

By: Representative Ford

To: Penitentiary;
Appropriations

HOUSE BILL NO. 438

1 AN ACT TO REENACT SECTIONS 47-5-901 THROUGH 47-5-909,
2 MISSISSIPPI CODE OF 1972, WHICH ALLOW AN INMATE PLACED UNDER THE
3 CUSTODY OF THE DEPARTMENT OF CORRECTIONS TO SERVE HIS SENTENCE IN
4 A COUNTY JAIL IF SPACE IS UNAVAILABLE IN A STATE FACILITY, PROVIDE
5 OTHER CONDITIONS UNDER WHICH A SENTENCE MAY BE SERVED IN COUNTY
6 JAIL, PROVIDE FOR THE PROCESSING AND CLASSIFICATION OF INMATES,
7 PROVIDE FOR THE REMOVAL OF A STATE INMATE IN COUNTY JAIL AND ALLOW
8 INCARCERATION IN COUNTY JAILS AS A TEMPORARY MEASURE; TO REENACT
9 AND AMEND SECTION 47-5-911, MISSISSIPPI CODE OF 1972, TO EXTEND
10 THE DATE OF REPEAL FROM JULY 1, 2001, TO JULY 1, 2002; AND FOR
11 RELATED PURPOSES.

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

13 SECTION 1. Section 47-5-901, Mississippi Code of 1972, is
14 reenacted as follows:

15 47-5-901. (1) Any person committed, sentenced or otherwise
16 placed under the custody of the Department of Corrections, on
17 order of the sentencing court and subject to the other conditions
18 of this subsection, may serve all or any part of his sentence in
19 the county jail of the county wherein such person was convicted if
20 the Commissioner of Corrections determines that physical space is
21 not available for confinement of such person in the state
22 correctional institutions. Such determination shall be promptly
23 made by the Department of Corrections upon receipt of notice of
24 the conviction of such person. The commissioner shall certify in
25 writing that space is not available to the sheriff or other
26 officer having custody of the person. Any person serving his
27 sentence in a county jail shall be classified in accordance with
28 Section 47-5-905.

29 (2) If state prisoners are housed in county jails due to a
30 lack of capacity at state correctional institutions, the

31 Department of Corrections shall determine the cost for food and
32 medical attention for such prisoners. The cost of feeding and
33 housing offenders confined in such county jails shall be based on
34 actual costs or contract price per prisoner not to exceed Twenty
35 Dollars (\$20.00) per day per offender.

36 (3) Upon vouchers submitted by the board of supervisors of
37 any county housing persons due to lack of space at state
38 institutions, the Department of Corrections shall pay to such
39 county, out of any available funds, the actual cost of food, or
40 contract price per prisoner, not to exceed Twenty Dollars (\$20.00)
41 per day per offender as determined under subsection (2) of this
42 section for each day an offender is so confined beginning the
43 fifth day following the date the offender is committed and taken
44 into custody by the sheriff and will terminate on the date on
45 which the offender is released or otherwise removed from the
46 custody of the county jail, and shall pay the actual cost for
47 medical attention for prisoners unless the Commissioner of
48 Corrections shall find that the costs of any medical services
49 rendered are unreasonable. Such payment shall be placed in the
50 county general fund and shall be expended only for food and
51 medical attention for such persons.

52 (4) A person, on order of the sentencing court, may serve
53 not more than twenty-four (24) months of his sentence in a county
54 jail if the person is classified in accordance with Section
55 47-5-905 and the county jail is an approved county jail for
56 housing state inmates under federal court order. The sheriff of
57 the county shall have the right to petition the Commissioner of
58 Corrections to remove the inmate from the county jail. The county
59 shall be reimbursed in accordance with subsection (2).

60 (5) The Attorney General of the State of Mississippi shall
61 defend the employees of the Department of Corrections and
62 officials and employees of political subdivisions against any

63 action brought by any person who was committed to a county jail
64 under the provisions of this section.

65 (6) This section does not create in the Department of
66 Corrections, or its employees or agents, any new liability,
67 express or implied, nor shall it create in the Department of
68 Corrections any administrative authority or responsibility for the
69 construction, funding, administration or operation of county or
70 other local jails or other places of confinement which are not
71 staffed and operated on a full-time basis by the Department of
72 Corrections. The correctional system under the jurisdiction of
73 the Department of Corrections shall include only those facilities
74 fully staffed by the Department of Corrections and operated by it
75 on a full-time basis.

76 (7) An offender returned to a county for post-conviction
77 proceedings shall be subject to the provisions of Section 99-19-42
78 and the county shall not receive the per day allotment for such
79 offender after the time prescribed for returning the offender to
80 the Department of Corrections as provided in Section 99-19-42.

81 SECTION 2. Section 47-5-903, Mississippi Code of 1972, is
82 reenacted as follows:

83 47-5-903. (1) A person committed, sentenced or otherwise
84 placed under the custody of the Department of Corrections, on
85 order of the sentencing court, may serve his sentence in the
86 county jail of the county where convicted if all of the following
87 conditions are complied with:

88 (a) The person must be classified in accordance with
89 Section 47-5-905;

90 (b) The person must not be classified as in need of
91 close supervision;

92 (c) The sheriff of the county where the person will
93 serve his sentence must request in writing that the person be
94 allowed to serve his sentence in that county jail;

95 (d) After the person is classified and returned to the
96 county, the county shall assume the full and complete
97 responsibility for the care and expenses of housing such person;
98 and

99 (e) The county jail must be an approved county jail for
100 housing state inmates under federal court order.

101 (2) This section does not apply to inmates housed in county
102 jails due to lack of space at state correctional facilities. The
103 department shall not reimburse the county for the expense of
104 housing an inmate under this section.

105 (3) The Attorney General of the State of Mississippi shall
106 defend the employees of the Department of Corrections and
107 officials and employees of political subdivisions against any
108 action brought by any person who was committed to a county jail
109 under the provisions of this section.

110 (4) The state, the Department of Corrections, and its
111 employees or agents, shall not be liable to any person or entity
112 for an inmate held in a county jail under this section.

113 SECTION 3. Section 47-5-905, Mississippi Code of 1972, is
114 reenacted as follows:

115 47-5-905. (1) All persons placed under the custody of the
116 Department of Corrections shall be processed at a reception and
117 diagnostic center of the Department of Corrections and then be
118 assigned to an appropriate correctional facility for a complete
119 and thorough classification, not to exceed ninety (90) days,
120 unless the department determines that a person can be properly
121 processed and classified at the county jail in accordance with the
122 department's classification plan.

123 (2) The Department of Corrections shall develop a plan for
124 the processing and classification of inmates in county jails and
125 shall implement the plan by January 1, 1993.

126 SECTION 4. Section 47-5-907, Mississippi Code of 1972, is
127 reenacted as follows:

128 47-5-907. The sheriff of any county in this state shall have
129 the right to petition the Commissioner of the Department of
130 Corrections to remove a state inmate from the county jail in such
131 county to the State Penitentiary. The commissioner shall remove
132 such inmate from such county jail if the sheriff of such county
133 sets forth just cause in his petition indicating why an inmate
134 should be removed from such county jail to the State Penitentiary.

135 Just cause is established if such sheriff can sufficiently
136 prove that such inmate has a dangerous behavior or sufficiently
137 prove that there is no available or suitable medical facility
138 where such inmate can be provided suitable medical services. The
139 commissioner shall respond in writing to the petition no later
140 than thirty (30) days after the receipt of such petition. If the
141 petition to remove such inmate is denied by the commissioner, such
142 sheriff and his agents shall have from the date of denial absolute
143 immunity from liability for any injury resulting from subsequent
144 behavior or from medical consequences regarding such inmate,
145 provided that such injury resulted from conditions which were set
146 forth in such petition.

147 SECTION 5. Section 47-5-909, Mississippi Code of 1972, is
148 reenacted as follows:

149 47-5-909. It is the policy of the Legislature that all
150 inmates be removed from county jails as early as practicable.
151 Sections 47-5-901 through 47-5-907 are temporary measures to help
152 alleviate the immediate operating capacity limitations at
153 correctional facilities and are not permanent measures to be
154 included in the long-term operating capacity of the correctional
155 system.

156 SECTION 6. Section 47-5-911, Mississippi Code of 1972 is
157 reenacted and amended as follows:

158 Sections 47-5-901 through 47-5-911 shall stand repealed on
159 July 1, 2002.

160 SECTION 7. This act shall take effect and be in force from
161 and after July 1, 2001.