

By: Representative Mayo

To: Corrections;
Appropriations

HOUSE BILL NO. 1213

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 INCREASE
5 THE AMOUNT FROM \$20.00 TO \$35.00 THE COST PER DAY FOR HOUSING
6 OFFENDERS IN COUNTY JAILS; TO AMEND SECTION 47-5-911, MISSISSIPPI
7 CODE OF 1972, TO EXTEND THE DATE OF REPEAL ON THOSE REENACTED
8 SECTIONS; AND FOR RELATED PURPOSES.

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

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

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

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

31 actual costs or contract price per prisoner. In order to maximize
32 the potential use of county jail space, the Department of
33 Corrections is encouraged to negotiate a reasonable per day cost
34 per prisoner, which in no event may exceed Thirty-five Dollars
35 (\$35.00) per day per offender.

36 (3) Upon vouchers submitted by the board of supervisors of
37 any county housing persons due to lack of space at state
38 institutions, the Department of Corrections shall pay to such
39 county, out of any available funds, the actual cost of food, or
40 contract price per prisoner, not to exceed Thirty-five Dollars
41 (\$35.00) per day per offender, as determined under subsection (2)
42 of this section for each day an offender is so confined beginning
43 the day that the Department of Corrections receives a certified
44 copy of the sentencing order and will terminate on the date on
45 which the offender is released or otherwise removed from the
46 custody of the county jail. The department shall pay the cost for
47 medical attention for prisoners at an amount no greater than the
48 reimbursement rate based on the Mississippi Medicaid reimbursement
49 rate. This limitation applies to all medical care services,
50 durable and nondurable goods, prescription drugs and medications.
51 Such payment shall be placed in the county general fund and shall
52 be expended only for food and medical attention for such persons.
53 The Department of Corrections shall not pay a county for offenders
54 housed in county jails pending a probation or parole revocation
55 hearing.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

162 47-5-911. Sections 47-5-901 through 47-5-911 shall stand
163 repealed on July 1, 2008.

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