

By: Senator(s) Little, Huggins, Gordon

To: Corrections;
Appropriations

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 3218

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 42-5-901, MISSISSIPPI CODE OF 1972, TO REVISE INMATE
5 MEDICAL REIMBURSEMENT RATES; TO AMEND SECTION 47-5-911,
6 MISSISSIPPI CODE OF 1972, TO EXTEND THE REPEAL DATE ON THOSE
7 REENACTED SECTIONS; TO AMEND SECTION 47-5-943, MISSISSIPPI CODE OF
8 1972, TO INCREASE THE NUMBER OF JUVENILE OFFENDERS FOR WHICH THE
9 DEPARTMENT OF CORRECTIONS MAY CONTRACT WITH THE WALNUT GROVE
10 CORRECTIONAL FACILITY FOR THE HOUSING OF YOUTH OFFENDERS; TO
11 INCREASE THE MAXIMUM AGE OF YOUTH OFFENDERS WHO MAY BE HOUSED AT
12 THE FACILITY; TO REQUIRE PEER TO DETERMINE THE ACTUAL COST OF
13 HOUSING STATE INMATES IN COUNTY JAILS; AND FOR RELATED PURPOSES.

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

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

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

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

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

41 (3) Upon vouchers submitted by the board of supervisors of
42 any county housing persons due to lack of space at state
43 institutions, the Department of Corrections shall pay to such
44 county, out of any available funds, the actual cost of food, or
45 contract price per prisoner, not to exceed Twenty Dollars (\$20.00)
46 per day per offender, as determined under subsection (2) of this
47 section for each day an offender is so confined beginning the day
48 that the Department of Corrections receives a certified copy of
49 the sentencing order and will terminate on the date on which the
50 offender is released or otherwise removed from the custody of the
51 county jail. The department shall pay the * * * cost for medical
52 attention for prisoners at an amount no greater than the
53 reimbursement rate based on the Mississippi Medicaid reimbursement
54 rate. This limitation applies to all medical care services,
55 durable and nondurable goods, prescription drugs and medications.
56 Such payment shall be placed in the county general fund and shall
57 be expended only for food and medical attention for such persons.
58 The Department of Corrections shall not pay a county for offenders
59 housed in county jails pending a probation or parole revocation
60 hearing.

61 (4) A person, on order of the sentencing court, may serve
62 not more than twenty-four (24) months of his sentence in a county
63 jail if the person is classified in accordance with Section
64 47-5-905 and the county jail is an approved county jail for
65 housing state inmates under federal court order. The sheriff of

66 the county shall have the right to petition the Commissioner of
67 Corrections to remove the inmate from the county jail. The county
68 shall be reimbursed in accordance with subsection (2).

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

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

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

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

92 47-5-903. (1) A person committed, sentenced or otherwise
93 placed under the custody of the Department of Corrections, on
94 order of the sentencing court, may serve his sentence in the
95 county jail of the county where convicted if all of the following
96 conditions are complied with:

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

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

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

104 (d) After the person is classified and returned to the
105 county, the county shall assume the full and complete
106 responsibility for the care and expenses of housing such person;
107 and

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

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

114 (3) The Attorney General of the State of Mississippi shall
115 defend the employees of the Department of Corrections and
116 officials and employees of political subdivisions against any
117 action brought by any person who was committed to a county jail
118 under the provisions of this section.

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

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

124 47-5-905. (1) All persons placed under the custody of the
125 Department of Corrections shall be processed at a reception and
126 diagnostic center of the Department of Corrections and then be
127 assigned to an appropriate correctional facility for a complete
128 and thorough classification, not to exceed ninety (90) days,
129 unless the department determines that a person can be properly
130 processed and classified at the county jail in accordance with the
131 department's classification plan.

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

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

137 47-5-907. The sheriff of any county in this state shall have
138 the right to petition the Commissioner of the Department of
139 Corrections to remove a state inmate from the county jail in such
140 county to the State Penitentiary. The commissioner shall remove
141 such inmate from such county jail if the sheriff of such county
142 sets forth just cause in his petition indicating why an inmate
143 should be removed from such county jail to the State Penitentiary.

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

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

158 47-5-909. It is the policy of the Legislature that all
159 inmates be removed from county jails as early as practicable.
160 Sections 47-5-901 through 47-5-907 are temporary measures to help
161 alleviate the immediate operating capacity limitations at
162 correctional facilities and are not permanent measures to be
163 included in the long-term operating capacity of the correctional
164 system.

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

167 47-5-911. Sections 47-5-901 through 47-5-911 shall stand
168 repealed on July 1, 2005.

169 **SECTION 7.** Section 47-5-943, Mississippi Code of 1972, is
170 amended as follows:

171 47-5-943. The Mississippi Department of Corrections may
172 contract with the Walnut Grove Correctional Authority or the
173 governing authorities of the Municipality of Walnut Grove, Leake
174 County, Mississippi, to provide for the private housing, care and
175 control of not more than one thousand (1,000) juvenile offenders
176 who are in the custody of the Department of Corrections at a
177 maximum security facility in Walnut Grove * * *. The maximum age
178 of any offender housed in this facility shall be twenty-one (21)
179 years of age, and upon reaching his or her twenty-first birthday,
180 the offender must be removed from the facility speedily and within
181 a reasonable amount of time. A county or circuit judge shall not
182 order any juvenile to be housed in the correctional facility
183 authorized in Sections 47-5-943 through 47-5-953. Commitment of
184 juvenile offenders shall not be to this facility, but shall be to
185 the jurisdiction of the department. The commissioner shall assign
186 newly sentenced offenders to an appropriate facility consistent
187 with public safety. Any facility owned or leased by the Walnut
188 Grove Correctional Authority or the Municipality of Walnut Grove
189 for this purpose shall be designed, constructed, operated and
190 maintained in accordance with American Correctional Association
191 standards, and shall comply with all constitutional standards of
192 the United States and the State of Mississippi and with all court
193 orders that may now or hereinafter be applicable to the facility.
194 The contract must comply with Sections 47-5-1211 through
195 47-5-1227.

196 **SECTION 8.** The Performance Evaluation and Expenditure Review
197 Committee shall conduct a study to determine the actual per day

198 cost of housing state inmates in county jails. The PEER Committee
199 shall complete such determination and shall report with the
200 Governor, Lieutenant Governor, Speaker of the House and Chairmen
201 of the Senate and House Corrections Committees no later than
202 December 1, 2004.

203 **SECTION 9.** This act shall take effect and be in force from
204 and after its passage.