

By: Representatives Fredericks, Dedeaux, Ishee, Janus, Palazzo, Patterson, Peranich, Simpson, Upshaw, Holloway, Huddleston, Straughter

To: Local and Private Legislation

HOUSE BILL NO. 1609

1 AN ACT TO AUTHORIZE THE HARRISON COUNTY BOARD OF SUPERVISORS
2 TO CONTRACT WITH A PRIVATE ENTITY FOR THE MANAGEMENT, OPERATION
3 AND MAINTENANCE OF A PRIVATE COUNTY JAIL; AND FOR RELATED
4 PURPOSES.

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

6 SECTION 1. The Harrison County Board of Supervisors, in
7 their discretion, may contract with a private entity for the
8 management, operation and maintenance of a private county jail.

9 SECTION 2. (1) A contract for the private management,
10 operation and maintenance of a county jail shall not be entered
11 into unless the contractor has demonstrated that it has:

12 (a) The qualifications, experience and management
13 personnel necessary to carry out the terms of the contract.

14 (b) The ability to comply with applicable federal and
15 state laws, court orders and national correctional standards.

16 (c) A history of successful operation and management of
17 other private county jails.

18 (2) The jail shall at all times comply with all federal and
19 state laws, and all applicable court orders.

20 SECTION 3. (1) A contractor's employees serving as
21 "jailers" shall be allowed to use force only while on the grounds
22 of a jail, while transporting offenders, and while pursuing
23 escapees from a jail.

24 (2) Private jailers may use only such nondeadly force as the
25 circumstances require in the following situations: to prevent the
26 commission of a felony or misdemeanor, including escape; to defend
27 oneself or others against physical assault; to prevent serious

28 damage to property; to enforce institutional regulations and
29 orders; and to prevent or quell a riot.

30 (3) Private jailers, who have been appropriately certified
31 as determined by the contracting agency and trained pursuant to
32 the provisions of subsection (4), shall have the right to carry
33 and use firearms and shall exercise such authority and may use
34 deadly force to prevent an act that could result in death or
35 serious bodily injury to oneself or to another person.

36 (4) Private jailers shall be trained in the use of force and
37 the use of firearms, in accordance with American Correction
38 Association Standards and shall be trained, at the private
39 contractor's expense, for at least the minimum number of hours
40 that public personnel are currently trained.

41 **SECTION 4.** All employees of a jail operated pursuant to this
42 act must receive, at a minimum, the same quality and quantity of
43 training as that required by the state, for sheriffs and deputy
44 sheriffs. All training expenses shall be the responsibility of
45 the contractor.

46 **SECTION 5.** A contract for jail services shall not be entered
47 into unless the following requirements are met:

48 (a) In addition to fire and casualty insurance, the
49 contractor shall provide at least Five Million Dollars
50 (\$5,000,000.00) of liability insurance, specifically including
51 insurance for civil rights claims. The liability insurance shall
52 be issued by an insurance company with a rating of at least an A-
53 according to A.M. Best Standards. In determining the adequacy of
54 such insurance, the board of supervisors shall determine whether:

55 (i) The insurance is adequate to protect the
56 county from any and all actions by a third party against the
57 contractor or the county as a result of the contract;

58 (ii) The insurance is adequate to protect the
59 county against any and all claims arising as a result of any
60 occurrence during the term of the contract;

61 (iii) The insurance is adequate to assure the
62 contractor's ability to fulfill its contract with the county in
63 all respects, and to assure that the contractor is not limited in
64 this ability because of financial liability which results from
65 judgments; and

66 (iv) The insurance is adequate to satisfy such
67 other requirements specified by an independent risk
68 management/actuarial firm.

69 (b) The sovereign immunity of the state or the county
70 shall not apply to the contractor. Neither the contractor nor the
71 insurer of the contractor may plead the defense of sovereign
72 immunity in any action arising out of the performance of the
73 contract.

74 (c) The contractor shall post a performance bond to
75 assure the contractor's faithful performance of the specifications
76 and conditions of the contract. The bond is required throughout
77 the term of the contract. The terms and conditions must be
78 approved by the board of supervisors and the approval is a
79 condition precedent to the contract taking effect.

80 (d) The contractor shall defend any suit or claim
81 brought against Harrison County arising out of any act or omission
82 in the operation of a private jail and shall hold the county
83 harmless from the claim or suit. The contractor shall be solely
84 responsible for the payment of any legal or other costs relative
85 to any such claim or suit. The contractor shall reimburse the
86 county for any costs that it may incur as a result of the claim or
87 suit immediately upon being submitted a statement therefor by the
88 board of supervisors.

89 The duties and obligations of the contractor pursuant to this
90 subsection shall include, but not be limited to, any claim or suit
91 brought under any federal or state civil rights or offenders'
92 rights statutes or pursuant to any rights recognized by common law
93 or case law, or federal or state constitutions.

94 Any suit brought or claim made arising out of any act or
95 omission in the operation of a private jail shall be made or
96 brought against the contractor and not the board of supervisors.

97 **SECTION 6.** A plan shall be developed which demonstrates the
98 method by which the county would resume control of the jail upon
99 contract termination.

100 **SECTION 7.** If the board of supervisors enters into a
101 contract with a private entity for the management, operation and
102 maintenance of a county jail as authorized by this act, neither
103 the sheriff nor his bondsmen shall be responsible for the actual
104 management, operation or maintenance of the jail.

105 **SECTION 8.** This act shall take effect and be in force from
106 and after its passage.