

By: Representative White

To: Corrections

HOUSE BILL NO. 479

1 AN ACT TO REENACT SECTIONS 47-5-901 THROUGH 47-5-909,
 2 MISSISSIPPI CODE OF 1972, WHICH PROVIDE FOR CONDITIONS UNDER
 3 WHICH STATE OFFENDERS MAY SERVE SENTENCES IN COUNTY JAILS; TO
 4 AMEND SECTION 47-5-911, MISSISSIPPI CODE OF 1972, TO EXTEND THE
 5 DATE OF REPEAL ON THOSE REENACTED CODE SECTIONS FROM JULY 1, 2016,
 6 TO JULY 1, 2019; AND FOR RELATED PURPOSES.

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

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

10 47-5-901. (1) Any person committed, sentenced or otherwise
 11 placed under the custody of the Department of Corrections, on
 12 order of the sentencing court and subject to the other conditions
 13 of this subsection, may serve all or any part of his sentence in
 14 the county jail of the county wherein such person was convicted if
 15 the Commissioner of Corrections determines that physical space is
 16 not available for confinement of such person in the state
 17 correctional institutions. Such determination shall be promptly
 18 made by the Department of Corrections upon receipt of notice of
 19 the conviction of such person. The commissioner shall certify in
 20 writing that space is not available to the sheriff or other



21 officer having custody of the person. Any person serving his
22 sentence in a county jail shall be classified in accordance with
23 Section 47-5-905.

24 (2) If state prisoners are housed in county jails due to a
25 lack of capacity at state correctional institutions, the
26 Department of Corrections shall determine the cost for food and
27 medical attention for such prisoners. The cost of feeding and
28 housing offenders confined in such county jails shall be based on
29 actual costs or contract price per prisoner. In order to maximize
30 the potential use of county jail space, the Department of
31 Corrections is encouraged to negotiate a reasonable per day cost
32 per prisoner, which in no event may exceed Twenty Dollars (\$20.00)
33 per day per offender.

34 (3) (a) Upon vouchers submitted by the board of supervisors
35 of any county housing persons due to lack of space at state
36 institutions, the Department of Corrections shall pay to such
37 county, out of any available funds, the actual cost of food, or
38 contract price per prisoner, not to exceed Twenty Dollars (\$20.00)
39 per day per offender, as determined under subsection (2) of this
40 section for each day an offender is so confined beginning the day
41 that the Department of Corrections receives a certified copy of
42 the sentencing order and will terminate on the date on which the
43 offender is released or otherwise removed from the custody of the
44 county jail. The department, or its contracted medical provider,
45 will pay to a provider of a medical service for any and all



46 incarcerated persons from a correctional or detention facility an
47 amount based upon negotiated fees as agreed to by the medical care
48 service providers and the department and/or its contracted medical
49 provider. In the absence of negotiated discounted fee schedule,
50 medical care service providers will be paid by the department, or
51 its contracted medical service provider, an amount no greater than
52 the reimbursement rate applicable based on the Mississippi
53 Medicaid reimbursement rate. The board of supervisors of any
54 county shall not be liable for any cost associated with medical
55 attention for prisoners who are pretrial detainees or for
56 prisoners who have been convicted that exceeds the Mississippi
57 Medicaid reimbursement rate or the reimbursement provided by the
58 Department of Corrections, whichever is greater. This limitation
59 applies to all medical care services, durable and nondurable
60 goods, prescription drugs and medications. Such payment shall be
61 placed in the county general fund and shall be expended only for
62 food and medical attention for such persons.

63 (b) Upon vouchers submitted by the board of supervisors
64 of any county housing offenders in county jails pending a
65 probation or parole revocation hearing, the department shall pay
66 the reimbursement costs provided in paragraph (a).

67 (c) If the probation or parole of an offender is
68 revoked, the additional cost of housing the offender pending the
69 revocation hearing shall be assessed as part of the offender's
70 court cost and shall be remitted to the department.



71 (4) A person, on order of the sentencing court, may serve
72 not more than twenty-four (24) months of his sentence in a county
73 jail if the person is classified in accordance with Section
74 47-5-905 and the county jail is an approved county jail for
75 housing state inmates under federal court order. The sheriff of
76 the county shall have the right to petition the Commissioner of
77 Corrections to remove the inmate from the county jail. The county
78 shall be reimbursed in accordance with subsection (2) of this
79 section.

80 (5) The Attorney General of the State of Mississippi shall
81 defend the employees of the Department of Corrections and
82 officials and employees of political subdivisions against any
83 action brought by any person who was committed to a county jail
84 under the provisions of this section.

85 (6) This section does not create in the Department of
86 Corrections, or its employees or agents, any new liability,
87 express or implied, nor shall it create in the Department of
88 Corrections any administrative authority or responsibility for the
89 construction, funding, administration or operation of county or
90 other local jails or other places of confinement which are not
91 staffed and operated on a full-time basis by the Department of
92 Corrections. The correctional system under the jurisdiction of
93 the Department of Corrections shall include only those facilities
94 fully staffed by the Department of Corrections and operated by it
95 on a full-time basis.



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

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

103 47-5-903. (1) A person committed, sentenced or otherwise
104 placed under the custody of the Department of Corrections, on
105 order of the sentencing court, may serve his sentence in the
106 county jail of the county where convicted if all of the following
107 conditions are complied with:

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

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

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

115 (d) After the person is classified and returned to the
116 county, the county shall assume the full and complete
117 responsibility for the care and expenses of housing such person;
118 and

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



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

125 (3) The Attorney General of the State of Mississippi shall
126 defend the employees of the Department of Corrections and
127 officials and employees of political subdivisions against any
128 action brought by any person who was committed to a county jail
129 under the provisions of this section.

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

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

135 47-5-905. (1) All persons placed under the custody of the
136 Department of Corrections shall be processed at a reception and
137 diagnostic center of the Department of Corrections and then be
138 assigned to an appropriate correctional facility for a complete
139 and thorough classification, not to exceed ninety (90) days,
140 unless the department determines that a person can be properly
141 processed and classified at the county jail in accordance with the
142 department's classification plan.

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



146 **SECTION 4.** Section 47-5-907, Mississippi Code of 1972, is
147 amended as follows:

148 47-5-907. The sheriff of any county in this state shall have
149 the right to petition the Commissioner of the Department of
150 Corrections to remove a state inmate from the county jail in such
151 county to the State Penitentiary. The commissioner shall remove
152 such inmate from such county jail if the sheriff of such county
153 sets forth just cause in his petition indicating why an inmate
154 should be removed from such county jail to the State Penitentiary.

155 Just cause is established if such sheriff can sufficiently
156 prove that such inmate has a dangerous behavior or sufficiently
157 prove that there is no available or suitable medical facility
158 where such inmate can be provided suitable medical services. The
159 commissioner shall respond in writing to the petition no later
160 than thirty (30) days after the receipt of such petition. If the
161 petition to remove such inmate is denied by the commissioner, such
162 sheriff and his agents shall have from the date of denial absolute
163 immunity from liability for any injury resulting from subsequent
164 behavior or from medical consequences regarding such inmate,
165 provided that such injury resulted from conditions which were set
166 forth in such petition.

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

169 47-5-909. It is the policy of the Legislature that all
170 inmates be removed from county jails as early as practicable.



171 Sections 47-5-901 through 47-5-907 are temporary measures to help
172 alleviate the immediate operating capacity limitations at
173 correctional facilities and are not permanent measures to be
174 included in the long-term operating capacity of the correctional
175 system.

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

178 47-5-911. Sections 47-5-901 through 47-5-911 shall stand
179 repealed on July 1, * * * 2019.

180 **SECTION 7.** This act shall take effect and be in force from
181 and after July 1, 2016.

