

Senate Amendments to House Bill No. 1494

TO THE CLERK OF THE HOUSE:

THIS IS TO INFORM YOU THAT THE SENATE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

8 **SECTION 1.** Chapter 991, Local and Private Laws of 1998, as
9 amended by Chapter 915, Local and Private Laws of 2013, as amended
10 by Chapter 913, Local and Private Laws of 2019, is amended as
11 follows:

12 Section 1. As used in this act, unless the context otherwise
13 requires:

14 (a) "American Correctional Association Standards" means
15 standards promulgated by the American Correctional Association as
16 in effect from time to time.

17 (b) "Authority" means the Walnut Grove Correctional
18 Authority.

19 (c) "Board of commissioners" means the board of
20 commissioners of the authority.

21 (d) "Governing authorities" means the governing
22 authorities of the city.

23 (e) "City" means Walnut Grove, Mississippi.

24 (f) "Equipment" means any personal property which the
25 authority determines is necessary or helpful for the operation of
26 a facility.

27 (g) "Facility" means a jail, prison or other
28 incarceration facility located in the city which is constructed,
29 acquired or operated pursuant to this act.

30 (h) "Management contract" means a contract between the
31 authority and a private contractor for the operation and
32 management of a facility by a private contractor.

33 (i) "Private contractor" means a person or legal entity
34 which leases or subleases a facility from the authority or has
35 entered into a management contract with the authority pursuant to
36 this act.

37 (j) "State" means the State of Mississippi.

38 Section 2. (1) There is created in the city a public body
39 corporate and politic to be known as the "Walnut Grove
40 Correctional Authority." The authority shall not transact any
41 business or exercise any powers under this act until the governing
42 authorities adopts a resolution finding that it is in the public
43 interest to have the authority exercise the powers set forth in
44 this act. The resolution shall designate the manner in which
45 funds of the authority in excess of amounts needed to pay the
46 authority's operating expenses and debt service will be applied,
47 provided that none of the excess funds of the authority may inure
48 to the benefit of any private person.

49 (2) Alternatively, the governing authorities may by
50 resolution designate a nonprofit corporation incorporated under
51 the general laws of the state to exercise the powers of the
52 authority set forth in this act, in which event the governing
53 authorities may take all actions necessary for the nonprofit
54 corporation to be treated as acting on behalf of the city under
55 the Internal Revenue Code. The nonprofit corporation shall have,
56 in addition to the powers and authority generally exercisable by
57 nonprofit corporations in the state, all powers and authority
58 granted to the authority under this act and shall be deemed to be
59 a charitable society, for purposes of Section 27-31-1, Mississippi
60 Code of 1972. All provisions of this act applicable to
61 obligations, agreements, contracts and property of, and purchases
62 by, contracting with and leasing or conveyance of property to an
63 authority shall be applicable to obligations, agreements,
64 contracts and property of, and purchases by, contracting with and
65 leasing or conveyance of property to the nonprofit corporation.

66 Section 3. Nothing in this act shall authorize payment of
67 tax revenues or other public funds of the city to the authority.

68 Section 4. The authority shall exist until dissolved
69 pursuant to a resolution adopted by the governing authorities.
70 Upon dissolution of the authority, title to all property owned by
71 the authority shall vest in the city. Dissolution of the
72 authority shall not adversely affect the rights of any holders of
73 obligations issued by the authority, including, but not limited
74 to, any bonds, notes or other evidences of indebtedness issued by

75 the authority or the rights of any parties to contracts with the
76 authority, including, but not limited to, leases, lease purchase
77 agreements and management contracts entered into before the date
78 of dissolution of the authority. A dissolution shall not be
79 effective at any time that any bonds, notes or other evidence of
80 indebtedness of the authority, including, but not limited to,
81 lease-purchase agreements, shall be outstanding, except to the
82 extent permitted in the documents executed in connection with the
83 initial issuance of the bonds, notes or other indebtedness.

84 Section 5. (1) All powers of the authority shall be
85 exercised by its board of commissioners to be composed of five (5)
86 members, one (1) appointed by the governing authorities of the
87 City of Walnut Grove from each ward and one (1) appointed by the
88 governing authorities from the municipality at large.

89 (2) The initial members of the board shall serve for terms
90 of office as follows:

91 (a) Two (2) members appointed by the governing
92 authorities of the City of Walnut Grove shall serve for a term of
93 four (4) years.

94 (b) Two (2) members appointed by the governing
95 authorities of the City of Walnut Grove shall serve for a term of
96 three (3) years.

97 (c) One (1) member appointed by the governing
98 authorities of the City of Walnut Grove shall serve for a term of
99 two (2) years.

100 The term of each initial appointee shall begin on the first
101 day of the next month after the date that all initial appointees
102 have been appointed.

103 After the expiration of the initial terms, all subsequent
104 appointments shall be made for terms of five (5) years from the
105 expiration date of the previous term. Any vacancy that may occur
106 shall be filled in the same manner as the original appointment and
107 shall be made for the unexpired term.

108 (3) The members of the board of commissioners shall elect
109 annually from among themselves the officers of president, vice
110 president, secretary and treasurer. The board of commissioners
111 shall adopt bylaws, rules and regulations as may be necessary to
112 govern the time, place and manner for holding subsequent meetings
113 of the board of commissioners and for the conduct of its business
114 consistent with the provisions of this act. All meetings of the
115 board of commissioners shall be conducted in accordance with
116 Section 25-41-1 et seq., Mississippi Code of 1972. Any action
117 taken by the board of commissioners shall be official at the time
118 the action is taken. Actions may be taken by the board of
119 commissioners at any regular, special or recessed meeting.

120 (4) The members of the board of commissioners may receive
121 per diem compensation for attending meetings of the board of
122 commissioners in the amount provided for in Section 37-6-13,
123 Mississippi Code of 1972, and shall meet at least once quarterly
124 at a time and place determined by the board of commissioners. The
125 board of commissioners shall keep minutes of its proceedings as

126 necessary to carry out its responsibilities. A quorum of the
127 board of commissioners shall consist of three (3) members.

128 (5) A board member may be removed, upon recommendation by a
129 vote of three (3) members of the board of commissioners and
130 approval by the governing authorities of the city.

131 (6) The authority may employ an executive director,
132 technical experts and other agents and employees, permanent and
133 temporary, as it may require, and may determine their
134 qualifications, duties and compensation.

135 Section 6. The authority shall have all the powers necessary
136 or convenient to effectuate and carry out the provisions of this
137 act, including the following powers in addition to others granted
138 in this act:

139 (a) To have perpetual succession as a body politic and
140 corporate exercising essential public functions until dissolved
141 pursuant to Section 4 of this act;

142 (b) To sue and be sued in its own name;

143 (c) To have an official seal and alter it at will;

144 (d) To adopt, appeal and amend bylaws, rules and
145 regulations consistent with this act, to regulate its affairs and
146 conduct its business;

147 (e) To maintain one or more offices at a place or
148 places within the city as it may designate;

149 (f) To make and execute contracts and all other
150 instruments necessary or convenient for the performance of its
151 duties and the exercise of its powers under this act;

152 (g) To employ architects, engineers, contractors,
153 developers, attorneys, inspectors, accountants, financial advisors
154 and any other advisors, consultants and agents as may be
155 necessary, in its judgment, to carry out its powers under this
156 act, and to fix their compensation;

157 (h) To procure insurance against any loss in connection
158 with its property and other assets, in amounts and from insurers
159 as it may deem advisable, and to pay premiums on any such
160 insurance;

161 (i) To construct, purchase, receive, lease,
162 lease-purchase, or otherwise acquire, own, hold, improve or use a
163 facility or any item of equipment, and to enter into agreements
164 relating thereto, including, but not limited to, sale and issuance
165 of certificates of participation, which may extend for a period of
166 time, notwithstanding any provision or rule of law to the
167 contrary, and provide for the consideration and other terms and
168 conditions that are acceptable to the authority and are not in
169 conflict with the provisions of this act, without regard to any
170 general laws of the state regulating public purchases and
171 acquisitions or restricting the time periods of agreements;

172 (j) To lease a facility or any item of equipment to a
173 private contractor for rentals and upon the terms and conditions
174 that are acceptable to the authority and are not in conflict with
175 the provisions of this act, without regard to any general laws of
176 the state regulating the disposition or conveyance of an interest
177 in public property;

178 (k) To operate and manage a facility in accordance with
179 the provisions of this act and to take all actions necessary in
180 connection therewith, or alternatively to contract with a private
181 contractor to operate and manage a facility in accordance with the
182 provisions of this act; to contract with the State of Mississippi
183 to operate and manage a facility in accordance with the provisions
184 of this act; or to lease to the State of Mississippi the real
185 property comprising the facility as defined under this act, upon
186 such terms as determined by and satisfactory to the state;

187 (l) To borrow money and issue its obligations therefor
188 for the purpose of carrying out its powers under this act, at
189 rates of interest and upon terms and conditions that are
190 acceptable to the authority and are not in conflict with the
191 provisions of this act, without regard to any general laws of the
192 state regulating the borrowing of money or issuance of obligations
193 by public bodies, provided that any obligations issued by the
194 authority shall be payable solely out of revenues received by the
195 authority in connection with the operation or lease of a facility
196 and shall never constitute a debt or obligation of the city or the
197 state;

198 (m) In connection with borrowing money and issuance of
199 obligations as set forth in the preceding paragraphs (i) and (l),
200 in Section 13 of this act, and elsewhere in this act, to pledge or
201 assign its property, assets and revenues, enter into trust
202 indentures, deeds of trust, mortgages and security agreements,
203 contract for bond insurance and other credit enhancement devices,

204 and to take any other action and enter into any other agreements
205 as the authority deems necessary or appropriate, all on terms and
206 conditions that are acceptable to the authority and are not in
207 conflict with the provisions of this act, without regard to any
208 provision or rule of law which would otherwise be applicable
209 thereto;

210 (n) To contract with the United States or the State of
211 Mississippi, or any political subdivision of the State of
212 Mississippi, to provide for housing, care and control in a
213 facility of offenders who are in the custody of the jurisdiction,
214 who have been classified to any custody level, who do not have
215 histories of escape, and who are sentenced to terms of
216 incarceration for conviction of a felony, or who are sentenced to
217 terms of incarceration for a misdemeanor, provided that the
218 incarceration in the facility for a misdemeanor is consistent with
219 American Correctional Association Standards relating to the
220 incarceration of offenders convicted of more serious offenses, to
221 enter into agreements relating thereto which may extend for time
222 periods that are acceptable to the parties, notwithstanding any
223 provision or rule of law to the contrary, and to exercise all
224 powers necessary or desirable in connection with the operation of
225 a prison or other type of correctional facility, including, but
226 not limited to, the power to incarcerate offenders described
227 above; and

228 (o) To contract with the Department of Corrections or
229 other appropriate state, federal or local entity for the

230 inspection, monitoring or provision of any assistance necessary or
231 desirable to maintain suitable, safe and secure correctional
232 facilities.

233 Section 7. (1) A facility shall be designed, constructed,
234 operated and maintained in accordance with American Correctional
235 Association Standards. The facility shall meet the percentage of
236 standards required for accreditation by the American Correctional
237 Association, except where a contract with a private contractor
238 requires compliance with a higher percentage of nonmandatory
239 standards.

240 (2) The facility shall comply with all constitutional
241 standards of the United States and the state and with all court
242 orders applicable to the facility.

243 (3) The Department of Corrections shall place a compliance
244 officer at the facility. The authority or private contractor
245 shall provide an on-site work area for the compliance officer and
246 shall permit access to all areas of the facility and to the
247 offenders and staff at all times. The authority or private
248 contractor shall reimburse the Department of Corrections for all
249 costs incurred for the compliance officer.

250 Section 8. (1) A person shall not be employed as a
251 corrections officer at the facility unless the person has been
252 trained in the use of force and firearms in accordance with
253 American Correctional Association Standards. If a person is
254 employed as a corrections officer by a private contractor that is
255 operating a facility pursuant to a management contract, the

256 private contractor shall cause the required training to be
257 provided at its own expense.

258 (2) A corrections officer employed at the facility shall not
259 use force or firearms except while on the grounds of a facility or
260 while transporting offenders of a facility and then only under the
261 circumstances set forth in subsections (3) and (4) of this
262 section.

263 (3) A corrections officer shall not use force except such
264 nondeadly force as is reasonably necessary in the following
265 situations:

266 (a) To prevent the commission of a felony or
267 misdemeanor, including escape;

268 (b) To defend himself or others against physical
269 assault;

270 (c) To prevent serious damage to property;

271 (d) To enforce facility regulations and orders; and

272 (e) To prevent or quell a riot.

273 (4) A corrections officer shall not use firearms or other
274 deadly force except as a last resort when reasonably necessary to
275 prevent the commission of a violent felony, to prevent the escape
276 of a convicted felon from custody, or to defend the officer or any
277 other person from imminent danger of death or serious bodily
278 injury.

279 (5) A private contractor shall have the same standing,
280 authority, rights and responsibilities as the authority in any
281 agreement, formal or informal, with local law enforcement agencies

282 concerning the latter's obligations in the event of a riot, escape
283 or other emergency situation involving the facility. To the
284 extent provided in any management contract, a private contractor
285 may exercise the powers granted to the authority under this act.

286 Section 9. Any offense which would be a crime if committed
287 within a correctional institution operated by the state shall be a
288 crime if committed in the facility.

289 Section 10. (1) Neither the state nor the city shall assume
290 jurisdiction or custody of any federal offenders or offenders from
291 other states who are incarcerated in the facility. The offenders
292 shall remain subject to the jurisdiction of the United States or
293 another state, as applicable. Neither the state nor the city
294 shall be liable for loss or injury resulting from the acts of the
295 offenders, nor shall the state or the city be liable for any
296 injuries to the offenders. The authority or private contractor
297 shall reimburse the Department of Corrections for any expenses
298 incurred in quelling a prison riot.

299 (2) Neither the state nor the city shall be liable for any
300 actions taken by the authority or a private contractor in
301 connection with the facility, nor shall they be liable for any
302 debt incurred or obligations issued by the authority.

303 Section 11. (1) The facility shall at all times be operated
304 and managed by a private contractor pursuant to a management
305 contract unless the board of commissioners determines that the
306 operation and management by a private contractor is not feasible
307 or desirable. * * * In the event the board of commissioners

308 determines not to contract with a private contractor, it may
309 contract with the State of Mississippi to operate and manage a
310 facility in accordance with the provisions of this act or to lease
311 to the State of Mississippi the real property comprising the
312 facility as defined under this act, upon such terms as approved by
313 the board of commissioners.

314 (2) A management contract may authorize a private contractor
315 to contract on behalf of the authority for the incarceration of
316 offenders in the facility as set forth in Section 6(1)(n) of this
317 act and shall grant the private contractor any other powers that
318 are necessary or convenient for the operation and management of
319 the facility and are consistent with the provisions of this act,
320 including, but not limited to, the power to employ personnel who
321 are needed for the operation and management of a facility and to
322 provide or cause to be provided the training in the use of force
323 and firearms required by Section 8(1) of this act.

324 (3) A management contract shall provide that any sovereign
325 immunity of the state, any sovereign immunity of the county, any
326 sovereign immunity of the city or any sovereign immunity of the
327 authority shall not extend to the private contractor. Neither the
328 private contractor nor any insurer of the private contractor may
329 plead the defense of sovereign immunity in any action arising out
330 of or related to the performance of the management contract.

331 (4) A management contract shall provide that the private
332 contractor shall be responsible for the reimbursement of all costs
333 and expenses incurred by the state, the city or the authority in

334 connection with legal actions brought in the state by or on behalf
335 of any offender incarcerated in the facility, including, but not
336 limited to, court costs, sheriff's fees, witness fees, district
337 attorney expenses, expenses of the Office of the Attorney General,
338 indigent or public defender fees and expenses, judicial expenses,
339 court reporter expenses and damage awards. The contract shall
340 provide for the reimbursement of all costs and expenses incurred
341 by the Department of Corrections for maintaining a compliance
342 officer at the facility and for all costs and expenses incurred by
343 the Department of Corrections for aiding in quelling a prison
344 riot.

345 (5) A management contract shall provide that the private
346 contractor shall indemnify and hold harmless the authority, the
347 city and the state, and any officers, members, employees or agents
348 of the foregoing, for any claim or liability for damage or injury
349 to any person or property related to or arising from the operation
350 and management of a facility, including, but not limited to,
351 liability for loss or injury resulting from the acts of offenders
352 incarcerated at the facility and liability for any injuries to the
353 offenders.

354 (6) A management contract may contain any other provisions
355 the authority deems necessary or appropriate, including, but not
356 limited to, provisions that may be necessary to cause the
357 management contract to comply with promulgations of the Internal
358 Revenue Service applicable to the contract.

359 Section 12. Neither the state, the city nor the authority,
360 nor any members, officers, employees or agents of the foregoing,
361 shall be liable for a private contractor's actions or failure to
362 act while operating and managing a facility pursuant to a
363 management contract.

364 Section 13. (1) The authority or the private contractor
365 shall permit the Investigative Task Force of the Department of
366 Corrections to have full access to all areas of the facility and
367 to the offenders and staff. The investigators may exercise any
368 and all police powers provided under Section 47-5-54, Mississippi
369 Code of 1972.

370 (2) The authority or private contractor shall provide for
371 the issuance of an immediate warrant through the National Crime
372 Information Center for any offender who escapes.

373 (3) The authority or private contractor shall return any
374 offender released from the facility to the state from which the
375 offender was sent.

376 Section 14. (1) The authority may enter into lease
377 agreements with a person or legal entity pursuant to which the
378 authority may agree to lease the facility or equipment for use by
379 the authority for a primary term not to exceed thirty (30) years.
380 All lease agreements may contain terms and conditions as the board
381 of commissioners of the authority shall determine to be
382 appropriate and in the public interest, including, but not limited
383 to, any provision which a master lease-purchase agreement may
384 contain pursuant to Section 31-7-10(5), Mississippi Code of 1972,

385 may provide for the payment of lease payments which include an
386 interest component computed at a rate or rates as shall be
387 approved by the board of commissioners, may include an annual
388 allocation dependency clause, may contain an option granting to
389 the authority the right to purchase the leased property upon the
390 expiration of the primary term, or upon an earlier date that may
391 be agreed upon by the parties, at a price as set forth in or
392 computed in accordance with the lease agreement and may provide
393 that all or any obligations thereunder are payable from specified
394 revenues pledged as security therefor.

395 (2) The authority may lease publicly owned real property to
396 a person or legal entity for the purpose of enabling the person or
397 legal entity to construct a facility on the property and to lease
398 the facility to the authority. A ground lease shall not be for a
399 primary term in excess of twice the primary term of the lease with
400 respect to the facility to be constructed on the real property.
401 Any public body in the state may lease, sell or otherwise convey
402 property to the authority without consideration or for
403 consideration as the governing body of the public body shall
404 determine to be appropriate under the circumstances, and to enter
405 into agreements with the authority relating thereto, which
406 agreements may extend over any period of time, notwithstanding any
407 provision or rule of law to the contrary.

408 (3) This section shall be full and complete authority for
409 the authorization, execution and delivery of lease agreements
410 authorized under this act, and none of the restrictions,

411 requirements, conditions and limitations of the general law of the
412 state applicable to acquisition, construction and drawing of
413 buildings or facilities shall apply to lease agreements under this
414 section, and all powers necessary to carry out the provisions of
415 this section are conferred upon the authority.

416 Section 15. All obligations, including, but not limited to,
417 bonds, notes, lease-purchase agreements and other evidence of
418 indebtedness issued by the authority pursuant to this act and all
419 interest payable thereunder or with respect thereto, all leases,
420 trust indentures, deeds of trust, mortgages, security agreements
421 and other contracts or agreements entered into pursuant to this
422 act, and all purchases required to construct the facility or to
423 acquire equipment shall be exempt from all taxation in the state,
424 including, but not limited to, sales taxes and the contractor's
425 tax imposed by Section 27-65-21, Mississippi Code of 1972. As
426 provided by general law applicable to political subdivisions of
427 the state, a facility and the revenues derived from its operation
428 shall be exempt from all taxation in the state, including, but not
429 limited to, all ad valorem taxes levied by the state or any
430 political subdivision thereof.

431 Section 16. This act shall be full and complete authority of
432 the exercise of all powers and authority granted in this act and
433 any requirements or restrictions of law which would otherwise be
434 applicable to acts of the authority shall not be applicable except
435 as expressly provided in this act. Debt of the authority shall
436 not be considered to be debt of the city or any other political

437 subdivision of the state for purposes of any provision or rule of
438 law restricting the amount of indebtedness of the city or any
439 other political subdivision or for any other purpose under the
440 laws of the state.

441 **SECTION 2.** This act shall take effect and be in force from
442 and after its passage.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT TO AMEND CHAPTER 991, LOCAL AND PRIVATE LAWS OF 1998,
2 AS AMENDED BY CHAPTER 915, LOCAL AND PRIVATE LAWS OF 2013, AS
3 AMENDED BY CHAPTER 913, LOCAL AND PRIVATE LAWS OF 2019, TO
4 AUTHORIZE THE WALNUT GROVE CORRECTIONAL AUTHORITY TO CONTRACT WITH
5 THE STATE OF MISSISSIPPI FOR THE OPERATION OF THE WALNUT GROVE
6 CORRECTIONAL FACILITY; AND FOR RELATED PURPOSES.

SS26\HB1494A.J

Eugene S. Clarke
Secretary of the Senate