

By: Representative Watson

To: Corrections;
Appropriations

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 405

1 AN ACT TO REENACT SECTIONS 47-5-901 THROUGH 47-5-909,
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 47-5-901, MISSISSIPPI CODE OF 1972, TO PROVIDE
5 THAT FROM AND AFTER OCTOBER 1, 2004, THE DEPARTMENT OF CORRECTIONS
6 SHALL DECREASE FROM \$20.00 TO \$15.00 THE DAILY MAXIMUM AMOUNT THAT
7 THE DEPARTMENT PAY COUNTIES TO HOUSE STATE OFFENDERS IN COUNTY
8 JAILS; TO AMEND SECTION 47-5-911, MISSISSIPPI CODE OF 1972, TO
9 EXTEND THE REPEAL DATE ON THOSE REENACTED SECTIONS; AND FOR
10 RELATED PURPOSES.

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

12 **SECTION 1.** Section 47-5-901, Mississippi Code of 1972, is
13 reenacted and amended as follows:

14 **[Through September 30, 2004, Section 47-5-901 shall read as**
15 **follows:]**

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

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

32 Department of Corrections shall determine the cost for food and
33 medical attention for such prisoners. The cost of feeding and
34 housing offenders confined in such county jails shall be based on
35 actual costs or contract price per prisoner. In order to maximize
36 the potential use of county jail space, the Department of
37 Corrections is encouraged to negotiate a reasonable per day cost
38 per prisoner, which in no event may exceed Twenty Dollars (\$20.00)
39 per day per offender.

40 (3) Upon vouchers submitted by the board of supervisors of
41 any county housing persons due to lack of space at state
42 institutions, the Department of Corrections shall pay to such
43 county, out of any available funds, the actual cost of food, or
44 contract price per prisoner, not to exceed Twenty Dollars (\$20.00)
45 per day per offender, as determined under subsection (2) of this
46 section for each day an offender is so confined beginning the day
47 that the Department of Corrections receives a certified copy of
48 the sentencing order and will terminate on the date on which the
49 offender is released or otherwise removed from the custody of the
50 county jail, and shall pay the actual cost for medical attention
51 for prisoners unless the Commissioner of Corrections shall find
52 that the costs of any medical services rendered are unreasonable.
53 Such payment shall be placed in the county general fund and shall
54 be expended only for food and medical attention for such persons.
55 The Department of Corrections shall not pay a county for offenders
56 housed in county jails pending a probation or parole revocation
57 hearing.

58 (4) A person, on order of the sentencing court, may serve
59 not more than twenty-four (24) months of his sentence in a county
60 jail if the person is classified in accordance with Section
61 47-5-905 and the county jail is an approved county jail for
62 housing state inmates under federal court order. The sheriff of
63 the county shall have the right to petition the Commissioner of

64 Corrections to remove the inmate from the county jail. The county
65 shall be reimbursed in accordance with subsection (2).

66 (5) The Attorney General of the State of Mississippi shall
67 defend the employees of the Department of Corrections and
68 officials and employees of political subdivisions against any
69 action brought by any person who was committed to a county jail
70 under the provisions of this section.

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

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

87 **[From and after October 1, 2004, Section 47-5-901 shall read**
88 **as follows:]**

89 47-5-901. (1) Any person committed, sentenced or otherwise
90 placed under the custody of the Department of Corrections, on
91 order of the sentencing court and subject to the other conditions
92 of this subsection, may serve all or any part of his sentence in
93 the county jail of the county wherein such person was convicted if
94 the Commissioner of Corrections determines that physical space is
95 not available for confinement of such person in the state
96 correctional institutions. Such determination shall be promptly

97 made by the Department of Corrections upon receipt of notice of
98 the conviction of such person. The commissioner shall certify in
99 writing that space is not available to the sheriff or other
100 officer having custody of the person. Any person serving his
101 sentence in a county jail shall be classified in accordance with
102 Section 47-5-905.

103 (2) If state prisoners are housed in county jails due to a
104 lack of capacity at state correctional institutions, the
105 Department of Corrections shall determine the cost for food and
106 medical attention for such prisoners. The cost of feeding and
107 housing offenders confined in such county jails shall be based on
108 actual costs or contract price per prisoner. In order to maximize
109 the potential use of county jail space, the Department of
110 Corrections is encouraged to negotiate a reasonable per day cost
111 per prisoner, which in no event may exceed Fifteen Dollars
112 (\$15.00) per day per offender.

113 (3) Upon vouchers submitted by the board of supervisors of
114 any county housing persons due to lack of space at state
115 institutions, the Department of Corrections shall pay to such
116 county, out of any available funds, the actual cost of food, or
117 contract price per prisoner, not to exceed Fifteen Dollars
118 (\$15.00) per day per offender, as determined under subsection (2)
119 of this section for each day an offender is so confined beginning
120 the day that the Department of Corrections receives a certified
121 copy of the sentencing order and will terminate on the date on
122 which the offender is released or otherwise removed from the
123 custody of the county jail, and shall pay the actual cost for
124 medical attention for prisoners unless the Commissioner of
125 Corrections shall find that the costs of any medical services
126 rendered are unreasonable. Such payment shall be placed in the
127 county general fund and shall be expended only for food and
128 medical attention for such persons. The Department of Corrections

129 shall not pay a county for offenders housed in county jails
130 pending a probation or parole revocation hearing.

131 (4) A person, on order of the sentencing court, may serve
132 not more than twenty-four (24) months of his sentence in a county
133 jail if the person is classified in accordance with Section
134 47-5-905 and the county jail is an approved county jail for
135 housing state inmates under federal court order. The sheriff of
136 the county shall have the right to petition the Commissioner of
137 Corrections to remove the inmate from the county jail. The county
138 shall be reimbursed in accordance with subsection (2).

139 (5) The Attorney General of the State of Mississippi shall
140 defend the employees of the Department of Corrections and
141 officials and employees of political subdivisions against any
142 action brought by any person who was committed to a county jail
143 under the provisions of this section.

144 (6) This section does not create in the Department of
145 Corrections, or its employees or agents, any new liability,
146 express or implied, nor shall it create in the Department of
147 Corrections any administrative authority or responsibility for the
148 construction, funding, administration or operation of county or
149 other local jails or other places of confinement which are not
150 staffed and operated on a full-time basis by the Department of
151 Corrections. The correctional system under the jurisdiction of
152 the Department of Corrections shall include only those facilities
153 fully staffed by the Department of Corrections and operated by it
154 on a full-time basis.

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

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

162 47-5-903. (1) A person committed, sentenced or otherwise
163 placed under the custody of the Department of Corrections, on
164 order of the sentencing court, may serve his sentence in the
165 county jail of the county where convicted if all of the following
166 conditions are complied with:

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

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

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

174 (d) After the person is classified and returned to the
175 county, the county shall assume the full and complete
176 responsibility for the care and expenses of housing such person;
177 and

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

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

184 (3) The Attorney General of the State of Mississippi shall
185 defend the employees of the Department of Corrections and
186 officials and employees of political subdivisions against any
187 action brought by any person who was committed to a county jail
188 under the provisions of this section.

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

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

194 47-5-905. (1) All persons placed under the custody of the
195 Department of Corrections shall be processed at a reception and
196 diagnostic center of the Department of Corrections and then be
197 assigned to an appropriate correctional facility for a complete
198 and thorough classification, not to exceed ninety (90) days,
199 unless the department determines that a person can be properly
200 processed and classified at the county jail in accordance with the
201 department's classification plan.

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

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

207 47-5-907. The sheriff of any county in this state shall have
208 the right to petition the Commissioner of the Department of
209 Corrections to remove a state inmate from the county jail in such
210 county to the State Penitentiary. The commissioner shall remove
211 such inmate from such county jail if the sheriff of such county
212 sets forth just cause in his petition indicating why an inmate
213 should be removed from such county jail to the State Penitentiary.

214 Just cause is established if such sheriff can sufficiently
215 prove that such inmate has a dangerous behavior or sufficiently
216 prove that there is no available or suitable medical facility
217 where such inmate can be provided suitable medical services. The
218 commissioner shall respond in writing to the petition no later
219 than thirty (30) days after the receipt of such petition. If the
220 petition to remove such inmate is denied by the commissioner, such
221 sheriff and his agents shall have from the date of denial absolute
222 immunity from liability for any injury resulting from subsequent
223 behavior or from medical consequences regarding such inmate,
224 provided that such injury resulted from conditions which were set
225 forth in such petition.

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

228 47-5-909. It is the policy of the Legislature that all
229 inmates be removed from county jails as early as practicable.
230 Sections 47-5-901 through 47-5-907 are temporary measures to help
231 alleviate the immediate operating capacity limitations at
232 correctional facilities and are not permanent measures to be
233 included in the long-term operating capacity of the correctional
234 system.

235 **SECTION 6.** Section 47-5-911, Mississippi Code of 1972, is
236 amended as follows:

237 47-5-911. Sections 47-5-901 through 47-5-911 shall stand
238 repealed on July 1, 2006.

239 **SECTION 7.** This act shall take effect and be in force from
240 and after July 1, 2004.