

By: Representatives Gipson, Bomgar

To: Judiciary B

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1033

1 AN ACT TO PROVIDE THAT INCARCERATION SHALL NOT AUTOMATICALLY
2 FOLLOW THE NONPAYMENT OF A FINE, RESTITUTION, OR COURT COSTS; TO
3 PROVIDE THAT THE AGGREGATE TOTAL OF THE PERIOD OF INCARCERATION
4 IMPOSED PURSUANT TO THIS SECTION AND THE TERM OF THE SENTENCE
5 ORIGINALLY IMPOSED MAY NOT EXCEED THE MAXIMUM TERM OF IMPRISONMENT
6 AUTHORIZED FOR THE OFFENSE; TO AMEND SECTION 63-1-53, MISSISSIPPI
7 CODE OF 1972, TO REVISE HOW NOTICE OF DRIVER'S LICENSE SUSPENSION
8 IS PROVIDED; TO AMEND SECTIONS 99-19-20, 99-37-7 AND 47-1-1,
9 MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE PRECEDING SECTIONS;
10 TO AMEND SECTION 63-1-71, MISSISSIPPI CODE OF 1972, TO LIMIT THE
11 SUSPENSION OF DRIVING PRIVILEGES FOR VIOLATIONS OF THE UNIFORM
12 CONTROLLED SUBSTANCES LAW TO VIOLATIONS OF DRIVING UNDER THE
13 INFLUENCE OF CONTROLLED SUBSTANCES; TO AMEND SECTION 47-7-3,
14 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT AN OTHERWISE INELIGIBLE
15 INMATE FOR PAROLE SHALL BE ELIGIBLE FOR PAROLE IF AN INMATE HAS
16 NOT BEEN CONVICTED OF COMMITTING A CRIME OF VIOLENCE, DRUG
17 TRAFFICKING OR AS A HABITUAL OFFENDER AND HE OR SHE HAS SERVED AT
18 LEAST 25% OF HIS OR HER SENTENCE; TO AMEND SECTION 9-23-15,
19 MISSISSIPPI CODE OF 1972, TO REVISE ELIGIBILITY FOR DRUG COURTS;
20 AND FOR RELATED PURPOSES.

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

22 **SECTION 1.** (1) Incarceration shall not automatically follow
23 the nonpayment of a fine, restitution, or court costs.
24 Incarceration may be employed only after the court has conducted a
25 hearing and examined the reasons for nonpayment and finds, on the
26 record, that the defendant was indigent or could have made payment
27 but refused to do so. When determining whether a person is



28 indigent, the court shall use the current Federal Poverty
29 Guidelines and there shall be a presumption of indigence when a
30 defendant's income is at or below one hundred twenty-five percent
31 (125%) of the Federal Poverty Guidelines, subject to a review of
32 his or her assets. A defendant at or below one hundred
33 twenty-five percent (125%) of the Federal Poverty Guidelines
34 without substantial liquid assets available to pay fines, fees,
35 and costs shall be deemed indigent. In determining whether a
36 defendant has substantial liquid assets, the judge shall not
37 consider up to Ten Thousand Dollars (\$10,000.00) in tangible
38 personal property, including motor vehicles, household goods, cash
39 on hand, or any other assets or monies exempted from seizure under
40 execution or attachment as provided under Section 85-3-1. If the
41 defendant is above one hundred twenty-five percent (125%) of the
42 Federal Poverty Guidelines, the judge shall make an individualized
43 assessment of his or her ability to pay based on the totality of
44 the circumstances including, but not limited to, the defendant's
45 disposable income, financial obligations and liquid assets. If
46 the judge determines that a defendant who claims indigence is not
47 indigent and the defendant could have made payment but refused to
48 do so, the case file shall include a written explanation of the
49 basis for the determination of the judge. In justice and
50 municipal court, such finding shall be included in the court's
51 order.



52 (2) If it appears to the satisfaction of the court that
53 nonpayment is not willful, the court shall enter an order that
54 allows the defendant additional time for payment, reduces the
55 amount of each installment, revokes the fine, order of restitution
56 or the unpaid portion thereof, in whole or in part, or allows the
57 defendant to perform community service at the state minimum wage
58 per hour rate. If the court finds nonpayment is willful after
59 consideration of the defendant's situation, means, and conduct
60 with regard to the nonpayment, the court shall determine the
61 period of incarceration, if any, subject to the limitations set by
62 law and subsection (3) of this section. Any county or circuit
63 court judge is authorized to order a defendant to participate in a
64 joint state-county work program, if the defendant meets the
65 eligibility requirements, as provided under this section, and if
66 the district attorney and sheriff of the county agree to the
67 participation.

68 (3) If, at the time the fine, restitution or court cost is
69 ordered, a sentence of incarceration is also imposed, the
70 aggregate total of the period of incarceration imposed pursuant to
71 this section and the term of the sentence originally imposed
72 may not exceed the maximum term of imprisonment authorized for the
73 offense.

74 **SECTION 2.** Section 63-1-53, Mississippi Code of 1972, is
75 amended as follows:



76 63-1-53. (1) Upon failure of any person to respond timely
77 and properly to a summons or citation charging such person with
78 any violation of this title, or upon failure of any person to pay
79 timely any fine, fee or assessment levied as a result of any
80 violation of this title, the clerk of the court shall give written
81 notice to such person by United States first-class mail at his
82 last known address advising such person that, if within ten (10)
83 days after such notice is deposited in the mail, the person has
84 not properly responded to the summons or citation or has not paid
85 the entire amount of all fines, fees and assessments levied, then
86 the court will give notice thereof to the Commissioner of Public
87 Safety and the commissioner may suspend the driver's license of
88 such person. The actual cost incurred by the court in the giving
89 of such notice may be added to any other court costs assessed in
90 such case. If within ten (10) days after the notice is given in
91 accordance with this subsection such person has not satisfactorily
92 disposed of the matter pending before the court, then the clerk of
93 the court immediately shall mail a copy of the abstract of the
94 court record, along with a certified copy of the notice given
95 under this subsection, to the commissioner, and the commissioner
96 may suspend the driver's license of such person as authorized
97 under subsections (2) and (3) of this section.

98 (2) The commissioner is hereby authorized to suspend the
99 license of an operator without preliminary hearing upon a showing
100 by his records or other sufficient evidence that the licensee:



101 (a) Has committed an offense for which mandatory
102 revocation of license is required upon conviction except under the
103 provisions of the Mississippi Implied Consent Law;
104 (b) Has been involved as a driver in any accident
105 resulting in the death or personal injury of another or serious
106 property damage;
107 (c) Is an habitually reckless or negligent driver of a
108 motor vehicle;
109 (d) Has been convicted with such frequency of serious
110 offenses against traffic regulations governing the movement of
111 vehicles as to indicate a disrespect for traffic laws and a
112 disregard for the safety of other persons on the highways;
113 (e) Is incompetent to drive a motor vehicle;
114 (f) Has permitted an unlawful or fraudulent use of such
115 license;
116 (g) Has committed an offense in another state which if
117 committed in this state would be grounds for suspension or
118 revocation;
119 (h) Has failed to pay any fine, fee or other assessment
120 levied as a result of any violation of this title;
121 (i) Has failed to respond to a summons or citation
122 which charged a violation of this title; or
123 (j) Has committed a violation for which mandatory
124 revocation of license is required upon conviction, entering a plea



125 of nolo contendere to, or adjudication of delinquency, pursuant to
126 the provisions of subsection (1) of Section 63-1-71.

127 (3) Notice that a person's license is suspended or will be
128 suspended under subsection (2) of this section shall be given by
129 the commissioner in the manner and at the time provided for under
130 Section 63-1-52 * * *. Upon such person's request, he or she
131 shall be afforded an opportunity for * * * an administrative
132 review or hearing, as necessary, * * * in accordance with the
133 rules and regulations promulgated by the commissioner. * * * The
134 commissioner, or his duly authorized agent, may administer oaths
135 and * * * issue subpoenas for the attendance of witnesses * * *,
136 the production of relevant books and papers and may require a
137 reexamination of the licensee. * * * Notice that a person's
138 license is suspended or will be suspended under subsection (2) of
139 this section shall be given by the commissioner in the manner and
140 at the time provided for under Section 63-1-52. Upon such
141 person's request, he shall be afforded an opportunity for an
142 administrative review or hearing, as necessary, in accordance with
143 the rules and regulations promulgated by the commissioner. The
144 commissioner, or his duly authorized agent, may administer oaths
145 and issue subpoenas for the attendance of witnesses, the
146 production of relevant books and papers and may require a
147 reexamination of the licensee.

148 (4) If a licensee has not paid all cash appearance bonds
149 authorized under Section 99-19-3 or all fines, fees or other



150 assessments levied as a result of a violation of this title within
151 ninety (90) days after the commissioner has suspended the license
152 of a person under subsection (2)(i) of this section, the court is
153 authorized to pursue collection under Section 21-17-1(6) or
154 19-3-41(2) as for any other delinquent payment, and shall be
155 entitled to collection of all additional fees authorized under
156 those sections.

157 **SECTION 3.** Section 99-19-20, Mississippi Code of 1972, is
158 amended as follows:

159 99-19-20. (1) Except as otherwise provided under Section 1
160 of this act for courts, when any court sentences a defendant to
161 pay a fine, the court may order (a) that the fine be paid
162 immediately, or (b) that the fine be paid in installments to the
163 clerk of * * * the court or to the judge, if there be no clerk, or
164 (c) that payment of the fine be a condition of probation, or (d)
165 that the defendant be required to work on public property for
166 public benefit under the direction of the sheriff for a specific
167 number of hours, or (e) any combination of the above.

168 (2) Except as otherwise provided under Section 1 of this act
169 for courts, the defendant may be imprisoned until the fine is paid
170 if the defendant is financially able to pay a fine and the court
171 so finds, subject to the limitations * * * provided under this
172 section. The defendant shall not be imprisoned if the defendant
173 is financially unable to pay a fine and so states to the court in
174 writing, under oath, after sentence is pronounced, and the court



175 so finds, except if the defendant is financially unable to pay a
176 fine and such defendant failed or refused to comply with a prior
177 sentence as specified in subsection (1) of this section, the
178 defendant may be imprisoned.

179 This subsection shall be limited as follows:

180 (a) In no event shall such period of imprisonment
181 exceed one (1) day for each * * * One Hundred Dollars (\$100.00) of
182 the fine. * * *

183 (b) If a sentence of imprisonment, as well as a fine,
184 were imposed, the aggregate of such term for nonpayment of a fine
185 and the original sentence of imprisonment shall not exceed the
186 maximum authorized term of imprisonment.

187 (c) It shall be in the discretion of the judge to
188 determine the rate of the credit to be earned for work performed
189 under subsection (1)(d), but the rate shall be no lower than Nine
190 Dollars (\$9.00) per hour or the rate of the highest current
191 federal minimum wage, whichever is higher.

192 (3) Periods of confinement imposed for nonpayment of two (2)
193 or more fines shall run consecutively unless specified by the
194 court to run concurrently.

195 **SECTION 4.** Section 99-37-7, Mississippi Code of 1972, is
196 amended as follows:

197 99-37-7. (1) Subject to the provisions of Section 1 of this
198 act, when a defendant sentenced to pay a fine or to make
199 restitution defaults in the payment thereof or of any installment,



200 the court, on motion of the district attorney, or upon its own
201 motion, may require him to show cause why his default should not
202 be treated as contempt of court, and may issue a show cause
203 citation or a warrant of arrest for his appearance.

204 (2) Subject to the provisions of Section 1 of this act,
205 unless the defendant shows that his default was not attributable
206 to an intentional refusal to obey the order of the court or to a
207 failure on his part to make a good faith effort to make the
208 payment, the court may find that his default constitutes contempt
209 and may order him committed until the fine or the restitution, or
210 a specified part thereof, is paid.

211 (3) A judicial officer shall not be held criminally or
212 civilly liable for failure of any defendant to pay any fine or to
213 make restitution if the officer exercises his judicial authority
214 in accordance with subsections (1) and (2) of this section to
215 require the payment of such fine or restitution.

216 (4) When a fine or an order of restitution is imposed on a
217 corporation or unincorporated association, it is the duty of the
218 person authorized to make disbursement from the assets of the
219 corporation or association to pay the fine or make the restitution
220 from those assets, and his failure to do so may be held to be
221 contempt unless he makes the showing required in subsection (2) of
222 this section.

223 **SECTION 5.** Section 47-1-1, Mississippi Code of 1972, is
224 amended as follows:



225 47-1-1. Every convict sentenced to imprisonment in the
226 county jail, or to such imprisonment and the payment of a fine, or
227 the payment of a fine, shall be committed to jail, and shall
228 remain in close confinement for the full time specified for
229 imprisonment in the sentence of the court, and in like
230 confinement, subject to the provisions of Section 1 of this act,
231 until the fine, costs and jail fees be fully paid, unless
232 discharged in due course of law, or as hereinafter provided.

233 * * * Subject to the provisions of Section 1 of this act, no
234 convict shall be held in continuous confinement under a conviction
235 for any one (1) offense for failure to pay fine and costs in such
236 case for a period of more than two (2) years.

237 **SECTION 6.** Section 63-1-71, Mississippi Code of 1972, is
238 amended as follows:

239 63-1-71. (1) * * * Notwithstanding the provisions of
240 Section 63-11-30(2) (a) and in addition to any penalty authorized
241 by the Uniform Controlled Substances Law or any other statute
242 indicating the dispositions that can be ordered for an
243 adjudication of delinquency, every person convicted of driving
244 under the influence of a controlled substance, or entering a plea
245 of nolo contendere thereto, or adjudicated delinquent therefor, in
246 a court of this state, and every person convicted of driving under
247 the influence of a controlled substance, or entering a plea of
248 nolo contendere thereto, or adjudicated delinquent therefor, under
249 the laws of the United States, another state, a territory or



250 possession of the United States, the District of Columbia or the
251 Commonwealth of Puerto Rico, shall forthwith forfeit his right to
252 operate a motor vehicle over the highways of this state for a
253 period of not less than six (6) months. In the case of any person
254 who at the time of the imposition of sentence does not have a
255 driver's license or is less than fifteen (15) years of age, the
256 period of the suspension of driving privileges authorized herein
257 shall commence on the day the sentence is imposed and shall run
258 for a period of not less than six (6) months after the day the
259 person obtains a driver's license or reaches the age of fifteen
260 (15) years. If the driving privilege of any person is under
261 revocation or suspension at the time of any conviction or
262 adjudication of delinquency for * * * driving under the influence
263 of a controlled substance, the revocation or suspension period
264 imposed herein shall commence as of the date of termination of the
265 existing revocation or suspension.

266 (2) The court in this state before whom any person is
267 convicted of or adjudicated delinquent for * * * driving under the
268 influence of a controlled substance shall collect forthwith the
269 Mississippi driver's license of the person and forward such
270 license to the Department of Public Safety along with a report
271 indicating the first and last day of the suspension or revocation
272 period imposed pursuant to this section. If the court is for any
273 reason unable to collect the license of the person, the court
274 shall cause a report of the conviction or adjudication of



275 delinquency to be filed with the Commissioner of Public Safety.
276 That report shall include the complete name, address, date of
277 birth, eye color and sex of the person and shall indicate the
278 first and last day of the suspension or revocation period imposed
279 by the court pursuant to this section. The court shall inform the
280 person orally and in writing that if the person is convicted of
281 personally operating a motor vehicle during the period of license
282 suspension or revocation imposed pursuant to this section, the
283 person shall, upon conviction, be subject to the penalties set
284 forth in Section 63-11-40. A person shall be required to
285 acknowledge receipt of the written notice in writing. Failure to
286 receive a written notice or failure to acknowledge in writing the
287 receipt of a written notice shall not be a defense to a subsequent
288 charge of a violation of Section 63-11-40. If the person is the
289 holder of a driver's license from another jurisdiction, the court
290 shall not collect the license but shall notify forthwith the
291 Commissioner of Public Safety who shall notify the appropriate
292 officials in the licensing jurisdiction. The court shall,
293 however, in accordance with the provisions of this section, revoke
294 the person's nonresident driving privilege in this state.

295 (3) The county court or circuit court having jurisdiction,
296 on petition, may reduce the suspension of driving privileges under
297 this section if the denial of which would constitute a hardship on
298 the offender. When the petition is filed, such person shall pay
299 to the circuit clerk of the court where the petition is filed a



300 fee of Twenty Dollars (\$20.00) for each year, or portion thereof,
301 of license revocation or suspension remaining under the original
302 sentence, which shall be deposited into the State General Fund to
303 the credit of a special fund hereby created in the State Treasury
304 to be used for alcohol or drug abuse treatment and education, upon
305 appropriation by the Legislature. This fee shall be in addition
306 to any other court costs or fees required for the filing of
307 petitions.

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

310 47-7-3. (1) Every prisoner who has been convicted of any
311 offense against the State of Mississippi, and is confined in the
312 execution of a judgment of such conviction in the Mississippi
313 Department of Corrections for a definite term or terms of one (1)
314 year or over, or for the term of his or her natural life, whose
315 record of conduct shows that such prisoner has observed the rules
316 of the department, and who has served not less than one-fourth
317 (1/4) of the total of such term or terms for which such prisoner
318 was sentenced, or, if sentenced to serve a term or terms of thirty
319 (30) years or more, or, if sentenced for the term of the natural
320 life of such prisoner, has served not less than ten (10) years of
321 such life sentence, may be released on parole as hereinafter
322 provided, except that:



323 (a) No prisoner convicted as a confirmed and habitual
324 criminal under the provisions of Sections 99-19-81 through
325 99-19-87 shall be eligible for parole;

326 (b) Any person who shall have been convicted of a sex
327 crime shall not be released on parole except for a person under
328 the age of nineteen (19) who has been convicted under Section
329 97-3-67;

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

342 (ii) No person shall be eligible for parole who
343 shall, on or after October 1, 1994, be convicted of robbery,
344 attempted robbery or carjacking as provided in Section 97-3-115 et
345 seq., through the display of a firearm or drive-by shooting as
346 provided in Section 97-3-109. The provisions of this paragraph
347 (c)(ii) shall also apply to any person who shall commit robbery,



348 attempted robbery, carjacking or a drive-by shooting on or after
349 October 1, 1994, through the display of a deadly weapon. This
350 paragraph (c)(ii) shall not apply to persons convicted after July
351 1, 2014;

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

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

359 (f) No person shall be eligible for parole who is
360 convicted or whose suspended sentence is revoked after June 30,
361 1995, except that an offender convicted of only nonviolent crimes
362 after June 30, 1995, may be eligible for parole if the offender
363 meets the requirements in subsection (1) and this paragraph. In
364 addition to other requirements, if an offender is convicted of a
365 drug or driving under the influence felony, the offender must
366 complete a drug and alcohol rehabilitation program prior to parole
367 or the offender may be required to complete a post-release drug
368 and alcohol program as a condition of parole. For purposes of
369 this paragraph, "nonviolent crime" means a felony other than
370 homicide, robbery, manslaughter, sex crimes, arson, burglary of an
371 occupied dwelling, aggravated assault, kidnapping, felonious abuse
372 of vulnerable adults, felonies with enhanced penalties, the sale



373 or manufacture of a controlled substance under the Uniform
374 Controlled Substances Law, felony child abuse, or exploitation or
375 any crime under Section 97-5-33 or Section 97-5-39(2) or
376 97-5-39(1) (b), 97-5-39(1) (c) or a violation of Section
377 63-11-30(5). In addition, an offender incarcerated for committing
378 the crime of possession of a controlled substance under the
379 Uniform Controlled Substances Law after July 1, 1995, shall be
380 eligible for parole. An offender incarcerated for committing the
381 crime of sale or manufacture of a controlled substance shall be
382 eligible for parole after serving one-fourth (1/4) of the sentence
383 imposed by the trial court. This paragraph (f) shall not apply to
384 persons convicted on or after July 1, 2014;

385 (g) (i) No person who, on or after July 1, 2014, is
386 convicted of a crime of violence pursuant to Section 97-3-2, a sex
387 crime or an offense that specifically prohibits parole release,
388 shall be eligible for parole. All persons convicted of any other
389 offense on or after July 1, 2014, are eligible for parole after
390 they have served one-fourth (1/4) of the sentence or sentences
391 imposed by the trial court.

392 (ii) Notwithstanding the provisions in paragraph
393 (i) of this subsection, a person serving a sentence who has
394 reached the age of sixty (60) or older and who has served no less
395 than ten (10) years of the sentence or sentences imposed by the
396 trial court shall be eligible for parole. Any person eligible for
397 parole under this subsection shall be required to have a parole



398 hearing before the board prior to parole release. No inmate shall
399 be eligible for parole under this paragraph of this subsection if:

400 1. The inmate is sentenced as a habitual
401 offender under Sections 99-19-81 through 99-19-87;

402 2. The inmate is sentenced for a crime of
403 violence under Section 97-3-2;

404 3. The inmate is sentenced for an offense
405 that specifically prohibits parole release;

406 4. The inmate is sentenced for trafficking in
407 controlled substances under Section 41-29-139(f);

408 5. The inmate is sentenced for a sex crime;
409 or

410 6. The inmate has not served one-fourth (1/4)
411 of the sentence imposed by the court.

412 (iii) Notwithstanding the provisions of
413 paragraph * * * (a) of this subsection, any offender who has not
414 committed a crime of violence under Section 97-3-2 and has served
415 twenty-five percent (25%) or more of his sentence may be paroled
416 by the parole board if, after the sentencing judge or if the
417 sentencing judge is retired, disabled or incapacitated, the senior
418 circuit judge authorizes the offender to be eligible for parole
419 consideration.

420 (h) Notwithstanding any other provision of law, an
421 inmate who has not been convicted as a habitual offender pursuant
422 to Sections 99-19-81 through 99-19-87 or has not been convicted of



423 committing a crime of violence, as defined under Section 97-3-2,
424 or convicted of drug trafficking pursuant to Section 41-29-139 and
425 such inmate has served twenty-five percent (25%) or more of his or
426 her sentence, but is otherwise ineligible for parole, shall be
427 eligible for parole.

428 (2) Notwithstanding any other provision of law, an inmate
429 shall not be eligible to receive earned time, good time or any
430 other administrative reduction of time which shall reduce the time
431 necessary to be served for parole eligibility as provided in
432 subsection (1) of this section.

433 (3) The State Parole Board shall, by rules and regulations,
434 establish a method of determining a tentative parole hearing date
435 for each eligible offender taken into the custody of the
436 Department of Corrections. The tentative parole hearing date
437 shall be determined within ninety (90) days after the department
438 has assumed custody of the offender. The parole hearing date
439 shall occur when the offender is within thirty (30) days of the
440 month of his parole eligibility date. The parole eligibility date
441 shall not be earlier than one-fourth (1/4) of the prison sentence
442 or sentences imposed by the court.

443 (4) Any inmate within twenty-four (24) months of his parole
444 eligibility date and who meets the criteria established by the
445 classification board shall receive priority for placement in any
446 educational development and job training programs that are part of
447 his or her parole case plan. Any inmate refusing to participate



448 in an educational development or job training program that is part
449 of the case plan may be in jeopardy of noncompliance with the case
450 plan and may be denied parole.

451 **SECTION 8.** Section 9-23-15, Mississippi Code of 1972, is
452 amended as follows:

453 9-23-15. (1) (a) In order to be eligible for alternative
454 sentencing through a local drug court, the participant must
455 satisfy each of the following criteria:

456 (* * * i) The participant cannot have any felony
457 convictions for any offenses that are crimes of violence as
458 defined in Section 97-3-2 within the previous ten (10) years,
459 except as provided in paragraph (b) of this subsection.

460 (* * * ii) The crime before the court cannot be a
461 crime of violence as defined in Section 97-3-2, except as provided
462 in paragraph (b) of this subsection.

463 (* * * iii) Other criminal proceedings alleging
464 commission of a crime of violence cannot be pending against the
465 participant.

466 (* * * iv) The participant cannot be currently
467 charged with burglary of a dwelling under Section 97-17-23(2) or
468 97-17-37.

469 (* * * y) The crime before the court cannot be a
470 charge of driving under the influence of alcohol or any other drug
471 or drugs that resulted in the death of a person.



472 (* * *vi) The crime charged cannot be one of
473 trafficking in controlled substances under Section 41-29-139(f),
474 nor can the participant have a prior conviction for same.

475 (b) A judge, in his or her discretion, may authorize a
476 person who has been charged, convicted or who is before the court
477 for burglary of an unoccupied dwelling under Section 97-17-23(1)
478 for eligible participation for alternative sentencing through a
479 local drug court.

480 (2) Participation in the services of an alcohol and drug
481 intervention component shall be open only to the individuals over
482 whom the court has jurisdiction, except that the court may agree
483 to provide the services for individuals referred from another drug
484 court. In cases transferred from another jurisdiction, the
485 receiving judge shall act as a special master and make
486 recommendations to the sentencing judge.

487 (3) (a) As a condition of participation in a drug court, a
488 participant may be required to undergo a chemical test or a series
489 of chemical tests as specified by the drug court. A participant
490 is liable for the costs of all chemical tests required under this
491 section, regardless of whether the costs are paid to the drug
492 court or the laboratory; however, if testing is available from
493 other sources or the program itself, the judge may waive any fees
494 for testing.



495 (b) A laboratory that performs a chemical test under
496 this section shall report the results of the test to the drug
497 court.

498 (4) A person does not have a right to participate in drug
499 court under this chapter. The court having jurisdiction over a
500 person for a matter before the court shall have the final
501 determination about whether the person may participate in drug
502 court under this chapter.

503 **SECTION 9.** Any person who supervises an individual placed on
504 parole by the Parole Board or placed on probation by the court
505 shall set the times and locations for meetings that are required
506 for parole or probation at such times and locations that are
507 reasonably designed to accomodate the work schedule of an
508 individual on parole or probation who is employed by another
509 person or entity. The provisions of this section shall not apply
510 to an individual who is self employed.

511 **SECTION 10.** Section 6 of this act shall take effect and be
512 in force from and after the date the Legislature passes a
513 concurrent resolution stating its opposition to a law that
514 complies with 23 USCS Section 159 and the Governor certifies his
515 opposition of such law to the United States Secretary of
516 Transportation and the remainder of this act shall take effect and
517 be in force from and after July 1, 2017.

