

By: Representative Kinkade

To: Corrections

HOUSE BILL NO. 1139

1 AN ACT TO AMEND SECTION 47-5-903, MISSISSIPPI CODE OF 1972,
 2 TO REMOVE THE CONDITION THAT IN ORDER FOR A STATE OFFENDER TO
 3 SERVE HIS OR HER SENTENCE IN A COUNTY JAIL, SUCH JAIL MUST BE AN
 4 APPROVED COUNTY JAIL FOR HOUSING STATE INMATES UNDER FEDERAL COURT
 5 ORDER; TO AMEND SECTION 47-5-901, MISSISSIPPI CODE OF 1972, TO
 6 CONFORM TO THE PRECEDING SECTION; AND FOR RELATED PURPOSES.

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

8 **SECTION 1.** Section 47-5-903, Mississippi Code of 1972, is
 9 amended as follows:

10 47-5-903. (1) A person committed, sentenced or otherwise
 11 placed under the custody of the Department of Corrections, on
 12 order of the sentencing court, may serve his sentence in the
 13 county jail of the county where convicted if all of the following
 14 conditions are complied with:

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

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



19 (c) The sheriff of the county where the person will
20 serve his sentence must request in writing that the person be
21 allowed to serve his sentence in that county jail; and

22 (d) After the person is classified and returned to the
23 county, the county shall assume the full and complete
24 responsibility for the care and expenses of housing such
25 person * * *.

26 * * *

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

31 (3) The Attorney General of the State of Mississippi shall
32 defend the employees of the Department of Corrections and
33 officials and employees of political subdivisions against any
34 action brought by any person who was committed to a county jail
35 under the provisions of this section.

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

39 **SECTION 2.** Section 47-5-901, Mississippi Code of 1972, is
40 amended as follows:

41 47-5-901. (1) Any person committed, sentenced or otherwise
42 placed under the custody of the Department of Corrections, on
43 order of the sentencing court and subject to the other conditions



44 of this subsection, may serve all or any part of his sentence in
45 the county jail of the county wherein such person was convicted if
46 the Commissioner of Corrections determines that physical space is
47 not available for confinement of such person in the state
48 correctional institutions. Such determination shall be promptly
49 made by the Department of Corrections upon receipt of notice of
50 the conviction of such person. The commissioner shall certify in
51 writing that space is not available to the sheriff or other
52 officer having custody of the person. Any person serving his
53 sentence in a county jail shall be classified in accordance with
54 Section 47-5-905.

55 (2) If state prisoners are housed in county jails due to a
56 lack of capacity at state correctional institutions, the
57 Department of Corrections shall determine the cost for food and
58 medical attention for such prisoners. The cost of feeding and
59 housing offenders confined in such county jails shall be based on
60 actual costs or contract price per prisoner. In order to maximize
61 the potential use of county jail space, the Department of
62 Corrections is encouraged to negotiate a reasonable per day cost
63 per prisoner, which in no event may exceed Twenty Dollars (\$20.00)
64 per day per offender.

65 (3) (a) Upon vouchers submitted by the board of supervisors
66 of any county housing persons due to lack of space at state
67 institutions, the Department of Corrections shall pay to such
68 county, out of any available funds, the actual cost of food, or



69 contract price per prisoner, not to exceed Twenty Dollars (\$20.00)
70 per day per offender, as determined under subsection (2) of this
71 section for each day an offender is so confined beginning the day
72 that the Department of Corrections receives a certified copy of
73 the sentencing order and will terminate on the date on which the
74 offender is released or otherwise removed from the custody of the
75 county jail. The department, or its contracted medical provider,
76 will pay to a provider of a medical service for any and all
77 incarcerated persons from a correctional or detention facility an
78 amount based upon negotiated fees as agreed to by the medical care
79 service providers and the department and/or its contracted medical
80 provider. In the absence of negotiated discounted fee schedule,
81 medical care service providers will be paid by the department, or
82 its contracted medical service provider, an amount no greater than
83 the reimbursement rate applicable based on the Mississippi
84 Medicaid reimbursement rate. The board of supervisors of any
85 county shall not be liable for any cost associated with medical
86 attention for prisoners who are pretrial detainees or for
87 prisoners who have been convicted that exceeds the Mississippi
88 Medicaid reimbursement rate or the reimbursement provided by the
89 Department of Corrections, whichever is greater. This limitation
90 applies to all medical care services, durable and nondurable
91 goods, prescription drugs and medications. Such payment shall be
92 placed in the county general fund and shall be expended only for
93 food and medical attention for such persons.



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

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

102 (4) A person, on order of the sentencing court, may serve
103 not more than twenty-four (24) months of his sentence in a county
104 jail if the person is classified in accordance with Section
105 47-5-905 * * *. The sheriff of the county shall have the right to
106 petition the Commissioner of Corrections to remove the inmate from
107 the county jail. The county shall be reimbursed in accordance
108 with subsection (2) of this section.

109 (5) 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 (6) This section does not create in the Department of
115 Corrections, or its employees or agents, any new liability,
116 express or implied, nor shall it create in the Department of
117 Corrections any administrative authority or responsibility for the
118 construction, funding, administration or operation of county or



119 other local jails or other places of confinement which are not
120 staffed and operated on a full-time basis by the Department of
121 Corrections. The correctional system under the jurisdiction of
122 the Department of Corrections shall include only those facilities
123 fully staffed by the Department of Corrections and operated by it
124 on a full-time basis.

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

130 **SECTION 3.** This act shall take effect and be in force from
131 and after July 1, 2018.

