

By: Representative Watson

To: Corrections;  
Appropriations

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 SECTION 47-5-911, MISSISSIPPI CODE OF 1972, TO EXTEND THE REPEAL  
5 DATE ON THOSE REENACTED SECTIONS; 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. In order to maximize

29 the potential use of county jail space, the Department of  
30 Corrections is encouraged to negotiate a reasonable per day cost  
31 per prisoner, which in no event may exceed Twenty Dollars (\$20.00)  
32 per day per offender.

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

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

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

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

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

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

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

82 47-5-903. (1) A person committed, sentenced or otherwise  
83 placed under the custody of the Department of Corrections, on  
84 order of the sentencing court, may serve his sentence in the  
85 county jail of the county where convicted if all of the following  
86 conditions are complied with:

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

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

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

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

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

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

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

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

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

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

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

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

127           47-5-907. The sheriff of any county in this state shall have  
128 the right to petition the Commissioner of the Department of  
129 Corrections to remove a state inmate from the county jail in such  
130 county to the State Penitentiary. The commissioner shall remove  
131 such inmate from such county jail if the sheriff of such county  
132 sets forth just cause in his petition indicating why an inmate  
133 should be removed from such county jail to the State Penitentiary.

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

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

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

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

157           47-5-911. Sections 47-5-901 through 47-5-911 shall stand  
158 repealed on July 1, 2006.

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