

By: Representative Ford

To: Penitentiary;
Appropriations

HOUSE BILL NO. 786

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 AMEND
4 SECTION 47-5-911, MISSISSIPPI CODE OF 1972, TO EXTEND THE REPEALER
5 ON SUCH PROVISIONS OF LAW; 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) Any person committed, sentenced or otherwise
10 placed under the custody of the Department of Corrections, on
11 order of the sentencing court and subject to the other conditions
12 of this subsection, may serve all or any part of his sentence in
13 the county jail of the county wherein such person was convicted if
14 the Commissioner of Corrections determines that physical space is
15 not available for confinement of such person in the state
16 correctional institutions. Such determination shall be promptly
17 made by the Department of Corrections upon receipt of notice of
18 the conviction of such person. The commissioner shall certify in
19 writing that space is not available to the sheriff or other
20 officer having custody of the person. Any person serving his
21 sentence in a county jail shall be classified in accordance with
22 Section 47-5-905.

23 (2) If state prisoners are housed in county jails due to a
24 lack of capacity at state correctional institutions, the
25 Department of Corrections shall determine the cost for food and
26 medical attention for such prisoners. The cost of feeding and
27 housing offenders confined in such county jails shall be based on
28 actual costs or contract price per prisoner. In order to maximize



29 the potential use of county jail space, the Department of
30 Corrections is encouraged to negotiate a reasonable per day cost
31 per prisoner, which in no event may exceed Twenty Dollars (\$20.00)
32 per day per offender.

33 (3) Upon vouchers submitted by the board of supervisors of
34 any county housing persons due to lack of space at state
35 institutions, the Department of Corrections shall pay to such
36 county, out of any available funds, the actual cost of food, or
37 contract price per prisoner, not to exceed Twenty Dollars (\$20.00)
38 per day per offender, as determined under subsection (2) of this
39 section for each day an offender is so confined beginning the day
40 that the Department of Corrections receives a certified copy of
41 the sentencing order and will terminate on the date on which the
42 offender is released or otherwise removed from the custody of the
43 county jail, and shall pay the actual cost for medical attention
44 for prisoners unless the Commissioner of Corrections shall find
45 that the costs of any medical services rendered are unreasonable.
46 Such payment shall be placed in the county general fund and shall
47 be expended only for food and medical attention for such persons.
48 The Department of Corrections shall not pay a county for offenders
49 housed in county jails pending a probation or parole revocation
50 hearing.

51 (4) A person, on order of the sentencing court, may serve
52 not more than twenty-four (24) months of his sentence in a county
53 jail if the person is classified in accordance with Section
54 47-5-905 and the county jail is an approved county jail for
55 housing state inmates under federal court order. The sheriff of
56 the county shall have the right to petition the Commissioner of
57 Corrections to remove the inmate from the county jail. The county
58 shall be reimbursed in accordance with subsection (2).

59 (5) The Attorney General of the State of Mississippi shall
60 defend the employees of the Department of Corrections and
61 officials and employees of political subdivisions against any



62 action brought by any person who was committed to a county jail
63 under the provisions of this section.

64 (6) This section does not create in the Department of
65 Corrections, or its employees or agents, any new liability,
66 express or implied, nor shall it create in the Department of
67 Corrections any administrative authority or responsibility for the
68 construction, funding, administration or operation of county or
69 other local jails or other places of confinement which are not
70 staffed and operated on a full-time basis by the Department of
71 Corrections. The correctional system under the jurisdiction of
72 the Department of Corrections shall include only those facilities
73 fully staffed by the Department of Corrections and operated by it
74 on a full-time basis.

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

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

82 47-5-903. (1) A person committed, sentenced or otherwise
83 placed under the custody of the Department of Corrections, on
84 order of the sentencing court, may serve his sentence in the
85 county jail of the county where convicted if all of the following
86 conditions are complied with:

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

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

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



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

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

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

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

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

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

114 47-5-905. (1) All persons placed under the custody of the
115 Department of Corrections shall be processed at a reception and
116 diagnostic center of the Department of Corrections and then be
117 assigned to an appropriate correctional facility for a complete
118 and thorough classification, not to exceed ninety (90) days,
119 unless the department determines that a person can be properly
120 processed and classified at the county jail in accordance with the
121 department's classification plan.

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

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



127 47-5-907. The sheriff of any county in this state shall have
128 the right to petition the Commissioner of the Department of
129 Corrections to remove a state inmate from the county jail in such
130 county to the State Penitentiary. The commissioner shall remove
131 such inmate from such county jail if the sheriff of such county
132 sets forth just cause in his petition indicating why an inmate
133 should be removed from such county jail to the State Penitentiary.

134 Just cause is established if such sheriff can sufficiently
135 prove that such inmate has a dangerous behavior or sufficiently
136 prove that there is no available or suitable medical facility
137 where such inmate can be provided suitable medical services. The
138 commissioner shall respond in writing to the petition no later
139 than thirty (30) days after the receipt of such petition. If the
140 petition to remove such inmate is denied by the commissioner, such
141 sheriff and his agents shall have from the date of denial absolute
142 immunity from liability for any injury resulting from subsequent
143 behavior or from medical consequences regarding such inmate,
144 provided that such injury resulted from conditions which were set
145 forth in such petition.

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

148 47-5-909. It is the policy of the Legislature that all
149 inmates be removed from county jails as early as practicable.
150 Sections 47-5-901 through 47-5-907 are temporary measures to help
151 alleviate the immediate operating capacity limitations at
152 correctional facilities and are not permanent measures to be
153 included in the long-term operating capacity of the correctional
154 system.

155 **SECTION 6.** Section 47-5-911, Mississippi Code of 1972, is
156 amended as follows:

157 Sections 47-5-901 through 47-5-911 shall stand repealed on
158 July 1, 2004.



159 **SECTION 7.** This act shall take effect and be in force from
160 and after July 1, 2003.

