

By: Representative Ford

To: Penitentiary;
Appropriations

HOUSE BILL NO. 682

1 AN ACT TO REENACT SECTIONS 47-5-901 THROUGH 47-5-911,
2 MISSISSIPPI CODE OF 1972, WHICH PROVIDE FOR CONDITIONS UNDER WHICH
3 STATE OFFENDERS MAY SERVE SENTENCES IN COUNTY JAILS; TO AMEND
4 REENACTED SECTION 47-5-911, MISSISSIPPI CODE OF 1972, TO EXTEND
5 THE REPEALER; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 47-5-901, Mississippi Code of 1972, is
8 reenacted as follows:

9 47-5-901. (1) Any person committed, sentenced or otherwise
10 placed under the custody of the Department of Corrections, on
11 order of the sentencing court and subject to the other conditions
12 of this subsection, may serve all or any part of his sentence in
13 the county jail of the county wherein such person was convicted if
14 the Commissioner of Corrections determines that physical space is
15 not available for confinement of such person in the state
16 correctional institutions. Such determination shall be promptly
17 made by the Department of Corrections upon receipt of notice of
18 the conviction of such person. The commissioner shall certify in
19 writing that space is not available to the sheriff or other
20 officer having custody of the person. Any person serving his
21 sentence in a county jail shall be classified in accordance with
22 Section 47-5-905.

23 (2) If state prisoners are housed in county jails due to a
24 lack of capacity at state correctional institutions, the
25 Department of Corrections shall determine the cost for food and
26 medical attention for such prisoners. The cost of feeding and
27 housing offenders confined in such county jails shall be based on



28 actual costs or contract price per prisoner not to exceed Twenty
29 Dollars (\$20.00) per day per offender.

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

46 (4) A person, on order of the sentencing court, may serve
47 not more than twenty-four (24) months of his sentence in a county
48 jail if the person is classified in accordance with Section
49 47-5-905 and the county jail is an approved county jail for
50 housing state inmates under federal court order. The sheriff of
51 the county shall have the right to petition the Commissioner of
52 Corrections to remove the inmate from the county jail. The county
53 shall be reimbursed in accordance with subsection (2).

54 (5) The Attorney General of the State of Mississippi shall
55 defend the employees of the Department of Corrections and
56 officials and employees of political subdivisions against any
57 action brought by any person who was committed to a county jail
58 under the provisions of this section.

59 (6) This section does not create in the Department of
60 Corrections, or its employees or agents, any new liability,



61 express or implied, nor shall it create in the Department of
62 Corrections any administrative authority or responsibility for the
63 construction, funding, administration or operation of county or
64 other local jails or other places of confinement which are not
65 staffed and operated on a full-time basis by the Department of
66 Corrections. The correctional system under the jurisdiction of
67 the Department of Corrections shall include only those facilities
68 fully staffed by the Department of Corrections and operated by it
69 on a full-time basis.

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

75 **SECTION 2.** Section 47-5-903, Mississippi Code of 1972, is
76 reenacted as follows:

77 47-5-903. (1) A person committed, sentenced or otherwise
78 placed under the custody of the Department of Corrections, on
79 order of the sentencing court, may serve his sentence in the
80 county jail of the county where convicted if all of the following
81 conditions are complied with:

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

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

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

89 (d) After the person is classified and returned to the
90 county, the county shall assume the full and complete
91 responsibility for the care and expenses of housing such person;
92 and



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

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

99 (3) The Attorney General of the State of Mississippi shall
100 defend the employees of the Department of Corrections and
101 officials and employees of political subdivisions against any
102 action brought by any person who was committed to a county jail
103 under the provisions of this section.

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

107 **SECTION 3.** Section 47-5-905, Mississippi Code of 1972, is
108 reenacted as follows:

109 47-5-905. (1) All persons placed under the custody of the
110 Department of Corrections shall be processed at a reception and
111 diagnostic center of the Department of Corrections and then be
112 assigned to an appropriate correctional facility for a complete
113 and thorough classification, not to exceed ninety (90) days,
114 unless the department determines that a person can be properly
115 processed and classified at the county jail in accordance with the
116 department's classification plan.

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

120 **SECTION 4.** Section 47-5-907, Mississippi Code of 1972, is
121 reenacted as follows:

122 47-5-907. The sheriff of any county in this state shall have
123 the right to petition the Commissioner of the Department of
124 Corrections to remove a state inmate from the county jail in such
125 county to the State Penitentiary. The commissioner shall remove



126 such inmate from such county jail if the sheriff of such county
127 sets forth just cause in his petition indicating why an inmate
128 should be removed from such county jail to the State Penitentiary.

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

141 **SECTION 5.** Section 47-5-909, Mississippi Code of 1972, is
142 reenacted as follows:

143 47-5-909. It is the policy of the Legislature that all
144 inmates be removed from county jails as early as practicable.
145 Sections 47-5-901 through 47-5-907 are temporary measures to help
146 alleviate the immediate operating capacity limitations at
147 correctional facilities and are not permanent measures to be
148 included in the long-term operating capacity of the correctional
149 system.

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

152 Sections 47-5-901 through 47-5-911 shall stand repealed on
153 July 1, 2003.

154 **SECTION 7.** This act shall take effect and be in force from
155 and after July 1, 2002.

