

By: Representative Clarke

To: Corrections;
Appropriations

HOUSE BILL NO. 1063

1 AN ACT TO AMEND SECTIONS 47-5-103, 47-5-901, 47-5-903,
2 47-5-905, 47-5-931, 47-5-939 AND 47-5-1205, MISSISSIPPI CODE OF
3 1972, TO PROVIDE THAT NOT LATER THAN JANUARY 1, 2006, ANY VIOLENT
4 OR NONVIOLENT OFFENDER MUST BE HOUSED SEPARATELY WHILE UNDER THE
5 CUSTODY OF THE DEPARTMENT OF CORRECTIONS AND SERVING HIS OR HER
6 SENTENCE IN A CORRECTIONAL FACILITY; AND FOR RELATED PURPOSES.

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

8 **SECTION 1.** Section 47-5-103, Mississippi Code of 1972, is
9 amended as follows:

10 47-5-103. (1) The classification hearing officer shall be
11 responsible for assigning a classification to each offender within
12 forty (40) days after the offender's commitment to the custody of
13 the department. The classification shall determine the offender's
14 work duties, living quarters, educational, vocational or other
15 rehabilitation programs, and privileges to be accorded the
16 offender while in custody of the department. Not later than
17 January 1, 2006, any violent or nonviolent offender must be housed
18 separately while under the custody of the department and serving
19 his or her sentence in a correctional facility. The
20 classification hearing officer, in assigning classifications,
21 shall consider the offender's age, offense and surrounding
22 circumstances, the complete record of the offender's criminal
23 history including records of law enforcement agencies or of a
24 youth court regarding that offender's juvenile criminal history,
25 family background, education, practical or employment experience,
26 interests and abilities as evidenced by mental and psychological
27 examination and knowledge obtained by the classification hearing
28 officer in personal interview with the offender. The
29 classification hearing officer shall use the above criteria to

30 assign each offender a classification which will serve and enhance
31 the best interests and general welfare of the offender. The
32 director or assistant director of offender services shall approve
33 or disapprove each classification. The classification hearing
34 officer shall provide the State Parole Board with a copy of the
35 classification assigned to each offender in the custody of the
36 department who is eligible for parole.

37 (2) The classification board, consisting of the
38 commissioner, or his designee, deputy commissioner of institutions
39 and the director of offender services may change an action of the
40 classification or disciplinary hearing officer if the board makes
41 a determination that the action of the hearing officer was not
42 supported by sufficient factual information. The commissioner, in
43 emergency situations, may suspend the classification of an
44 offender or offenders for a period of not exceeding fifteen (15)
45 days to relieve the emergency situation. The classification of
46 each offender may be reviewed by a classification hearing officer
47 at least once each year. In no case shall an offender serve as a
48 servant in the home of any employee other than authorized by the
49 commissioner.

50 (3) The classification board shall establish substantive and
51 procedural rules and regulations governing the assignment and
52 alteration of inmate classifications, and shall make such rules
53 and regulations available to any offender upon request.

54 **SECTION 2.** Section 47-5-901, Mississippi Code of 1972, is
55 amended as follows:

56 47-5-901. (1) Any person committed, sentenced or otherwise
57 placed under the custody of the Department of Corrections, on
58 order of the sentencing court and subject to the other conditions
59 of this subsection, may serve all or any part of his sentence in
60 the county jail of the county wherein such person was convicted if
61 the Commissioner of Corrections determines that physical space is
62 not available for confinement of such person in the state

63 correctional institutions. Such determination shall be promptly
64 made by the Department of Corrections upon receipt of notice of
65 the conviction of such person. The commissioner shall certify in
66 writing that space is not available to the sheriff or other
67 officer having custody of the person. Any person serving his
68 sentence in a county jail shall be classified in accordance with
69 Section 47-5-905. Not later than January 1, 2006, any violent or
70 nonviolent offender must be housed separately while under the
71 custody of the department and serving his or her sentence in a
72 correctional facility.

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

83 (3) Upon vouchers submitted by the board of supervisors of
84 any county housing persons due to lack of space at state
85 institutions, the Department of Corrections shall pay to such
86 county, out of any available funds, the actual cost of food, or
87 contract price per prisoner, not to exceed Twenty Dollars (\$20.00)
88 per day per offender, as determined under subsection (2) of this
89 section for each day an offender is so confined beginning the day
90 that the Department of Corrections receives a certified copy of
91 the sentencing order and will terminate on the date on which the
92 offender is released or otherwise removed from the custody of the
93 county jail, and shall pay the actual cost for medical attention
94 for prisoners unless the Commissioner of Corrections shall find
95 that the costs of any medical services rendered are unreasonable.

96 Such payment shall be placed in the county general fund and shall
97 be expended only for food and medical attention for such persons.
98 The Department of Corrections shall not pay a county for offenders
99 housed in county jails pending a probation or parole revocation
100 hearing.

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).

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

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

125 (7) An offender returned to a county for post-conviction
126 proceedings shall be subject to the provisions of Section 99-19-42
127 and the county shall not receive the per day allotment for such

128 offender after the time prescribed for returning the offender to
129 the Department of Corrections as provided in Section 99-19-42.

130 **SECTION 3.** Section 47-5-903, Mississippi Code of 1972, is
131 amended as follows:

132 47-5-903. (1) A person committed, sentenced or otherwise
133 placed under the custody of the Department of Corrections, on
134 order of the sentencing court, may serve his sentence in the
135 county jail of the county where convicted if all of the following
136 conditions are complied with:

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

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

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

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

147 (e) Not later than January 1, 2006, any violent or
148 nonviolent offender must be housed separately while under the
149 custody of the department and serving his or her sentence in a
150 county jail.

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

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

157 (3) The Attorney General of the State of Mississippi shall
158 defend the employees of the Department of Corrections and
159 officials and employees of political subdivisions against any

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

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

165 **SECTION 4.** Section 47-5-905, Mississippi Code of 1972, is
166 amended as follows:

167 47-5-905. (1) All persons placed under the custody of the
168 Department of Corrections shall be processed at a reception and
169 diagnostic center of the Department of Corrections and then be
170 assigned to an appropriate correctional facility for a complete
171 and thorough classification, not to exceed ninety (90) days,
172 unless the department determines that a person can be properly
173 processed and classified at the county jail in accordance with the
174 department's classification plan.

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

178 (3) Not later than January 1, 2006, any violent or
179 nonviolent offender must be housed separately while under the
180 custody of the department and serving his or her sentence in a
181 correctional facility.

182 **SECTION 5.** Section 47-5-931, Mississippi Code of 1972, is
183 amended as follows:

184 47-5-931. (1) The Department of Corrections, in its
185 discretion, may contract with the board of supervisors of one or
186 more counties and/or with a regional facility jointly operated by
187 two (2) or three (3) counties, to provide for housing, care and
188 control of not more than two hundred fifty (250) offenders who are
189 in the custody of the State of Mississippi. However, not later
190 than January 1, 2006, any violent or nonviolent offender must be
191 housed separately while under the custody of the department and
192 serving his or her sentence in a correctional facility. Any

193 facility owned or leased by a county or counties for this purpose
194 shall be designed, constructed, operated and maintained in
195 accordance with American Correctional Association standards, and
196 shall comply with all constitutional standards of the United
197 States and the State of Mississippi, and with all court orders
198 that may now or hereinafter be applicable to the facility. If the
199 Department of Corrections contracts with more than one (1) county
200 to house state offenders in county correctional facilities,
201 excluding a regional facility, then the first of such facilities
202 shall be constructed in Sharkey County and the second of such
203 facilities shall be constructed in Jefferson County.

204 (2) The Department of Corrections shall contract with the
205 boards of supervisors of the following counties to house state
206 inmates in regional facilities: (a) Marion and Walthall Counties;
207 (b) Carroll and Montgomery Counties; (c) Stone and Pearl River
208 Counties; (d) Winston and Choctaw Counties; (e) Kemper and Neshoba
209 Counties; (f) Holmes County and any contiguous county in which
210 there is located an unapproved jail; and (g) Bolivar County and
211 any contiguous county in which there is located an unapproved
212 jail. The Department of Corrections may contract with the boards
213 of supervisors of the following counties to house state inmates in
214 regional facilities: (a) Yazoo County and any contiguous county,
215 (b) Chickasaw County; and (c) George and Greene Counties. The
216 Department of Corrections shall decide the order of priority of
217 the counties listed in this subsection with which it will contract
218 for the housing of state inmates. For the purposes of this
219 subsection the term "unapproved jail" means any jail that the
220 local grand jury determines should be condemned or has found to be
221 of substandard condition or in need of substantial repair or
222 reconstruction.

223 **SECTION 6.** Section 47-5-939, Mississippi Code of 1972, is
224 amended as follows:

225 47-5-939. In addition to housing offenders for the
226 Department of Corrections, the Chief Corrections Officer may house
227 pretrial detainees, county offenders and other persons legally
228 subject to incarceration by order of a court of competent
229 jurisdiction. All offenders are to be housed in accordance with
230 American Corrections Association standards, and not later than
231 January 1, 2006, any violent or nonviolent offender must be housed
232 separately while under the custody of the department and serving
233 his or her sentence in a correctional facility.

234 **SECTION 7.** Section 47-5-1205, Mississippi Code of 1972, is
235 amended as follows:

236 47-5-1205. (1) The State Prison Emergency Construction and
237 Management Board shall provide for the construction and shall
238 equip additional housing and necessary support facilities for one
239 thousand two hundred sixteen (1,216) medium security male
240 offenders and for two hundred (200) male offenders sentenced to
241 the Regimented Inmate Discipline Program at the South Mississippi
242 Correctional Institution.

243 (2) The State Prison Emergency Construction and Management
244 Board shall provide for the construction and shall equip
245 additional housing and support facilities for seven hundred (700)
246 medium security male offenders at the Central Mississippi
247 Correctional Facility.

248 (3) The State Prison Emergency Construction and Management
249 Board shall use funds from the "Corrections Facilities Emergency
250 Construction Fund."

251 (4) The Department of Finance and Administration shall use
252 its emergency powers to expedite the construction of these
253 facilities. In the planning, design, procurement and construction
254 of these facilities, the board shall make maximum utilization of
255 plans, specifications and processes used in, completed or on-going
256 construction projects for the Mississippi Department of
257 Corrections.

258 (5) Not later than January 1, 2006, any violent or
259 nonviolent offender must be housed separately while under the
260 custody of the department and serving his or her sentence in a
261 correctional facility, which includes a facility built pursuant to
262 this section.

263 **SECTION 8.** This act shall take effect and be in force from
264 and after July 1, 2004.