

By: Representative Evans

To: Penitentiary;
Appropriations

HOUSE BILL NO. 389

1 AN ACT TO CREATE THE STATE COMMISSION ON HUMAN RIGHTS, THE
2 POLICY AND COMPLAINT REVIEW COUNCIL AND THE MEDICAL REVIEW BOARD;
3 TO PRESCRIBE THEIR POWERS AND DUTIES RELATING TO THE DEVELOPMENT
4 OF POLICIES FOR IMPROVING THE ADMINISTRATION OF STATE AND LOCAL
5 CORRECTIONAL FACILITIES, THE ESTABLISHMENT OF PROCEDURES TO
6 INVESTIGATE GRIEVANCES MADE BY OFFENDERS, THE ESTABLISHMENT OF A
7 SYSTEM OF EMPLOYING OFFENDERS AND THE PROMULGATION OF RULES
8 ESTABLISHING MINIMUM STANDARDS FOR THE CARE, CUSTODY AND TREATMENT
9 OF OFFENDERS; AND FOR RELATED PURPOSES.

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

11 SECTION 1. There is created the State Commission on Human
12 Rights, hereinafter referred to as the "commission." The
13 commission consists of five (5) members appointed by the Governor
14 with the advice and consent of the Senate. The Governor shall
15 designate one (1) of the members as Chairman. Each member shall
16 devote his or her full-time to the duties of his or her office and
17 shall not engage in any other business or profession or hold any
18 other public office.

19 Within the commission there shall be a Policy and Complaint
20 Review Council, hereinafter referred to as the "council," and a
21 Medical Review Board, hereinafter referred to as the "board."

22 SECTION 2. (1) The chairman of the commission may appoint
23 assistants, officers, employees, committees and consultants for
24 the council and the board as he or she deems necessary and may
25 prescribe their powers and duties.

26 (2) The chairman of the commission may create, abolish,
27 transfer and consolidate offices within the commission, the
28 council or the board as he or she deems necessary for the
29 efficient operation of the commission, the council and the board.

30 (3) In conducting the activities of the commission pursuant
31 to this act, the chairman of the commission may request and
32 receive assistance, information and data from any agency of the
33 state, any political subdivision of the state or any public
34 authority of the state.

35 SECTION 3. (1) The commission has the following powers and
36 duties:

37 (a) To advise and assist the Governor and the
38 Legislature in developing policies, plans and programs for
39 improving the administration of state and local correctional
40 facilities.

41 (b) To make recommendations to administrators of state
42 and local correctional facilities for improving the administration
43 of the facilities.

44 (c) To visit, inspect and appraise the management of
45 state and local correctional facilities with specific attention
46 placed on safety, security, the health of offenders, sanitary
47 conditions, rehabilitative programs, fire prevention and control
48 and the adherence to laws and regulations governing the rights of
49 offenders.

50 (d) To establish procedures to assure the effective
51 investigation of grievances made by and conditions affecting
52 offenders of state and local correctional facilities. The
53 procedures shall include receipt of written complaints, interviews
54 of persons and on-site monitoring of conditions. In addition, the
55 commission shall establish procedures for the speedy and impartial
56 review of grievances.

57 (e) To ascertain and recommend a system of employing
58 offenders of state and local correctional facilities as, in the
59 opinion of the commission, may be in the best interest of the
60 public and the offenders, and that is not in conflict with the
61 provisions of the Constitution or laws of the state relating to
62 the employment of offenders.

63 (f) To promulgate rules and regulations establishing
64 minimum standards for the care, custody, correction, treatment,
65 supervision and discipline of all offenders confined in state and
66 local correctional facilities. The commission shall forward the
67 rules and regulations to the Governor, the Lieutenant Governor and
68 the Speaker of the House of Representatives.

69 (g) To place members of its staff, as it deems
70 appropriate, in any state or local correctional facility to
71 monitor the facility if, in the judgment of the commission, the
72 facility presents an imminent danger to the health, safety or
73 security of the offenders or employees of a correctional facility
74 or to the public.

75 (h) To close any state or local correctional facility
76 that (a) is unsafe, unsanitary or inadequate to provide for the
77 separation and classification of offenders as required by law or,
78 (b) has not complied with the rules or regulations promulgated by
79 the commission.

80 (i) To establish, maintain and operate a training
81 program for personnel employed by any state or local correctional
82 facility.

83 (j) To collect and disseminate statistical and other
84 information and to undertake research, studies and analyses
85 through the personnel of the commission or in cooperation with any
86 public or private agency.

87 (k) To adopt, amend or rescind the rules and
88 regulations as necessary to perform the powers and duties of the
89 commission.

90 (2) The commission, any member of the commission or any
91 employee designated by the commission must be granted access to
92 any state or local correctional facility or any part of the
93 facility and to all books, records and data related to the
94 facility.

95 (3) The commission, any member of the commission or any

96 employee designated by the commission may require from any officer
97 or employee of a state or local correctional facility any
98 information necessary to carry out the powers and duties of the
99 commission.

100 (4) The commission, any member of the commission or any
101 employee designated by the commission may issue and enforce a
102 subpoena and a subpoena duces tecum, administer oaths and examine
103 persons under oath in accordance with civil laws and rules.

104 (5) The commission may investigate the death of an
105 individual whenever law enforcement officers have been involved,
106 even if the circumstances surrounding the death occurred before
107 the actual arrest of an individual.

108 (6) Whenever a person in control of or an officer or
109 employee of a state or local correctional facility does not comply
110 with the rules and regulations of the commission, the commission
111 may apply to the Supreme Court of Mississippi for an order
112 directing the person to comply. Upon application by the
113 commission, the court may issue the order and failure to comply
114 with the order of the court is a contempt of court and punishable
115 as provided by law.

116 (7) Whenever any rule or regulation promulgated by the
117 commission that relates to the management and affairs of any state
118 or local correctional facility or the care, treatment and
119 discipline of its offenders, is being or is about to be violated,
120 the commission shall notify the person in control of the facility
121 of the violation, recommend remedial action and direct the person
122 to comply with the rule, regulation or law. Upon the failure of
123 the person to comply with the rule, regulation or law, the
124 commission may apply to the Supreme Court of Mississippi for an
125 order directing the person to comply. Upon application by the
126 commission, the court may issue the order and failure to comply
127 with the order of the court is a contempt of court and punishable
128 as provided by law.

129 SECTION 4. (1) There is created within the Commission on
130 Human Rights a Medical Review Board, hereinafter referred to as
131 the "board." The board consists of seven (7) persons to be
132 appointed by the Governor, with the advice and consent of the
133 Senate. The Governor shall designate one (1) of the full-time
134 appointed members of the commission as chairman of the board. One
135 (1) member shall be an attorney, one (1) member shall be a
136 physician duly licensed to practice in the state and a board
137 certified forensic pathologist and one (1) member shall be a
138 physician duly licensed to practice in the state and a board
139 certified forensic psychiatrist.

140 (2) No appointed member of the board may qualify or begin
141 his or her term of office, or remain in office, while he or she is
142 an officer or employee of the Department of Corrections or of any
143 local correctional facility, is a law enforcement officer or is in
144 a position to exercise administrative supervision over any state
145 or local correctional facility. The board shall have the staff it
146 needs to assist it in the performance of its duties.

147 SECTION 5. The Medical Review Board has the following powers
148 and duties:

149 (a) To investigate and review the cause and
150 circumstances surrounding the death of any offender confined in a
151 state or local correctional facility or of any person in the
152 custody of a law enforcement officer.

153 (b) To visit and inspect any state or local
154 correctional facility or any other location where the death of an
155 offender has occurred.

156 (c) To require the body of the deceased to undergo
157 examinations, including an autopsy, that are necessary to
158 determine the cause of death, regardless of whether an examination
159 or autopsy has been performed previously.

160 (d) Upon review of the cause of death and the
161 circumstances surrounding the death of any offender, the board

162 shall submit its report to the commission and, if appropriate,
163 make recommendations to prevent the recurrence of such deaths to
164 the commission and the administrator of the appropriate state or
165 local correctional facility or law enforcement supervisor.

166 (e) To investigate and report to the commission on the
167 status of systems for the administration of medical care to
168 offenders of state or local correctional facilities, and to
169 recommend any necessary changes to improve the quality and
170 availability of medical care.

171 (f) The board shall require every administrator of a
172 state or local correctional facility, or supervisor of law
173 enforcement personnel to report immediately the death of an
174 offender in the manner and form as prescribed by the board. The
175 report shall include an autopsy report if an autopsy has been
176 performed.

177 SECTION 6. (1) There is created within the Commission on
178 Human Rights a Policy and Complaint Review Council, hereinafter
179 referred to as the "council." The council consists of seven (7)
180 persons to be appointed by the Governor, with the advice and
181 consent of the Senate. The Governor shall designate one (1) of
182 the full-time appointed members of the commission as chairman of
183 the council. One (1) member shall be an attorney and one (1)
184 member shall be a former offender of a state or local correctional
185 facility.

186 (2) No appointed member of the council may qualify or begin
187 his or her term of office, or remain in office, while he or she is
188 an officer or employee of the Department of Corrections or of any
189 local correctional facility is a law enforcement officer or is in
190 a position to exercise administrative supervision over any state
191 or local correctional facility. The council shall have the staff
192 it needs to assist it in the performance of its duties.

193 SECTION 7. The council has the following powers and duties:

194 (a) To investigate, review or take any other action as

195 it deems necessary to answer complaints or grievances filed with
196 the council regarding any state or local correctional facility.

197 (b) To have access, at any time, to any state or local
198 correctional facility and to all books, records, personnel and
199 data pertaining to any state or local correctional facility or to
200 an employee of a state or local correctional facility whenever
201 access is necessary to carry out the powers and duties of the
202 council.

203 (c) To obtain from administrators, officers or
204 employees of any state or local correctional facility any
205 information it deems necessary to carry out the powers and duties
206 of the council.

207 (d) To request and receive temporary office space in
208 any local correctional facility to carry out the powers and duties
209 of the council.

210 (e) To report periodically to the commission and to the
211 administrator of any state or local correctional facility and to
212 make recommendations that are necessary to fulfill the purposes of
213 the commission.

214 (f) To advise and assist the commission in developing
215 plans and programs for improving the commission's performance of
216 its duties.

217 (g) To advise and assist the commission in developing
218 plans and programs for coordinating the efforts of the commission,
219 of correctional officers and of law enforcement personnel to
220 improve the systems of care, treatment, safety, supervision,
221 rehabilitation, recreation, training and education in correctional
222 facilities.

223 (h) To foster and promote research and study in the
224 areas of correctional policy and program development.

225 SECTION 8. This act shall take effect and be in force from
226 and after July 1, 1999.