HOUSE OF REPRESENTATIVES
March 31, 2015


SPEAKER OF THE HOUSE OF REPRESENTATIVES

PASSED BY THE SENATE
March 29, 2015


PRESIDENT OF THE SENATE

APPROVED BY THE GOVERNOR


GOVERNOR

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