MISSISSIPPI LEGISLATURE REGULAR SESSION 2021

By: Senator(s) Simmons (12th)

To: Judiciary, Division B; Accountability, Efficiency, Transparency

SENATE BILL NO. 2133

AN ACT TO END THE USE OF RESTITUTION CENTERS AND CONVERT RESTITUTION CENTERS TO POST-RELEASE REENTRY CENTERS; TO REPEAL SECTION 99-37-19, MISSISSIPPI CODE OF 1972, WHICH AUTHORIZES THE ESTABLISHMENT OF RESTITUTION CENTERS; TO REPEAL SECTION 99-37-21, MISSISSIPPI CODE OF 1972, WHICH AUTHORIZES THE COOPERATION OF THE DEPARTMENT OF PUBLIC WELFARE AND THE DEPARTMENT OF CORRECTIONS AT RESTITUTION CENTERS; TO BRING FORWARD SECTION 25-3-25, MISSISSIPPI CODE OF 1972, TO OUTLINE THE DUTIES AND COMPENSATION FOR SHERIFFS, FOR THE PURPOSE OF POSSIBLE AMENDMENT; TO BRING FORWARD SECTION 45-33-27, MISSISSIPPI CODE OF 1972, WHICH PROVIDES THE TIME FRAME FOR REGISTRATION OF OFFENDERS, FOR THE PURPOSE OF POSSIBLE AMENDMENT; TO BRING FORWARD SECTION 45-33-35, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR A CENTRAL REGISTRY OF OFFENDERS, FOR THE PURPOSE OF POSSIBLE AMENDMENT; TO BRING FORWARD SECTION 47-5-10, MISSISSIPPI CODE OF 1972, WHICH OUTLINES DEPARTMENT FUNCTIONS; TO BRING FORWARD SECTION 47-5-26, MISSISSIPPI CODE OF 1972, WHICH OUTLINES SUBORDINATE PERSONNEL, FOR THE PURPOSE OF POSSIBLE AMENDMENT; TO BRING FORWARD SECTION 47-5-110, MISSISSIPPI CODE OF 1972, WHICH ASSIGNS THE PRE-RELEASE PROGRAM, FOR THE PURPOSE OF POSSIBLE AMENDMENT; TO BRING FORWARD SECTION 47-5-194, MISSISSIPPI CODE OF 1972, WHICH ESTABLISHES THE CASHLESS SYSTEM AND PROHIBITS FINANCIAL ITEMS, FOR THE PURPOSE OF POSSIBLE AMENDMENT; TO BRING FORWARD SECTION 47-5-1207, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR THE CONSTRUCTION OF ADDITIONAL PUBLIC OR PRIVATE CORRECTIONAL FACILITIES, FOR THE PURPOSE OF POSSIBLE AMENDMENT; TO BRING FORWARD SECTION 47-7-37, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR PROBATION VIOLATIONS AND PROCEDURES FOR BAIL, FOR THE PURPOSE OF POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

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

SECTION 1. (1) The Department of Corrections is directed to convert the Greenwood Restitution Center, Flowood Restitution

Center, Hinds County Restitution Center, and Pascagoula Restitution Center to operate as post-release reentry centers.

(2) A person who is eligible for release, including parole and early release supervision, is eligible for placement in a post-release reentry center. Participation in a post-release reentry center is intended for those who do not have immediate access to housing or other support services upon release from incarceration. Residents of post-release reentry centers shall remain at a center for ninety (90) days or until other housing becomes available, whichever period is shorter. A person otherwise eligible for release from incarceration may not be detained due to his or her refusal to accept placement in a post-release reentry center. The residence restrictions of Section 45-33-25 do not apply to post-release reentry centers regardless of the location of the center.

SECTION 2. (1) The Department of Corrections must institute and administer services in Post-Release Reentry Centers at the facilities identified in Section 1 of this act and at other facilities that provide post-release reentry services.

(2) The Department of Corrections must:

(a) Seek funding from federal or other sources to provide the maximum supportive services for residents and the families of residents who are participating in a post-release reentry program;

(b) Develop programs at post-release reentry centers through which residents are provided support, training, and connection to services necessary to contribute to society and the support of themselves and their families upon returning to local communities following incarceration; and

(c) Develop evidence-based pilot programs in furtherance of aiding personal growth and development, overcoming problematic behaviors, establishing a verified residency plan, and teaching skills to enhance the resident's quality of life and successful reentry into the community. Such programs may be residential or nonresidential as appropriate.

(3) The Department of Corrections must assist residents in obtaining:

(a) Counseling or case management services;

(b) Housing;

(c) Employment or job skills training;

(d) State-issued driver's licenses or a state-issued identification card should a driver's license be unobtainable;

(e) Health care services;

(f) Educational services;

(g) Cognitive behavioral programs;

(h) Drug and alcohol treatment and recovery services; and

(i) Other community support services.

SECTION 3. Section 99-37-19, Mississippi Code of 1972, which authorizes county and municipal governing authorities to cooperate in the establishment of restitution centers, is repealed.

SECTION 4. Section 99-37-21, Mississippi Code of 1972, which authorizes the cooperation of the Department of Public Welfare and the Department of Corrections in the institution and administration of services at restitution centers, is repealed.

SECTION 5. Section 25-3-25, Mississippi Code of 1972, is brought forward as follows:

25-3-25. (1) Except as otherwise provided in subsections (2) through (9), the salaries of sheriffs of the various counties are fixed as full compensation for their services.

The annual salary for each sheriff shall be based upon the total population of his county according to the latest federal decennial census in the following categories and for the following amounts; however, no sheriff shall be paid less than the salary authorized under this section to be paid the sheriff based upon the population of the county according to the most recent federal decennial census:

(a) For counties with a total population of more than one hundred thousand (100,000), a salary of Ninety-nine Thousand Dollars ($99,000.00).

(b) For counties with a total population of more than forty-five thousand (45,000) and not more than one hundred

thousand (100,000), a salary of Ninety Thousand Dollars ($90,000.00).

(c) For counties with a total population of more than thirty-four thousand (34,000) and not more than forty-five thousand (45,000), a salary of Eighty-five Thousand Dollars ($85,000.00).

(d) For counties with a total population of more than fifteen thousand (15,000) and not more than thirty-four thousand (34,000), a salary of Eighty Thousand Dollars ($80,000.00).

(e) For counties with a total population of not more than fifteen thousand (15,000), a salary of Seventy-five Thousand Dollars ($75,000.00).

(2) In addition to the salary provided for in subsection (1) of this section, the Board of Supervisors of Leflore County, in its discretion, may pay an annual supplement to the sheriff of the county in an amount not to exceed Ten Thousand Dollars ($10,000.00). The Legislature finds and declares that the annual supplement authorized by this subsection is justified in such county for the following reasons:

(a) The Mississippi Department of Corrections operates and maintains a restitution center within the county;

(b) The Mississippi Department of Corrections operates and maintains a community work center within the county;

(c) There is a resident circuit court judge in the county whose office is located at the Leflore County Courthouse;

(d) There is a resident chancery court judge in the county whose office is located at the Leflore County Courthouse;

(e) The Magistrate for the Fourth Circuit Court District is located in the county and maintains his office at the Leflore County Courthouse;

(f) The Region VI Mental Health-Mental Retardation Center, which serves a multicounty area, calls upon the sheriff to provide security for out-of-town mental patients, as well as patients from within the county;

(g) The increased activity of the Child Support Division of the Department of Human Services in enforcing in the courts parental obligations has imposed additional duties on the sheriff; and

(h) The dispatchers of the enhanced E-911 system in place in Leflore County have been placed under the direction and control of the sheriff.

(3) In addition to the salary provided for in subsection (1) of this section, the Board of Supervisors of Rankin County, in its discretion, may pay an annual supplement to the sheriff of the county in an amount not to exceed Ten Thousand Dollars ($10,000.00). The Legislature finds and declares that the annual supplement authorized by this subsection is justified in such county for the following reasons:

(a) The Mississippi Department of Corrections operates and maintains the Central Mississippi Correctional Facility within the county;

(b) The State Hospital is operated and maintained within the county at Whitfield;

(c) Hudspeth Regional Center, a facility maintained for the care and treatment of persons with an intellectual disability, is located within the county;

(d) The Mississippi Law Enforcement Officers Training Academy is operated and maintained within the county;

(e) The State Fire Academy is operated and maintained within the county;

(f) The Pearl River Valley Water Supply District, ordinarily known as the "Reservoir District," is located within the county;

(g) The Jackson-Medgar Wiley Evers International Airport is located within the county;

(h) The patrolling of the state properties located within the county has imposed additional duties on the sheriff; and

(i) The sheriff, in addition to providing security to the nearly one hundred thousand (100,000) residents of the county, has the duty to investigate, solve and assist in the prosecution of any misdemeanor or felony committed upon any state property located in Rankin County.

(4) In addition to the salary provided for in subsection (1) of this section, the Board of Supervisors of Neshoba County shall pay an annual supplement to the sheriff of the county an amount equal to Ten Thousand Dollars ($10,000.00).

(5) In addition to the salary provided for in subsection (1) of this section, the Board of Supervisors of Tunica County, in its discretion, may pay an annual supplement to the sheriff of the county an amount equal to Ten Thousand Dollars ($10,000.00), payable beginning April 1, 1997.

(6) In addition to the salary provided for in subsection (1) of this section, the Board of Supervisors of Hinds County shall pay an annual supplement to the sheriff of the county in an amount equal to Fifteen Thousand Dollars ($15,000.00). The Legislature finds and declares that the annual supplement authorized by this subsection is justified in such county for the following reasons:

(a) Hinds County has the greatest population of any county, two hundred fifty-four thousand four hundred forty-one (254,441) by the 1990 census, being almost one hundred thousand (100,000) more than the next most populous county;

(b) Hinds County is home to the State Capitol and the seat of all state government offices;

(c) Hinds County is the third largest county in geographic area, containing eight hundred seventy-five (875) square miles;

(d) Hinds County is comprised of two (2) judicial districts, each having a courthouse and county office buildings;

(e) There are four (4) resident circuit judges, four (4) resident chancery judges, and three (3) resident county judges in Hinds County, the most of any county, with the sheriff acting as chief executive officer and provider of bailiff services for all;

(f) The main offices for the clerk and most of the judges and magistrates for the United States District Court for the Southern District of Mississippi are located within the county;

(g) The state's only urban university, Jackson State University, is located within the county;

(h) The University of Mississippi Medical Center, combining the medical school, dental school, nursing school and hospital, is located within the county;

(i) Mississippi Veterans Memorial Stadium, the state's largest sports arena, is located within the county;

(j) The Mississippi State Fairgrounds, including the Coliseum and Trade Mart, are located within the county;

(k) Hinds County has the largest criminal population in the state, such that the Hinds County Sheriff's Department operates the largest county jail system in the state, housing almost one thousand (1,000) inmates in three (3) separate detention facilities;

(l) The Hinds County Sheriff's Department handles more mental and drug and alcohol commitment cases than any other sheriff's department in the state;

(m) The Mississippi Department of Corrections maintains a restitution center within the county;

(n) The Mississippi Department of Corrections regularly houses as many as one hundred (100) state convicts within the Hinds County jail system; and

(o) The Hinds County Sheriff's Department is regularly asked to provide security services not only at the Fairgrounds and Memorial Stadium, but also for events at the Mississippi Museum of Art and Jackson City Auditorium.

(7) In addition to the salary provided for in subsection (1) of this section, the Board of Supervisors of Wilkinson County, in its discretion, may pay an annual supplement to the sheriff of the county in an amount not to exceed Ten Thousand Dollars ($10,000.00). The Legislature finds and declares that the annual supplement authorized by this subsection is justified in such county because the Mississippi Department of Corrections contracts for the private incarceration of state inmates at a private correctional facility within the county.

(8) In addition to the salary provided for in subsection (1) of this section, the Board of Supervisors of Marshall County, in its discretion, may pay an annual supplement to the sheriff of the county in an amount not to exceed Ten Thousand Dollars

($10,000.00). The Legislature finds and declares that the annual supplement authorized by this subsection is justified in such county because the Mississippi Department of Corrections contracts for the private incarceration of state inmates at a private correctional facility within the county.

(9) In addition to the salary provided in subsection (1) of this section, the Board of Supervisors of Greene County, in its discretion, may pay an annual supplement to the sheriff of the county in an amount not to exceed Ten Thousand Dollars ($10,000.00). The Legislature finds and declares that the annual supplement authorized by this subsection is justified in such county for the following reasons:

(a) The Mississippi Department of Corrections operates and maintains the South Mississippi Correctional Facility within the county;

(b) In 1996, additional facilities to house another one thousand four hundred sixteen (1,416) male offenders were constructed at the South Mississippi Correctional Facility within the county; and

(c) The patrolling of the state properties located within the county has imposed additional duties on the sheriff justifying additional compensation.

(10) In addition to the salary provided in subsection (1) of this section, the board of supervisors of any county, in its discretion, may pay an annual supplement to the sheriff of the

county in an amount not to exceed Ten Thousand Dollars ($10,000.00). The amount of the supplement shall be spread on the minutes of the board. The annual supplement authorized in this subsection shall not be in addition to the annual supplements authorized in subsections (2) through (9).

(11) (a) The salaries provided in this section shall be payable monthly on the first day of each calendar month by chancery clerk's warrant drawn on the general fund of the county; however, the board of supervisors, by resolution duly adopted and entered on its minutes, may provide that such salaries shall be paid semimonthly on the first and fifteenth day of each month. If a pay date falls on a weekend or legal holiday, salary payments shall be made on the workday immediately preceding the weekend or legal holiday.

(b) At least Ten Dollars ($10.00) from each fee collected and deposited into the county's general fund under the provisions of paragraphs (a), (c) and (g) of subsection (1) of Section 25-7-19 shall be used for the sheriffs' salaries authorized in Section 25-3-25; as such Ten Dollar ($10.00) amount was authorized during the 2007 Regular Session in Chapter 331, Laws of 2007, for the purpose of providing additional monies to the counties for sheriffs' salaries.

(12) (a) All sheriffs, each year, shall attend twenty (20) hours of continuing education courses in law enforcement. Such courses shall be approved by the Mississippi Board on Law

Enforcement Officers Standards and Training. Such education courses may be provided by an accredited law enforcement academy or by the Mississippi Sheriffs' Association.

(b) The Mississippi Board on Law Enforcement Officers Standards and Training shall reimburse each county for the expenses incurred by sheriffs and deputy sheriffs for attendance at any approved training programs as required by this subsection.

SECTION 6. Section 45-33-27, Mississippi Code of 1972, is brought forward as follows:

45-33-27. (1) A person required to register on the basis of a conviction, adjudication of delinquency or acquittal by reason of insanity entered shall register with the responsible agency within three (3) business days of the date of judgment unless the person is immediately confined or committed, in which case the person shall register before release in accordance with the procedures established by the department. The responsible agency shall immediately forward the registration information to the Department of Public Safety. The person is also required to personally appear at a facility designated by the Department of Public Safety, or in a manner of the Department of Public Safety's choosing, including by electronic means, within three (3) days of registration with the responsible agency and to obtain a sex offender registration card.

(2) If a person who is required to register under this section is released from prison or placed on parole or supervised

release or in a restitution center or community work center, the Department of Corrections shall perform the registration duties before placement in a center or before release and immediately forward the registration information to the Department of Public Safety. The person is also required to personally appear at a facility designated by the Department of Public Safety, or in a manner of the Department of Public Safety's choosing, including by electronic means, within three (3) days of release or placement in a restitution center or community work center.

(3) If a person required to register under this section is placed on probation, the court, at the time of entering the order, shall register the person and immediately forward the registration information to the Department of Public Safety. The person is also required to personally appear at a facility designated by the Department of Public Safety, or in a manner of the Department of Public Safety's choosing, including by electronic means, within three (3) days of the entry of the order.

(4) Any person required to register who is neither incarcerated, detained nor committed at the time the requirement to register attaches shall present himself to the county sheriff to register within three (3) business days, and shall personally appear at a facility designated by the Department of Public Safety, or in a manner of the Department of Public Safety's choosing, including by electronic means, within three (3) days of the time the requirement to register attaches.

(5) An offender moving to or returning to this state from another jurisdiction shall notify the Department of Public Safety ten (10) days before the person first resides in or returns to this state and shall present himself to the sheriff of the county of his residence within three (3) business days after first residing in or returning to a county of this state to provide the required registration information. The person is also required to register by personally appearing at a facility designated by the Department of Public Safety, or in a manner of the Department of Public Safety's choosing, including by electronic means, within three (3) days after first residing in or moving to a county of this state. If the offender fails to appear for registration as required in this state, the department shall notify the other jurisdiction of the failure to register.

(6) A person, other than a person confined in a correctional or juvenile detention facility or involuntarily committed on the basis of mental illness, who is required to register on the basis of a sex offense for which a conviction, adjudication of delinquency or acquittal by reason of insanity was entered shall register with the sheriff of the county in which he resides no later than August 15, 2000, or within three (3) business days of first residing in or returning to a county of this state.

(7) Every person required to register shall show proof of domicile. The commissioner shall promulgate any rules and

regulations necessary to enforce this requirement and shall prescribe the means by which such person may show domicile.

(8) Any driver's license photograph, I.D. photograph, sex offender photograph, fingerprint, driver's license application and/or anything submitted to the Department of Public Safety by a known convicted sex offender, registered or not registered, can be used by the Department of Public Safety or any other authorized law enforcement agency for any means necessary in registration, identification, investigation regarding their tracking or identification.

(9) The department will assist local law enforcement agencies in the effort to conduct address and other verifications of registered sex offenders and will assist in the location and apprehension of noncompliant sex offenders.

SECTION 7. Section 45-33-35, Mississippi Code of 1972, is brought forward as follows:

45-33-35. (1) The Mississippi Department of Public Safety shall maintain a central registry of sex offender information as defined in Section 45-33-25 and shall adopt rules and regulations necessary to carry out this section. The responsible agencies shall provide the information required in Section 45-33-25 on a form developed by the department to ensure accurate information is maintained.

(2) Upon conviction, adjudication or acquittal by reason of insanity of any sex offender, if the sex offender is not

immediately confined or not sentenced to a term of imprisonment, the clerk of the court which convicted and sentenced the sex offender shall inform the person of the duty to register, including the duty to personally appear at a facility designated by the Department of Public Safety, or in a manner of the Department of Public Safety's choosing, including by electronic means, and shall perform the registration duties as described in Section 45-33-23 and forward the information to the department.

(3) Before release from prison or placement on parole, supervised release or in a work center or restitution center, the Department of Corrections shall inform the person of the duty to register, including the duty to personally appear at a facility designated by the Department of Public Safety, or in a manner of the Department of Public Safety's choosing, including by electronic means, and shall perform the registration duties as described in Section 45-33-23 and forward the information to the Department of Public Safety.

(4) Before release from a community regional mental health center or from confinement in a mental institution following an acquittal by reason of insanity, the director of the facility shall inform the offender of the duty to register, including the duty to personally appear at a facility designated by the Department of Public Safety, or in a manner of the Department of Public Safety's choosing, including by electronic means, and shall

perform the registration duties as described in Section 45-33-23 and forward the information to the Department of Public Safety.

(5) Before release from a youthful offender facility, the director of the facility shall inform the person of the duty to register, including the duty to personally appear at a facility designated by the Department of Public Safety, or in a manner of the Department of Public Safety's choosing, including by electronic means, and shall perform the registration duties as described in Section 45-33-23 and forward the information to the Department of Public Safety.

(6) In addition to performing the registration duties, the responsible agency shall:

(a) Inform the person having a duty to register that:

(i) The person is required to personally appear at a facility designated by the Department of Public Safety, or in a manner of the Department of Public Safety's choosing, including by electronic means, at least ten (10) days before changing address.

(ii) Any change of address to another jurisdiction shall be reported to the department by personally appearing at a facility designated by the Department of Public Safety, or in a manner of the Department of Public Safety's choosing, including by electronic means, not less than ten (10) days before the change of address. The offender shall comply with any registration requirement in the new jurisdiction.

(iii) The person must register in any jurisdiction where the person is employed, carries on a vocation, is stationed in the military or is a student.

(iv) Address verifications shall be made by personally appearing at a facility designated by the Department of Public Safety, or in a manner of the Department of Public Safety's choosing, including by electronic means, within the required time period.

(v) Notification or verification of a change in status of a registrant's enrollment, employment or vocation at any public or private educational institution, including any secondary school, trade or professional institution, or institution of higher education shall be reported to the department by personally appearing at a facility designated by the Department of Public Safety, or in a manner of the Department of Public Safety's choosing, including by electronic means, within three (3) business days of the change.

(vi) If the person has been convicted of a sex offense, the person shall notify any organization for which the person volunteers in which volunteers have direct, private or unsupervised contact with minors that the person has been convicted of a sex offense as provided in Section 45-33-32(1).

(vii) Upon any change of name or employment, a registrant is required to personally appear at a facility designated by the Department of Public Safety, or in a manner of

the Department of Public Safety's choosing, including by electronic means, within three (3) business days of the change.

(viii) Upon any change of vehicle information, a registrant is required to report the change on an appropriate form supplied by the department within three (3) business days of the change.

(ix) Upon any change of e-mail address or addresses, instant message address or addresses or any other designation used in Internet communications, postings or telephone communications, a registrant is required to report the change on an appropriate form supplied by the department within three (3) business days of the change.

(x) Upon any change of information deemed to be necessary to the state's policy to assist local law enforcement agencies' efforts to protect their communities, a registrant is required to report the change on an appropriate form supplied by the department within three (3) business days of the change.

(b) Require the person to read and sign a form stating that the duty of the person to register under this chapter has been explained.

(c) Obtain or facilitate the obtaining of a biological sample from every registrant as required by this chapter if such biological sample has not already been provided to the Mississippi Forensics Laboratory.

(d) Provide a copy of the order of conviction or sentencing order to the department at the time of registration.

SECTION 8. Section 47-5-10, Mississippi Code of 1972, is brought forward 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 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 47-5-6 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 9. Section 47-5-26, Mississippi Code of 1972, is brought forward 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, 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.

(d) A Deputy Commissioner for Programs, Education, Re-entry, and Vocational Rehabilitation Services who shall initiate and administer programs, including but not limited to, education services, religious services, moral rehabilitation, alcohol and drug rehabilitation, and court re-entry. The Deputy Commissioner for Programs, Education, Re-entry, and Vocational Rehabilitation may coordinate with any educational institution to develop a program for moral rehabilitation with an emphasis on promoting effective programs for release. The Deputy Commissioner for Programs, Education, Re-entry, and Vocational Rehabilitation shall focus on re-entry programs aimed at reducing recidivism and adequately preparing offenders for employment upon their release.

The programs shall incorporate a moral component focused on providing offenders with an opportunity to make positive changes while incarcerated that will enable them to be productive members of society upon their release. Such deputy commissioner 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, 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.

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

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

SECTION 10. Section 47-5-110, Mississippi Code of 1972, is brought forward 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 11. Section 47-5-194, Mississippi Code of 1972, is brought forward as follows:

47-5-194. (1) It is unlawful for any offender committed to the department to possess:

(a) Coin or currency on his person or in premises assigned to him or under his control;

(b) A money order, traveler's check, promissory note, credit card, personal check or other negotiable instrument.

(2) Subsection (1) does not apply to offenders who are granted a parole; placed on work release, supervised earned release, earned probation or probation; or granted leave for the duration of such leave; however, these offenders may be restricted by the parole or probation order or by order of the commissioner with respect to amounts or form of money possessed or controlled by the offenders.

(3) A violation of subsection (1) shall be considered a rules violation or a violation of the conditions of parole or probation as the case may be and shall be processed in the manner of similar violations.

(4) Any money possessed by an offender may be confiscated by the corrections officer who discovers the possession. The department shall establish a policy and procedure for the collection and accounting of all confiscated funds. All confiscated coin or currency shall be deposited in a special fund which is created in the State Treasury. The money in this special fund may be appropriated by the Legislature to enhance the security of the department's facilities. Unexpended amounts remaining in the special fund at the end of a fiscal year shall not lapse into the State General Fund, but funds may be expended only by appropriation approved by the Legislature. Any interest earned on amounts in the special fund shall be deposited to the credit of the special fund.

(5) The possession of coin, currency, money order, traveler's check or other negotiable instrument on the grounds of a facility is prohibited.

(6) The department shall establish a cashless system for facilities no later than July 1, 1996. The department shall provide lockers for visitors to place prohibited items when on grounds of a facility. The department is authorized to charge visitors an hourly rental fee for use of the lockers. Community work centers and restitution centers are exempt unless designated by the commissioner as being included in the cashless system.

SECTION 12. Section 47-5-1207, Mississippi Code of 1972, is brought forward as follows:

47-5-1207. (1) The State Prison Emergency Construction and Management Board shall select a suitable site or sites for a public or private facility not to exceed one thousand (1,000) beds in any of the following counties: Lauderdale, Quitman, Perry and Sharkey.

(2) The State Prison Emergency Construction and Management Board may contract for the construction, lease, acquisition, improvement, operation and management of a private correctional facility in Marshall County or Wilkinson County for the private incarceration of not more than one thousand (1,000) state inmates at the facility.

(3) The State Prison Emergency Construction and Management Board may contract with any county industrial or economic development authority or district for the construction, lease, acquisition, improvement, operation and management of a private correctional facility to be sited or constructed under Chapter 26, Laws of 1994 First Extraordinary Session.

(4) The State Prison Emergency Construction and Management Board may contract for the construction, lease, acquisition, improvement and operation of two (2) private restitution centers, one of which may be in Bolivar County. The capacity of each restitution center shall not exceed seventy-five (75) state inmates.

(5) (a) The State Prison Emergency Construction and Management Board may contract for the special needs facility and services authorized in Sections 47-5-1101 through 47-5-1123.

(b) No later than September 15, 1994, the Joint Legislative Committee on Performance Evaluation and Expenditure Review shall determine the state medical cost per inmate day to use as a basis for measuring the validity of ten percent (10%) savings of the contractor cost.

(6) Each private contractor and private facility housing state inmates must meet the requirements of * * * Sections 47-5-1211 through * * * 47-5-1227.

(7) No additional emergency prisons shall be located in any city and/or county, except upon the submission to the State Prison Emergency Construction and Management Board, of a resolution signed by a majority of the governing authorities of the city and/or county, wherein the proposed prison site is to be located, approving and/or requesting that a prison facility be located at the proposed site.

SECTION 13. Section 47-7-37, Mississippi Code of 1972, is brought forward 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 47-7-40.

(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 one or more technical violations, 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 revocation and not to exceed one hundred twenty (120) days for the second revocation. For the third revocation, 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 revocation, 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 one or more technical violations, 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 revocation and not to exceed one hundred twenty (120) days for the second revocation. For the third revocation, 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 revocation, 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 one or more technical violations, 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 revocation and not to exceed one hundred twenty (120) days for the second revocation. For the third revocation, 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 revocation, 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 one or more technical violations 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 revocation and not to exceed one hundred twenty (120) days for the second revocation. For the third revocation, 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 revocation, 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 14. This act shall take effect and be in force from and after July 1, 2021.