

By: Senator(s) DeBar

To: Corrections;  
Appropriations

SENATE BILL NO. 2109

1 AN ACT TO AMEND SECTION 47-5-901, MISSISSIPPI CODE OF 1972,  
 2 TO PROVIDE THAT THE MISSISSIPPI DEPARTMENT OF CORRECTIONS (MDOC)  
 3 MUST REIMBURSE COUNTIES FOR THE MEDICAL EXPENSES OF STATE  
 4 PRISONERS BEING HOUSED IN COUNTY JAILS DUE TO A LACK OF CAPACITY  
 5 AT STATE CORRECTIONAL INSTITUTIONS; TO AMEND SECTION 99-15-19,  
 6 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT A COUNTY MAY REQUEST  
 7 REIMBURSEMENT FROM MDOC FOR FEES AND EXPENSES INCURRED BY THE  
 8 COUNTY IN THE PROSECUTION OF STATE OFFENDERS WHO COMMIT CRIMES  
 9 WHILE IN A STATE CORRECTIONAL FACILITY OR COUNTY JAIL; TO AMEND  
 10 SECTION 99-15-21, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT A  
 11 COUNTY MAY REQUEST SUCH REIMBURSEMENT ONLY FOR CASES IN WHICH  
 12 LEGAL COUNSEL IS APPOINTED TO A STATE OFFENDER ON OR AFTER JULY 1,  
 13 2021; AND FOR RELATED PURPOSES.

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

15 **SECTION 1.** Section 47-5-901, Mississippi Code of 1972, is  
 16 amended as follows:

17 47-5-901. (1) (a) Any person committed, sentenced or  
 18 otherwise placed under the custody of the Department of  
 19 Corrections, on order of the sentencing court and subject to the  
 20 other conditions of this subsection, may serve all or any part of  
 21 his sentence in the county jail of the county wherein such person  
 22 was convicted if the Commissioner of Corrections determines that  
 23 physical space is not available for confinement of such person in



24 the state correctional institutions. Such determination shall be  
25 promptly made by the Department of Corrections upon receipt of  
26 notice of the conviction of such person. The commissioner shall  
27 certify in writing that space is not available to the sheriff or  
28 other officer having custody of the person. Any person serving  
29 his sentence in a county jail shall be classified in accordance  
30 with Section 47-5-905.

31 (b) Any person committed, sentenced or otherwise placed  
32 under the custody of the Department of Corrections, on order of  
33 the sentencing court and subject to the other conditions of this  
34 subsection, may serve all or any part of his or her sentence in  
35 the county jail of the county wherein such person was convicted if  
36 the sheriff or president of the board of supervisors, requests  
37 such inmate or inmates. Upon such request, the department may  
38 allow such inmate or inmates to serve all or any part of such  
39 inmate's or inmates' sentence(s), as the case may be, in the  
40 county of conviction of the inmate or inmates. Such determination  
41 shall be promptly made by the Department of Corrections upon  
42 receipt of notice of the conviction of such person. Whenever a  
43 request is denied for an inmate or inmates, then the commissioner  
44 shall certify in writing to the sentencing court, sheriff, or  
45 president of the board of supervisors of a county, as the case may  
46 be, that such inmate or inmates does not qualify to serve the  
47 sentence or sentences in the county jail. Any person serving his



48 sentence in a county jail shall be classified in accordance with  
49 Section 47-5-905.

50 (2) If state prisoners are housed in county jails due to a  
51 lack of capacity at state correctional institutions, the  
52 Department of Corrections shall determine the cost for food and  
53 medical attention for such prisoners. The cost of feeding and  
54 housing offenders confined in such county jails shall be based on  
55 actual costs or contract price per prisoner. In order to maximize  
56 the potential use of county jail space, the Department of  
57 Corrections is encouraged to negotiate a reasonable per day cost  
58 per prisoner, which in no event may exceed Twenty Dollars (\$20.00)  
59 per day per offender; medical costs for state prisoners housed in  
60 the county jails must be borne by the Department of Corrections as  
61 provided in subsection (3) of this section.

62 (3) (a) (i) Upon vouchers submitted by the board of  
63 supervisors of any county housing persons due to lack of space at  
64 state institutions, the Department of Corrections shall pay to  
65 such county, out of any available funds, the actual cost of food,  
66 or contract price per prisoner, not to exceed Twenty Dollars  
67 (\$20.00) per day per offender, as determined under subsection (2)  
68 of this section for each day an offender is so confined beginning  
69 the day that the Department of Corrections receives a certified  
70 copy of the sentencing order and will terminate on the date on  
71 which the offender is released or otherwise removed from the  
72 custody of the county jail.



73                   (ii) The department, or its contracted medical  
74 provider, will pay to a provider of a medical service for any and  
75 all incarcerated persons from a correctional or detention facility  
76 an amount based upon negotiated fees as agreed to by the medical  
77 care service providers and the department and/or its contracted  
78 medical provider. In the absence of negotiated discounted fee  
79 schedule, medical care service providers will be paid by the  
80 department, or its contracted medical service provider, an amount  
81 no greater than the reimbursement rate applicable based on the  
82 Mississippi Medicaid reimbursement rate.

83                   (iii) The board of supervisors of any county shall  
84 not be liable for any cost associated with medical attention for  
85 prisoners:

86                               1. Who are pretrial detainees \* \* \*;

87                               2. Who have been convicted that exceeds the  
88 Mississippi Medicaid reimbursement rate or the reimbursement  
89 provided by the Department of Corrections, whichever is greater;  
90 or

91                               3. Who are state prisoners being housed in  
92 the county jail due to a lack of capacity at state correctional  
93 institutions. This limitation applies to all medical care  
94 services, durable and nondurable goods, prescription drugs and  
95 medications. Such payment shall be placed in the county general  
96 fund and shall be expended only for food and medical attention for  
97 such persons.



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

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

106           (4) A person, on order of the sentencing court, may serve  
107 not more than twenty-four (24) months of his sentence in a county  
108 jail if the person is classified in accordance with Section  
109 47-5-905 and the county jail is an approved county jail for  
110 housing state inmates under federal court order. The sheriff of  
111 the county shall have the right to petition the Commissioner of  
112 Corrections to remove the inmate from the county jail. The county  
113 shall be reimbursed in accordance with subsection (2) of this  
114 section.

115           (5) The Attorney General of the State of Mississippi shall  
116 defend the employees of the Department of Corrections and  
117 officials and employees of political subdivisions against any  
118 action brought by any person who was committed to a county jail  
119 under the provisions of this section.

120           (6) This section does not create in the Department of  
121 Corrections, or its employees or agents, any new liability,  
122 express or implied, not existing on (date), nor shall it create in



123 the Department of Corrections any administrative authority or  
124 responsibility for the construction, funding, administration or  
125 operation of county or other local jails or other places of  
126 confinement which are not staffed and operated on a full-time  
127 basis by the Department of Corrections. The correctional system  
128 under the jurisdiction of the Department of Corrections shall  
129 include only those facilities fully staffed by the Department of  
130 Corrections and operated by it on a full-time basis.

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

136 **SECTION 2.** Section 99-15-19, Mississippi Code of 1972, is  
137 amended as follows:

138 99-15-19. (1) Any county paying counsel fees and expenses  
139 incurred on appeal to the Supreme Court or by virtue of any  
140 prosecution charging the commission of a crime on the premises of  
141 the Mississippi State Penitentiary or other facility operated on a  
142 full-time basis by the Department of Corrections or the commission  
143 of a crime by any escapee \* \* \* from such a facility, may request  
144 reimbursement of all such payments from the State Treasurer. The  
145 State Auditor shall issue his or her warrant, based upon a voucher  
146 sent by the treasurer of any county entitled to such reimbursement  
147 together with a certification that such sums have been allowed and



148 paid. The State Treasurer shall pay the amount of any such  
149 reimbursement out of any funds in the State Treasury appropriated  
150 for such purpose.

151 (2) A county paying counsel fees and expenses incurred by  
152 virtue of any prosecution charging the commission of a crime by a  
153 state offender who is serving a sentence in a state correctional  
154 facility or as a state prisoner in a county jail may request  
155 reimbursement of all such payments from the Department of  
156 Corrections. Upon vouchers submitted by the treasurer of a county  
157 entitled to such reimbursement, together with a certification that  
158 such sums have been allowed and paid, the department must pay the  
159 amount of the reimbursement out of any funds appropriated for such  
160 purpose. The payment shall be placed in the county general fund  
161 and shall be expended only to pay counsel fees and expenses for  
162 the representation of such indigent offenders.

163 **SECTION 3.** Section 99-15-21, Mississippi Code of 1972, is  
164 amended as follows:

165 99-15-21. (1) All compensation and reimbursements allowed  
166 by the judge shall be made on the basis of an itemized statement  
167 as to time and nature of work and the expense incurred by the  
168 appointed counsel. The Attorney General shall prepare and make  
169 available the proper form for the itemized statement which is to  
170 be submitted to the appropriate judge by the attorney or  
171 attorneys.



172           (2) (a) Compensation and reimbursements authorized by  
173 Sections 99-15-15 through 99-15-21 shall be allowed only in cases  
174 in which the appointment is made subsequent to April 5, 1971. In  
175 all cases in which counsel have been appointed prior to said date,  
176 compensation shall be allowed in the same manner and to the same  
177 extent as provided by law at the time such appointment was made.  
178 However, the provisions of this paragraph shall not apply to  
179 reimbursement of counsel fees and expenses authorized by Section  
180 99-15-19(2).

181           (b) Compensation and reimbursements authorized by  
182 Section 99-15-19(2) is allowed only in cases in which the  
183 appointment of counsel is made on or after July 1, 2021. In all  
184 cases in which counsel has been appointed before that date,  
185 compensation shall be allowed in the same manner and to the same  
186 extent as provided by law at the time the appointment was made.

187           **SECTION 4.** This act shall take effect and be in force from  
188 and after July 1, 2021.

