

By: Senator(s) Sparks, Tate, Suber, Boyd, McCaughn, McLendon

To: Corrections; Appropriations

SENATE BILL NO. 2580

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; AND FOR RELATED  
 12 PURPOSES.

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

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

16 47-5-901. (1) (a) Any person committed, sentenced or  
 17 otherwise placed under the custody of the Department of  
 18 Corrections, on order of the sentencing court and subject to the  
 19 other conditions of this subsection, may serve all or any part of  
 20 his sentence in the county jail of the county wherein such person  
 21 was convicted if the Commissioner of Corrections determines that  
 22 physical space is not available for confinement of such person in  
 23 the state correctional institutions. Such determination shall be



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

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



48 county jail. Any person serving his sentence in a county jail  
49 shall be classified in accordance with 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-five  
59 Dollars (\$25.00) per day per offender, except as authorized in  
60 Section 47-5-909(2).

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



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

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



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

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

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

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



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

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

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

133 47-5-903. (1) A person committed, sentenced or otherwise  
134 placed under the custody of the Department of Corrections, on  
135 order of the sentencing court, may serve his sentence in the  
136 county jail of the county where convicted or the county requested  
137 by a sheriff or board of supervisors outside the county of  
138 conviction, if all of the following conditions are complied with:

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

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

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



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

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

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

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

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

164 **SECTION 3.** Section 47-5-909, Mississippi Code of 1972, is  
165 amended as follows:

166 47-5-909. (1) It is the policy of the Legislature that all  
167 inmates be removed from county jails as early as practicable.  
168 Sections 47-5-901 through 47-5-907 are temporary measures to help  
169 alleviate the immediate operating capacity limitations at  
170 correctional facilities and are not permanent measures to be



171 included in the long-term operating capacity of the correctional  
172 system.

173 (2) Notwithstanding any other provision of law, to expedite  
174 the removal of inmates from county jails as early as practicable,  
175 absent a contract negotiated between the Department of Corrections  
176 and the county jail, the Department of Corrections shall pay  
177 county jails for housing state offenders out of any available  
178 funds as follows: Twenty-five Dollars (\$25.00) per day per  
179 offender for days one (1) through thirty (30), Thirty Dollars  
180 (\$30.00) per day per offender for days thirty-one (31) through  
181 sixty (60), and Thirty-five Dollars (\$35.00) per day per offender  
182 for days sixty-one (61) or greater when:

183 (a) An offender remains in the county jail after the  
184 Department of Corrections receives a certified copy of the  
185 sentencing order or five (5) days after the sentencing order is  
186 sent, in writing, by such county to the Department of Corrections,  
187 whichever is earlier.

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

191 (3) The Department of Corrections is additionally  
192 responsible for all medical costs related to offenders housed at  
193 county jails under subsection (2) of this section.

194 **SECTION 4.** Section 99-19-42, Mississippi Code of 1972, is  
195 amended as follows:





196           99-19-42. Any offender in the custody of the Department of  
197 Corrections who is summoned to a county by court order for any  
198 post-conviction proceeding shall have such proceeding heard during  
199 the term of court in which the offender is returned to the custody  
200 of a county. If the offender's case is not heard during such term  
201 of court, the offender shall be returned to the facility of the  
202 Department of Corrections from which he was summoned. If the  
203 offender is not returned within one (1) week of the end of the  
204 term of court, the county housing the offender shall not receive  
205 the \* \* \* Twenty-five Dollars (\$25.00) allowed under Section  
206 47-5-901, except as authorized in Section 47-5-909(2), for housing  
207 state offenders after the one-week time period required for  
208 returning the offender to the Department of Corrections.

209           **SECTION 5.** This act shall take effect and be in force from  
210 and after July 1, 2022.

