

By: Senator(s) Hyde-Smith

To: Public Health and  
Welfare; Appropriations

SENATE BILL NO. 3016

1 AN ACT RELATING TO THE HEALTH CARE COSTS OF STATE AND LOCAL  
2 INMATES; TO PROVIDE DEFINITIONS; TO PROVIDE THAT COUNTIES,  
3 MUNICIPALITIES, THE MISSISSIPPI DEPARTMENT OF CORRECTIONS AND ANY  
4 LOCAL OR STATE LAW ENFORCEMENT AUTHORITY SHALL ONLY BE LIABLE TO  
5 PAY HEALTH CARE PROVIDERS FOR HEALTH CARE SERVICES RENDERED TO  
6 INMATES AT THE LESSER OF THE ACTUAL AMOUNT BILLED OR THE MEDICAID  
7 RATE IF THE INMATE HAS NO INSURANCE; TO PROHIBIT A LAW ENFORCEMENT  
8 OFFICER FROM RELEASING A PERSON FROM CUSTODY TO AVOID THE COST OF  
9 NECESSARY MEDICAL TREATMENT; TO AMEND SECTION 47-5-901,  
10 MISSISSIPPI CODE OF 1972, IN CONFORMITY; AND FOR RELATED PURPOSES.

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

12 **SECTION 1.** (1) Except as otherwise provided in this  
13 section, a county, a city, a county or city law enforcement  
14 agency, the Mississippi Department of Corrections or the  
15 Mississippi Highway Safety Patrol shall be liable to pay a health  
16 care provider for health care services rendered to persons in the  
17 custody of such agencies the lesser of the actual amount billed by  
18 such health care provider or the Medicaid rate. The provisions of  
19 this section shall not apply if a person in the custody of a  
20 county or city law enforcement agency, the Mississippi Department  
21 of Corrections or the Mississippi Highway Safety Patrol is covered  
22 under a current individual or group accident and health insurance  
23 policy, medical service plan contract, hospital service  
24 corporation contract, hospital and medical service corporation  
25 contract, fraternal benefit society or health maintenance  
26 organization contract.

27 (2) Nothing in this section shall prevent a county or city  
28 law enforcement agency, the Mississippi Department of Corrections,  
29 the Mississippi Highway Safety Patrol or such agencies' authorized  
30 vendors from entering into agreements with health care providers

31 for the provision of health care services at terms, conditions and  
32 amounts which are different than the Medicaid rate.

33 (3) It shall be the responsibility of the custodial county  
34 or city law enforcement agency, Mississippi Department of  
35 Corrections or the Mississippi Highway Safety Patrol or such  
36 agencies' agents, to determine, under agreement with the Division  
37 of Medicaid-Office of the Governor, the amount payable for the  
38 services provided and to communicate that determination, along  
39 with the remittance, advice and payment for the services provided.

40 (4) Nothing in this section shall be construed to create a  
41 duty on the part of a health care provider to render health care  
42 services to a person in the custody of a county or city law  
43 enforcement agency, the Mississippi Department of Corrections or  
44 the Mississippi Highway Safety Patrol.

45 (5) As used in this section:

46 (a) "County or city law enforcement agency" means a  
47 county sheriff's department or municipal police department.

48 (b) "Health care provider" means a person licensed to  
49 practice any branch of the healing arts by the State Board of  
50 Medical Licensure, a person who holds a temporary permit to  
51 practice any branch of the healing arts issued by the State Board  
52 of Medical Licensure, a person engaged in a postgraduate training  
53 program approved by the State Board of Medical Licensure, a  
54 licensed physician assistant, a person licensed by the State Board  
55 of Psychological Examiners, a medical care facility licensed by  
56 the State Department of Health, a podiatrist licensed by the State  
57 Board of Medical Licensure, an optometrist licensed by the State  
58 Board of Optometry, a registered nurse, a nurse practitioner, a  
59 licensed professional nurse who is authorized to practice as a  
60 registered nurse anesthetist, a licensed practical nurse, a  
61 pharmacist or pharmacy licensed by the State Board of Pharmacy, a  
62 licensed physical therapist, a professional corporation organized  
63 pursuant to the professional corporation law of Mississippi by

64 persons who are authorized by such law to form such a corporation  
65 and who are health care providers as defined by this subsection, a  
66 Mississippi limited liability company organized for the purpose of  
67 rendering professional services by its members who are health care  
68 providers as defined by this subsection and who are legally  
69 authorized to render the professional services for which the  
70 limited liability company is organized, a partnership of persons  
71 who are health care providers under this subsection, a Mississippi  
72 not-for-profit corporation organized for the purpose of rendering  
73 professional services by persons who are health care providers as  
74 defined by this subsection, a dentist certified by the State Board  
75 of Dental Examiners to administer anesthetics, a psychiatric  
76 hospital licensed by the State Department of Health, a licensed  
77 social worker or a mental health center or mental health clinic  
78 licensed by the Board of Examiners for Social Workers and any  
79 health care provider licensed by the appropriate regulatory body  
80 in another state that has a current approved provider agreement  
81 with the Division of Medicaid.

82 (c) "Medicaid rate" means the terms, conditions and  
83 amounts a health care provider would be paid for health care  
84 services rendered pursuant to a contract or provider agreement  
85 with the Division of Medicaid.

86 **SECTION 2.** (1) A law enforcement officer having custody of  
87 a person shall not release such person from custody merely to  
88 avoid the cost of necessary medical treatment while the person is  
89 receiving treatment from a health care provider unless the health  
90 care provider consents to such release, or unless the release is  
91 ordered by a court of competent jurisdiction. When the law  
92 enforcement officer is satisfied that probable cause no longer  
93 exists to believe the suspect committed a crime based upon the  
94 ongoing investigation, or the district attorney or city attorney  
95 gives notice that no prosecution will be forthcoming at this time,  
96 the law enforcement officer may release such person from custody.

97 Upon the date of notification to the health care provider that the  
98 person is being released from custody because the ongoing  
99 investigation indicates that probable cause no longer exists or a  
100 decision by the prosecuting attorney that no charges will be  
101 filed, the law enforcement agency shall no longer be responsible  
102 for the cost of such person's medical treatment.

103 (2) As used in this section:

104 (a) "Law enforcement officer" has the meaning ascribed  
105 thereto in Section 1 of this act.

106 (b) "Health care provider" has the meaning ascribed  
107 thereto in Section 1 of this act.

108 **SECTION 3.** Section 47-5-901, Mississippi Code of 1972, is  
109 amended as follows:

110 47-5-901. (1) Any person committed, sentenced or otherwise  
111 placed under the custody of the Department of Corrections, on  
112 order of the sentencing court and subject to the other conditions  
113 of this subsection, may serve all or any part of his sentence in  
114 the county jail of the county wherein such person was convicted if  
115 the Commissioner of Corrections determines that physical space is  
116 not available for confinement of such person in the state  
117 correctional institutions. Such determination shall be promptly  
118 made by the Department of Corrections upon receipt of notice of  
119 the conviction of such person. The commissioner shall certify in  
120 writing that space is not available to the sheriff or other  
121 officer having custody of the person. Any person serving his  
122 sentence in a county jail shall be classified in accordance with  
123 Section 47-5-905.

124 (2) If state prisoners are housed in county jails due to a  
125 lack of capacity at state correctional institutions, the  
126 Department of Corrections shall determine the cost for food and  
127 medical attention for such prisoners. The cost of feeding and  
128 housing offenders confined in such county jails shall be based on  
129 actual costs or contract price per prisoner. In order to maximize

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

134 (3) Upon vouchers submitted by the board of supervisors of  
135 any county housing persons due to lack of space at state  
136 institutions, the Department of Corrections shall pay to such  
137 county, out of any available funds, the actual cost of food, or  
138 contract price per prisoner, not to exceed Twenty Dollars (\$20.00)  
139 per day per offender, as determined under subsection (2) of this  
140 section for each day an offender is so confined beginning the day  
141 that the Department of Corrections receives a certified copy of  
142 the sentencing order and will terminate on the date on which the  
143 offender is released or otherwise removed from the custody of the  
144 county jail. The department shall pay the cost for health care  
145 services for prisoners at an amount no greater than the  
146 reimbursement rate based on the Mississippi Medicaid reimbursement  
147 rate, or the actual amount billed for such health care services,  
148 whichever is the lesser amount, as provided in Section 1 of this  
149 act. This limitation applies to all health care services defined  
150 in Section 1 of this act. Such payment shall be placed in the  
151 county general fund and shall be expended only for food and  
152 medical attention for such persons. The Department of Corrections  
153 shall not pay a county for offenders housed in county jails  
154 pending a probation or parole revocation hearing.

155 (4) A person, on order of the sentencing court, may serve  
156 not more than twenty-four (24) months of his sentence in a county  
157 jail if the person is classified in accordance with Section  
158 47-5-905 and the county jail is an approved county jail for  
159 housing state inmates under federal court order. The sheriff of  
160 the county shall have the right to petition the Commissioner of  
161 Corrections to remove the inmate from the county jail. The county  
162 shall be reimbursed in accordance with subsection (2).

163           (5) The Attorney General of the State of Mississippi shall  
164 defend the employees of the Department of Corrections and  
165 officials and employees of political subdivisions against any  
166 action brought by any person who was committed to a county jail  
167 under the provisions of this section.

168           (6) This section does not create in the Department of  
169 Corrections, or its employees or agents, any new liability,  
170 express or implied, nor shall it create in the Department of  
171 Corrections any administrative authority or responsibility for the  
172 construction, funding, administration or operation of county or  
173 other local jails or other places of confinement which are not  
174 staffed and operated on a full-time basis by the Department of  
175 Corrections. The correctional system under the jurisdiction of  
176 the Department of Corrections shall include only those facilities  
177 fully staffed by the Department of Corrections and operated by it  
178 on a full-time basis.

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

184           **SECTION 4.** This act shall take effect and be in force from  
185 and after July 1, 2007.