

By: Representative Denny (By Request)

To: Penitentiary

HOUSE BILL NO. 631

1 AN ACT TO AMEND SECTIONS 47-5-23 AND 47-5-28, MISSISSIPPI
2 CODE OF 1972, TO AUTHORIZE THE DEPARTMENT OF CORRECTIONS TO
3 REQUIRE STATE OFFENDERS TO ASSIST IN THE PAYMENT OF COSTS OF
4 INCARCERATION AT DEPARTMENT OF CORRECTIONS' FACILITIES; TO AMEND
5 SECTION 47-5-901, MISSISSIPPI CODE OF 1972, TO REQUIRE STATE
6 OFFENDERS TO ASSIST IN THE PAYMENT OF COSTS OF INCARCERATION AT
7 COUNTY JAILS; TO AMEND SECTION 47-5-933, MISSISSIPPI CODE OF 1972,
8 IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

10 **SECTION 1** Section 47-5-23, Mississippi Code of 1972, is
11 amended as follows:

12 47-5-23. The department shall be vested with the exclusive
13 responsibility for management and control of the correctional
14 system, and all properties belonging thereto, subject only to the
15 limitations of this chapter, and shall be responsible for the
16 management of affairs of the correctional system and for the
17 proper care, treatment, feeding, clothing and management of the
18 offenders confined therein. The department is authorized to
19 require offenders and their families to assist in the payment of
20 the costs of incarceration for such offenders. The commissioner
21 shall have final authority to employ and discharge all employees
22 of the correctional system, except as otherwise provided by law.

23 **SECTION 2.** Section 47-5-28, Mississippi Code of 1972, is
24 amended as follows:

25 47-5-28. The commissioner shall have the following powers
26 and duties:

- 27 (a) To implement and administer laws and policy
28 relating to corrections and coordinate the efforts of the
29 department with those of the federal government and other state
30 departments and agencies, county governments, municipal



31 governments, and private agencies concerned with providing
32 offender services;

33 (b) To establish standards, in cooperation with other
34 state agencies having responsibility as provided by law, provide
35 technical assistance, and exercise the requisite supervision as it
36 relates to correctional programs over all state-supported adult
37 correctional facilities and community-based programs;

38 (c) To promulgate and publish such rules, regulations
39 and policies of the department as are needed for the efficient
40 government and maintenance of all facilities and programs in
41 accord insofar as possible with currently accepted standards of
42 adult offender care and treatment;

43 (d) To provide the Parole Board with suitable and
44 sufficient office space and support resources and staff necessary
45 to conducting Parole Board business under the guidance of the
46 Chairman of the Parole Board;

47 (e) To make an annual report to the Governor and the
48 Legislature reflecting the activities of the department and make
49 recommendations for improvement of the services to be performed by
50 the department;

51 (f) To cooperate fully with periodic independent
52 internal investigations of the department and to file the report
53 with the Governor and the Legislature;

54 (g) To perform such other duties necessary to
55 effectively and efficiently carry out the purposes of the
56 department as may be directed by the Governor;

57 (h) To develop methods by which an offender shall
58 assist in payment of the costs of incarceration for such offender.
59 Such methods may include periodic payments and the seizure and
60 forfeiture of real and personal property of offenders.

61 **SECTION 3.** Section 47-5-901, Mississippi Code of 1972, is
62 amended as follows:



63 47-5-901. (1) Any person committed, sentenced or otherwise
64 placed under the custody of the Department of Corrections, on
65 order of the sentencing court and subject to the other conditions
66 of this subsection, may serve all or any part of his sentence in
67 the county jail of the county wherein such person was convicted if
68 the Commissioner of Corrections determines that physical space is
69 not available for confinement of such person in the state
70 correctional institutions. Such determination shall be promptly
71 made by the Department of Corrections upon receipt of notice of
72 the conviction of such person. The commissioner shall certify in
73 writing that space is not available to the sheriff or other
74 officer having custody of the person. Any person serving his
75 sentence in a county jail shall be classified in accordance with
76 Section 47-5-905.

77 (2) If state prisoners are housed in county jails due to a
78 lack of capacity at state correctional institutions, the
79 Department of Corrections shall determine the cost for food and
80 medical attention for such prisoners. The cost of feeding and
81 housing offenders confined in such county jails shall be based on
82 actual costs or contract price per prisoner. In order to maximize
83 the potential use of county jail space, the Department of
84 Corrections is encouraged to negotiate a reasonable per day cost
85 per prisoner, which in no event may exceed Twenty Dollars (\$20.00)
86 per day per offender.

87 (3) Upon vouchers submitted by the board of supervisors of
88 any county housing persons due to lack of space at state
89 institutions, the Department of Corrections shall pay to such
90 county, out of any available funds, the actual cost of food, or
91 contract price per prisoner, not to exceed Twenty Dollars (\$20.00)
92 per day per offender, as determined under subsection (2) of this
93 section for each day an offender is so confined beginning the day
94 that the Department of Corrections receives a certified copy of
95 the sentencing order and will terminate on the date on which the



96 offender is released or otherwise removed from the custody of the
97 county jail, and shall pay the actual cost for medical attention
98 for prisoners unless the Commissioner of Corrections shall find
99 that the costs of any medical services rendered are unreasonable.
100 Such payment shall be placed in the county general fund and shall
101 be expended only for food and medical attention for such persons.
102 The Department of Corrections shall not pay a county for offenders
103 housed in county jails pending a probation or parole revocation
104 hearing.

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

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

118 (6) This section does not create in the Department of
119 Corrections, or its employees or agents, any new liability,
120 express or implied, nor shall it create in the Department of
121 Corrections any administrative authority or responsibility for the
122 construction, funding, administration or operation of county or
123 other local jails or other places of confinement which are not
124 staffed and operated on a full-time basis by the Department of
125 Corrections. The correctional system under the jurisdiction of
126 the Department of Corrections shall include only those facilities
127 fully staffed by the Department of Corrections and operated by it
128 on a full-time basis.



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

134 (8) If state offenders are incarcerated in county jails, due
135 to a lack of space at state correctional institutions, the
136 Department of Corrections may require such state offenders and
137 their families to assist in the payment of the costs of
138 incarceration for such offenders.

139 **SECTION 4.** Section 47-5-933, Mississippi Code of 1972, is
140 amended as follows:

141 47-5-933. The Department of Corrections may contract for the
142 purposes set out in Section 47-5-931 for a period of not more than
143 twenty (20) years. The contract may provide that the Department
144 of Corrections pay a fee of up to Twenty-four Dollars and Ninety
145 Cents (\$24.90) per day for each offender that is housed in the
146 facility. The Department of Corrections may include in the
147 contract, as an inflation factor, a three percent (3%) annual
148 increase in the contract price. The state shall retain
149 responsibility for medical care for state offenders to the extent
150 that is required by law. The Department of Corrections may
151 require state offenders who are incarcerated at county or regional
152 facilities and their families to assist in the payment of the
153 costs of incarceration for such offenders.

154 **SECTION 5.** This act shall take effect and be in force from
155 and after July 1, 2003.

