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To: Corrections

SENATE BILL NO. 2553  
(As Passed the Senate)

1 AN ACT TO AMEND SECTIONS 47-5-901 AND 47-5-903, MISSISSIPPI  
2 CODE OF 1972, TO ALLOW AN INMATE PLACED UNDER THE CUSTODY OF THE  
3 DEPARTMENT OF CORRECTIONS TO SERVE ALL OR PART OF HIS SENTENCE IN  
4 THE COUNTY REQUESTED BY A SHERIFF OR BOARD OF SUPERVISORS OUTSIDE  
5 THE COUNTY OF CONVICTION UPON CERTAIN CONDITIONS; TO INCREASE THE  
6 MAXIMUM PER DAY COST PER PRISONER; TO AMEND SECTION 47-5-909,  
7 MISSISSIPPI CODE OF 1972, TO EXPEDITE THE REMOVAL OF INMATES FROM  
8 COUNTY JAILS BY DIRECTING THE DEPARTMENT OF CORRECTIONS TO PAY  
9 COUNTY JAILS FOR HOUSING STATE OFFENDERS; TO AMEND SECTION  
10 99-19-42, MISSISSIPPI CODE OF 1972, TO INCREASE THE RATE OF PAY  
11 FOR HOUSING STATE OFFENDERS IN COUNTY JAILS; TO BRING FORWARD  
12 SECTIONS 47-5-905, 47-5-907, 47-5-911, 47-5-401, 47-5-451,  
13 47-5-471 AND 47-5-938, MISSISSIPPI CODE OF 1972, FOR PURPOSES OF  
14 POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

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

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

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



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

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



50 county jail. Any person serving his sentence in a county jail  
51 shall be classified in accordance with Section 47-5-905.

52 (2) If state prisoners are housed in county jails due to a  
53 lack of capacity at state correctional institutions, the  
54 Department of Corrections shall determine the cost for food and  
55 medical attention for such prisoners. The cost of feeding and  
56 housing offenders confined in such county jails shall be based on  
57 actual costs or contract price per prisoner. In order to maximize  
58 the potential use of county jail space, the Department of  
59 Corrections is encouraged to negotiate a reasonable per day cost  
60 per prisoner, which in no event may exceed \* \* \* Twenty-five  
61 Dollars (\$25.00) per day per offender, except as authorized in  
62 Section 47-5-909(2).

63 (3) (a) Upon vouchers submitted by the board of supervisors  
64 of any county housing persons due to lack of space at state  
65 institutions, the Department of Corrections shall pay to such  
66 county, out of any available funds, the actual cost of food, or  
67 contract price per prisoner, not to exceed \* \* \* Twenty-five  
68 Dollars (\$25.00) per day per offender, except as authorized in  
69 Section 47-5-909(2), as determined under subsection (2) of this  
70 section for each day an offender is so confined beginning the day  
71 that the Department of Corrections receives a certified copy of  
72 the sentencing order or five (5) days after the sentencing order  
73 is sent, in writing, by such county to the department, whichever  
74 is earlier, and will terminate on the date on which the offender



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

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



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

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

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

117 (6) This section does not create in the Department of  
118 Corrections, or its employees or agents, any new liability,  
119 express or implied, nor shall it create in the Department of  
120 Corrections any administrative authority or responsibility for the  
121 construction, funding, administration or operation of county or  
122 other local jails or other places of confinement which are not  
123 staffed and operated on a full-time basis by the Department of



Corrections. The correctional system under the jurisdiction of the Department of Corrections shall include only those facilities fully staffed by the Department of Corrections and operated by it on a full-time basis.

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

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

47-5-903. (1) A person committed, sentenced or otherwise placed under the custody of the Department of Corrections, on order of the sentencing court, may serve his sentence in the county jail of the county where convicted or the county requested by a sheriff or board of supervisors outside the county of conviction, if all of the following conditions are complied with:

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

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

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



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

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

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

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

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

**SECTION 3.** Section 47-5-905, Mississippi Code of 1972, is brought forward as follows:

47-5-905. (1) All persons placed under the custody of the Department of Corrections shall be processed at a reception and diagnostic center of the Department of Corrections and then be assigned to an appropriate correctional facility for a complete and thorough classification, not to exceed ninety (90) days,



unless the department determines that a person can be properly processed and classified at the county jail in accordance with the department's classification plan.

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

**SECTION 4.** Section 47-5-907, Mississippi Code of 1972, is brought forward as follows:

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

Just cause is established if such sheriff can sufficiently prove that such inmate has a dangerous behavior or sufficiently prove that there is no available or suitable medical facility where such inmate can be provided suitable medical services. The commissioner shall respond in writing to the petition no later than thirty (30) days after the receipt of such petition. If the petition to remove such inmate is denied by the commissioner, such sheriff and his agents shall have from the date of denial absolute immunity from liability for any injury resulting from subsequent behavior or from medical consequences regarding such inmate,





provided that such injury resulted from conditions which were set forth in such petition.

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

47-5-909. (1) It is the policy of the Legislature that all inmates be removed from county jails as early as practicable. Sections 47-5-901 through 47-5-907 are temporary measures to help alleviate the immediate operating capacity limitations at correctional facilities and are not permanent measures to be included in the long-term operating capacity of the correctional system.

(2) Notwithstanding any other provision of law, to expedite the removal of inmates from county jails as early as practicable, absent a contract negotiated between the Department of Corrections and the county jail, the Department of Corrections shall pay county jails for housing state offenders out of any available funds as follows: Twenty-five Dollars (\$25.00) per day per offender for days one (1) through (30), Thirty Dollars (\$30.00) per day per offender for days thirty-one (31) through sixty (60), and Thirty-five Dollars (\$35.00) per day per offender for days sixty-one (61) or greater when:

(a) An offender remains in the county jail after the Department of Corrections receives a certified copy of the sentencing order or five (5) days after the sentencing order is



222 sent, in writing, by such county to the Department of Corrections,  
223 whichever is earlier.

224 (b) An offender remains in the county jail after being  
225 revoked from parole or probation or is sentenced to a technical  
226 violation center.

227 (3) The Department of Corrections is additionally  
228 responsible for all medical costs related to offenders housed at  
229 county jails under subsection (2)(a) and (b) of this section.

230 **SECTION 6.** Section 47-5-911, Mississippi Code of 1972, is  
231 brought forward as follows:

232 47-5-911. Sections 47-5-901 through 47-5-911 shall stand  
233 repealed on July 1, 2024.

234 **SECTION 7.** Section 47-5-401, Mississippi Code of 1972, is  
235 brought forward as follows:

236 47-5-401. (1) There is hereby authorized, in each county of  
237 the state, a public service work program for state inmates in  
238 custody of the county. Such a program may be established at the  
239 option of the county in accordance with the provisions of Sections  
240 47-5-401 through 47-5-421. The department shall also recommend  
241 rules and regulations concerning the participation of state  
242 inmates in the program.

243 (2) An inmate shall not be eligible to participate in a work  
244 program established in accordance with the provisions of Sections  
245 47-5-401 through 47-5-421 if he has been convicted of any crime of



246 violence, including but not limited to murder, aggravated assault,  
247 rape, robbery or armed robbery.

248       (3) The inmates participating in the work program  
249 established in accordance with the provisions of Sections 47-5-401  
250 through 47-5-421 are restricted to the performance of public  
251 service work for counties, municipalities, the state or nonprofit  
252 charitable organizations, as defined by Section 501(c)(3) of the  
253 Internal Revenue Code of 1986, except that the Department of  
254 Corrections must approve all requests by nonprofit charitable  
255 organizations to use offenders to perform any public service work.  
256 Upon request of the Board of Trustees of State Institutions of  
257 Higher Learning, or the board of trustees of a county school  
258 district, municipal school district or junior college district,  
259 the inmates may be permitted to perform work for such boards.

260       **SECTION 8.** Section 47-5-451, Mississippi Code of 1972, is  
261 brought forward as follows:

262       47-5-451. (1) There is hereby authorized, in each county of  
263 the state, a public service work program for state inmates in  
264 custody of the county. Such a program may be established at the  
265 option of the county in accordance with the provisions of Sections  
266 47-5-401 through 47-5-421. The department shall also recommend  
267 rules and regulations concerning the participation of state  
268 inmates in the program.

269       (2) An inmate shall not be eligible to participate in a work  
270 program established in accordance with the provisions of Sections



47-5-401 through 47-5-421, if he has been convicted of any crime of violence, including, but not limited to, murder, aggravated assault, rape, robbery or armed robbery.

(3) The inmates participating in the work program established in accordance with the provisions of Sections 47-5-401 through 47-5-421, are restricted to the performance of public service work for counties, municipalities, the state, nonprofit charitable organizations or churches, as defined by Section 501(c)(3) of the Internal Revenue Code of 1986, except that the Department of Corrections must approve all requests by nonprofit charitable organizations or churches to use offenders to perform any public service work. Upon request of the Board of Trustees of State Institutions of Higher Learning, or the board of trustees of a county school district, municipal school district or junior college district, the inmates may be permitted to perform work for such boards.

**SECTION 9.** Section 47-5-471, Mississippi Code of 1972, is brought forward as follows:

47-5-471. Upon the request of any county for eligible inmates, the Department of Corrections shall make available for participation in the state-county work program in the requesting county any eligible inmates. Upon request and approval of such request by the Department of Corrections, the requesting county shall arrange for transportation of such inmates from the Department of Corrections to such county. Upon receiving any



inmates, the county shall be responsible for all expenses related to housing and caring for such inmates but shall be reimbursed by the Department of Corrections at the rate prescribed under Section 47-5-901(2). Regardless of any eligibility criteria established by the Department of Corrections, no inmate convicted of a sex crime, a crime of violence as defined by Section 97-3-2, or any other crime which specifically prohibits parole shall be eligible for participation in the program. The requesting county may, in its sole discretion, refuse any inmate deemed to present an undue risk to such county.

**SECTION 10.** Section 47-5-938, Mississippi Code of 1972, is brought forward as follows:

47-5-938. (1) Offenders are encouraged to participate in work programs. The chief corrections officer as created in Section 47-5-935, with ratification of the board of supervisors of the county in which a correctional facility established pursuant to Sections 47-5-931 through 47-5-941, is located, may enter into agreements to provide work for any state offender housed in the facility, with the approval of the Commissioner of Corrections, to perform any work:

(a) Authorized in the Mississippi Prison Industries Act of 1990 as provided in Sections 47-5-531 through 47-5-575;

(b) Authorized in the Prison Agricultural Enterprises Act as provided in Sections 47-5-351 through 47-5-357;



320 (c) Authorized in the Penitentiary-Made Goods Law of  
321 1978 as provided in Sections 47-5-301 through 47-5-331;

322 (d) Authorized in the Public Service Work Programs Act  
323 as provided in Sections 47-5-401 through 47-5-421;

324 (e) Authorized in Section 47-5-431, which authorizes  
325 the sheriff to use county or state offenders to pick up trash  
326 along public roads and state highways.

327 (2) The chief corrections officer shall promulgate rules and  
328 regulations as may be necessary to govern the work performance of  
329 the offenders for the parties to the agreements. Political  
330 subdivisions of the State of Mississippi including but not limited  
331 to counties, municipalities, school districts, drainage districts,  
332 water management districts and joint county-municipal endeavors  
333 are to have free use of the offender's labor but are responsible  
334 for reimbursing the facility for costs of transportation, guards,  
335 meals and other necessary costs when the inmates are providing  
336 work for that political body. Offenders may be compensated for  
337 work performed if the agreement so provides.

338 (3) There is created a special fund in the county treasury  
339 to be known as the "offender's compensation fund." All  
340 compensation paid to offenders shall be placed in the special fund  
341 for use by the offenders to purchase certain goods and other items  
342 of value as authorized in Section 47-5-109, for offenders housed  
343 in state correctional facilities. As provided in Section  
344 47-5-194, no cash is to be paid to offenders. The agreement shall



provide that a certain portion of the compensation shall be used for the welfare of the offenders. All money collected from the regional jail canteen operations shall be placed in a county special fund. Expenditures from that fund can be made by the chief corrections officer for any lawful purpose that is in the best interest and welfare of the offenders. The chief corrections officer, his employees and the county or counties owning the facility are given the authority necessary to carry out the provisions of this section.

(4) The provisions of this section shall be supplemental to any other provisions of law regarding offender labor and work programs.

**SECTION 11.** Section 99-19-42, Mississippi Code of 1972, is amended as follows:

99-19-42. Any offender in the custody of the Department of Corrections who is summoned to a county by court order for any post-conviction proceeding shall have such proceeding heard during the term of court in which the offender is returned to the custody of a county. If the offender's case is not heard during such term of court, the offender shall be returned to the facility of the Department of Corrections from which he was summoned. If the offender is not returned within one (1) week of the end of the term of court, the county housing the offender shall not receive the \* \* \* Twenty-five Dollars (\$25.00) allowed under Section 47-5-901, except as authorized in Section 47-5-909(2), for housing



370 state offenders after the one-week time period required for  
371 returning the offender to the Department of Corrections.

372 **SECTION 12.** This act shall take effect and be in force from  
373 and after July 1, 2021, and shall stand repealed on June 30, 2021.

