

By: Representative Cummings

To: Corrections;  
Appropriations

## HOUSE BILL NO. 1125

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 REQUIRE  
5 THE DEPARTMENT OF CORRECTIONS TO PAY COUNTIES WHO HOUSE STATE  
6 INMATES THE ACTUAL COSTS FOR MEDICAL ATTENTION FOR SUCH INMATES;  
7 TO AMEND SECTION 47-5-911, MISSISSIPPI CODE OF 1972, TO EXTEND THE  
8 DATE OF REPEAL FROM JULY 1, 2007, TO JULY 1, 2009; AND FOR RELATED  
9 PURPOSES.

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

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

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

27 (2) If state prisoners are housed in county jails due to a  
28 lack of capacity at state correctional institutions, the  
29 Department of Corrections shall determine the cost for food and  
30 medical attention for such prisoners. The cost of feeding and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

161           47-5-911. Sections 47-5-901 through 47-5-911 shall stand  
162 repealed on July 1, 2009.

163           **SECTION 7.** This act shall take effect and be in force from  
164 and after July 1, 2007.