

By: Representative Warren

To: Corrections; County  
Affairs

HOUSE BILL NO. 768  
(As Sent to Governor)

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 REENACTED SECTION 47-5-901, MISSISSIPPI CODE OF 1972, TO REQUIRE  
5 THE DEPARTMENT OF CORRECTIONS TO PAY A COUNTY FOR STATE INMATES  
6 HELD IN A COUNTY JAIL PENDING A PAROLE OR PROBATION HEARING; TO  
7 AMEND SECTION 47-5-911, MISSISSIPPI CODE OF 1972, TO EXTEND THE  
8 DATE OF REPEAL ON THOSE REENACTED SECTIONS; AND FOR RELATED  
9 PURPOSES.

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

11 **SECTION 1.** Section 47-5-901, Mississippi Code of 1972, is  
12 reenacted and amended as follows:

13 47-5-901. (1) Any person committed, sentenced or otherwise  
14 placed under the custody of the Department of Corrections, on  
15 order of the sentencing court and subject to the other conditions  
16 of this subsection, may serve all or any part of his sentence in  
17 the county jail of the county wherein such person was convicted if  
18 the Commissioner of Corrections determines that physical space is  
19 not available for confinement of such person in the state  
20 correctional institutions. Such determination shall be promptly  
21 made by the Department of Corrections upon receipt of notice of  
22 the conviction of such person. The commissioner shall certify in  
23 writing that space is not available to the sheriff or other  
24 officer having custody of the person. Any person serving his  
25 sentence in a county jail shall be classified in accordance with  
26 Section 47-5-905.

27 (2) If state prisoners are housed in county jails due to a  
28 lack of capacity at state correctional institutions, the  
29 Department of Corrections shall determine the cost for food and  
30 medical attention for such prisoners. The cost of feeding and

31 housing offenders confined in such county jails shall be based on  
32 actual costs or contract price per prisoner. In order to maximize  
33 the potential use of county jail space, the Department of  
34 Corrections is encouraged to negotiate a reasonable per day cost  
35 per prisoner, which in no event may exceed Twenty Dollars (\$20.00)  
36 per day per offender.

37 (3) (a) Upon vouchers submitted by the board of supervisors  
38 of any county housing persons due to lack of space at state  
39 institutions, the Department of Corrections shall pay to such  
40 county, out of any available funds, the actual cost of food, or  
41 contract price per prisoner, not to exceed Twenty Dollars (\$20.00)  
42 per day per offender, as determined under subsection (2) of this  
43 section for each day an offender is so confined beginning the day  
44 that the Department of Corrections receives a certified copy of  
45 the sentencing order and will terminate on the date on which the  
46 offender is released or otherwise removed from the custody of the  
47 county jail. The department shall pay the cost for medical  
48 attention for prisoners at an amount no greater than the  
49 reimbursement rate based on the Mississippi Medicaid reimbursement  
50 rate. This limitation applies to all medical care services,  
51 durable and nondurable goods, prescription drugs and medications.  
52 Such payment shall be placed in the county general fund and shall  
53 be expended only for food and medical attention for such  
54 persons. \* \* \*

55 (b) Upon vouchers submitted by the board of supervisors  
56 of any county housing offenders in county jails pending a  
57 probation or parole revocation hearing, the department shall pay,  
58 out of any available funds, the reimbursement costs provided in  
59 paragraph (a).

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

64 (4) A person, on order of the sentencing court, may serve  
65 not more than twenty-four (24) months of his sentence in a county  
66 jail if the person is classified in accordance with Section  
67 47-5-905 and the county jail is an approved county jail for  
68 housing state inmates under federal court order. The sheriff of  
69 the county shall have the right to petition the Commissioner of  
70 Corrections to remove the inmate from the county jail. The county  
71 shall be reimbursed in accordance with subsection (2).

72 (5) The Attorney General of the State of Mississippi shall  
73 defend the employees of the Department of Corrections and  
74 officials and employees of political subdivisions against any  
75 action brought by any person who was committed to a county jail  
76 under the provisions of this section.

77 (6) This section does not create in the Department of  
78 Corrections, or its employees or agents, any new liability,  
79 express or implied, nor shall it create in the Department of  
80 Corrections any administrative authority or responsibility for the  
81 construction, funding, administration or operation of county or  
82 other local jails or other places of confinement which are not  
83 staffed and operated on a full-time basis by the Department of  
84 Corrections. The correctional system under the jurisdiction of  
85 the Department of Corrections shall include only those facilities  
86 fully staffed by the Department of Corrections and operated by it  
87 on a full-time basis.

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

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

95 47-5-903. (1) A person committed, sentenced or otherwise  
96 placed under the custody of the Department of Corrections, on

97 order of the sentencing court, may serve his sentence in the  
98 county jail of the county where convicted if all of the following  
99 conditions are complied with:

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

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

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

107 (d) After the person is classified and returned to the  
108 county, the county shall assume the full and complete  
109 responsibility for the care and expenses of housing such person;  
110 and

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

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

117 (3) The Attorney General of the State of Mississippi shall  
118 defend the employees of the Department of Corrections and  
119 officials and employees of political subdivisions against any  
120 action brought by any person who was committed to a county jail  
121 under the provisions of this section.

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

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

127 47-5-905. (1) All persons placed under the custody of the  
128 Department of Corrections shall be processed at a reception and  
129 diagnostic center of the Department of Corrections and then be

130 assigned to an appropriate correctional facility for a complete  
131 and thorough classification, not to exceed ninety (90) days,  
132 unless the department determines that a person can be properly  
133 processed and classified at the county jail in accordance with the  
134 department's classification plan.

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

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

140 47-5-907. The sheriff of any county in this state shall have  
141 the right to petition the Commissioner of the Department of  
142 Corrections to remove a state inmate from the county jail in such  
143 county to the State Penitentiary. The commissioner shall remove  
144 such inmate from such county jail if the sheriff of such county  
145 sets forth just cause in his petition indicating why an inmate  
146 should be removed from such county jail to the State Penitentiary.

147 Just cause is established if such sheriff can sufficiently  
148 prove that such inmate has a dangerous behavior or sufficiently  
149 prove that there is no available or suitable medical facility  
150 where such inmate can be provided suitable medical services. The  
151 commissioner shall respond in writing to the petition no later  
152 than thirty (30) days after the receipt of such petition. If the  
153 petition to remove such inmate is denied by the commissioner, such  
154 sheriff and his agents shall have from the date of denial absolute  
155 immunity from liability for any injury resulting from subsequent  
156 behavior or from medical consequences regarding such inmate,  
157 provided that such injury resulted from conditions which were set  
158 forth in such petition.

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

161 47-5-909. It is the policy of the Legislature that all  
162 inmates be removed from county jails as early as practicable.

163 Sections 47-5-901 through 47-5-907 are temporary measures to help  
164 alleviate the immediate operating capacity limitations at  
165 correctional facilities and are not permanent measures to be  
166 included in the long-term operating capacity of the correctional  
167 system.

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

170             47-5-911. Sections 47-5-901 through 47-5-911 shall stand  
171 repealed on July 1, 2008.

172         **SECTION 7.** This act shall take effect and be in force from  
173 and after its passage.