

By: Representatives Byrd, Smith

To: Corrections

HOUSE BILL NO. 1259

1 AN ACT TO REENACT SECTIONS 47-5-901 THROUGH 47-5-909,
2 MISSISSIPPI CODE OF 1972, WHICH PROVIDE FOR CONDITIONS UNDER WHICH
3 STATE OFFENDERS MAY SERVE SENTENCES IN COUNTY JAILS; TO REPEAL
4 SECTION 47-5-911, MISSISSIPPI CODE OF 1972, WHICH IS THE AUTOMATIC
5 REPEALER ON THE REENACTED SECTIONS; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 47-5-901, Mississippi Code of 1972, is
8 reenacted as follows:

9 47-5-901. (1) (a) Any person committed, sentenced or
10 otherwise placed under the custody of the Department of
11 Corrections, on order of the sentencing court and subject to the
12 other conditions of this subsection, may serve all or any part of
13 his sentence in the county jail of the county wherein such person
14 was convicted if the Commissioner of Corrections determines that
15 physical space is not available for confinement of such person in
16 the state correctional institutions. Such determination shall be
17 promptly made by the Department of Corrections upon receipt of
18 notice of the conviction of such person. The commissioner shall
19 certify in writing that space is not available to the sheriff or



20 other officer having custody of the person. Any person serving
21 his sentence in a county jail shall be classified in accordance
22 with Section 47-5-905.

23 (b) Any person committed, sentenced or otherwise placed
24 under the custody of the Department of Corrections, on order of
25 the sentencing court and subject to the other conditions of this
26 subsection, may serve all or any part of his or her sentence in
27 the county jail of the county wherein such person was convicted if
28 the sheriff or president of the board of supervisors, requests
29 such inmate or inmates. Upon such request, the department may
30 allow such inmate or inmates to serve all or any part of such
31 inmate's or inmates' sentence(s), as the case may be, in the
32 county of conviction of the inmate or inmates or the county of
33 request of a sheriff or board of supervisors outside the county of
34 conviction. Such determination shall be promptly made by the
35 Department of Corrections upon receipt of notice of the conviction
36 of such person. Whenever a request is denied for an inmate or
37 inmates, then the commissioner shall certify in writing to the
38 sentencing court, sheriff, or president of the board of
39 supervisors of a county, as the case may be, that such inmate or
40 inmates does not qualify to serve the sentence or sentences in the
41 county jail. Any person serving his sentence in a county jail
42 shall be classified in accordance with Section 47-5-905.

43 (2) If state prisoners are housed in county jails due to a
44 lack of capacity at state correctional institutions, the



45 Department of Corrections shall determine the cost for food and
46 medical attention for such prisoners. The cost of feeding and
47 housing offenders confined in such county jails shall be based on
48 actual costs or contract price per prisoner. In order to maximize
49 the potential use of county jail space, the Department of
50 Corrections is encouraged to negotiate a reasonable per day cost
51 per prisoner, which in no event may exceed Twenty-five Dollars
52 (\$25.00) per day per offender, except as authorized in Section
53 47-5-909(2).

54 (3) (a) Upon vouchers submitted by the board of supervisors
55 of any county housing persons due to lack of space at state
56 institutions, the Department of Corrections shall pay to such
57 county, out of any available funds, the actual cost of food, or
58 contract price per prisoner, not to exceed Twenty-five Dollars
59 (\$25.00) per day per offender, except as authorized in Section
60 47-5-909(2), as determined under subsection (2) of this section
61 for each day an offender is so confined beginning the day that the
62 Department of Corrections receives a certified copy of the
63 sentencing order or five (5) days after the sentencing order is
64 sent, in writing, by such county to the department, whichever is
65 earlier, and will terminate on the date on which the offender is
66 released or otherwise removed from the custody of the county jail.
67 The department, or its contracted medical provider, will pay to a
68 provider of a medical service for any and all incarcerated persons
69 from a correctional or detention facility an amount based upon



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

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

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



94 (4) A person, on order of the sentencing court, may serve
95 not more than twenty-four (24) months of his sentence in a county
96 jail if the person is classified in accordance with Section
97 47-5-905 and the county jail is an approved county jail for
98 housing state inmates under federal court order. The sheriff of
99 the county shall have the right to petition the Commissioner of
100 Corrections to remove the inmate from the county jail. The county
101 shall be reimbursed in accordance with subsection (2) of this
102 section.

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

108 (6) This section does not create in the Department of
109 Corrections, or its employees or agents, any new liability,
110 express or implied, nor shall it create in the Department of
111 Corrections any administrative authority or responsibility for the
112 construction, funding, administration or operation of county or
113 other local jails or other places of confinement which are not
114 staffed and operated on a full-time basis by the Department of
115 Corrections. The correctional system under the jurisdiction of
116 the Department of Corrections shall include only those facilities
117 fully staffed by the Department of Corrections and operated by it
118 on a full-time basis.



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

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

126 47-5-903. (1) A person committed, sentenced or otherwise
127 placed under the custody of the Department of Corrections, on
128 order of the sentencing court, may serve his or her sentence in
129 any county jail if all of the following conditions are complied
130 with:

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

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

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

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

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



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

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

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

156 **SECTION 3.** Section 47-5-905, Mississippi Code of 1972, is
157 reenacted as follows:

158 47-5-905. (1) All persons placed under the custody of the
159 Department of Corrections shall be processed at a reception and
160 diagnostic center of the Department of Corrections and then be
161 assigned to an appropriate correctional facility for a complete
162 and thorough classification, not to exceed ninety (90) days,
163 unless the department determines that a person can be properly
164 processed and classified at the county jail in accordance with the
165 department's classification plan.

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



169 **SECTION 4.** Section 47-5-907, Mississippi Code of 1972, is
170 reenacted as follows:

171 47-5-907. The sheriff of any county in this state shall have
172 the right to petition the Commissioner of the Department of
173 Corrections to remove a state inmate from the county jail in such
174 county to the State Penitentiary. The commissioner shall remove
175 such inmate from such county jail if the sheriff of such county
176 sets forth just cause in his petition indicating why an inmate
177 should be removed from such county jail to the State Penitentiary.

178 Just cause is established if such sheriff can sufficiently
179 prove that such inmate has a dangerous behavior or sufficiently
180 prove that there is no available or suitable medical facility
181 where such inmate can be provided suitable medical services. The
182 commissioner shall respond in writing to the petition no later
183 than thirty (30) days after the receipt of such petition. If the
184 petition to remove such inmate is denied by the commissioner, such
185 sheriff and his agents shall have from the date of denial absolute
186 immunity from liability for any injury resulting from subsequent
187 behavior or from medical consequences regarding such inmate,
188 provided that such injury resulted from conditions which were set
189 forth in such petition.

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

192 47-5-909. (1) It is the policy of the Legislature that all
193 inmates be removed from county jails as early as practicable.



194 Sections 47-5-901 through 47-5-907 are temporary measures to help
195 alleviate the immediate operating capacity limitations at
196 correctional facilities and are not permanent measures to be
197 included in the long-term operating capacity of the correctional
198 system.

199 (2) Notwithstanding any other provision of law, to expedite
200 the removal of inmates from county jails as early as practicable,
201 absent a contract negotiated between the Department of Corrections
202 and the county jail, the Department of Corrections shall pay
203 county jails for housing state offenders out of any available
204 funds as follows:

205 (a) Twenty-five Dollars (\$25.00) per day per offender
206 for days one (1) through thirty (30);

207 (b) Thirty-two Dollars and Seventy-one Cents (\$32.71)
208 per day per offender for days thirty-one (31) or greater when:

209 (i) An offender remains in the county jail after
210 the Department of Corrections receives a certified copy of the
211 sentencing order or five (5) days after the sentencing order is
212 sent, in writing, by such county to the Department of Corrections,
213 whichever is earlier; or

214 (ii) An offender remains in the county jail after
215 being revoked from parole or probation or is sentenced to a
216 technical violation center.



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

220 **SECTION 6.** Section 47-5-911, Mississippi Code of 1972, which
221 is the automatic repealer on those statutes that provide for
222 conditions under which state offenders may serve in county jails,
223 is repealed.

224 **SECTION 7.** This act shall take effect and be in force from
225 and after July 1, 2024.

