

By: Senator(s) Sparks, Tate, McMahan,
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To: Corrections;
Appropriations

SENATE BILL NO. 2495

1 AN ACT TO AMEND SECTIONS 47-5-901 AND 47-5-903, MISSISSIPPI
2 CODE OF 1972, TO ALLOW AN INMATE PLACED UNDER THE CUSTODY OF THE
3 DEPARTMENT OF CORRECTIONS TO SERVE ALL OR PART OF HIS SENTENCE IN
4 THE COUNTY REQUESTED BY A SHERIFF OR BOARD OF SUPERVISORS OUTSIDE
5 THE COUNTY OF CONVICTION UPON CERTAIN CONDITIONS; TO INCREASE THE
6 MAXIMUM PER DAY COST PER PRISONER; TO AMEND SECTION 47-5-909,
7 MISSISSIPPI CODE OF 1972, TO EXPEDITE THE REMOVAL OF INMATES FROM
8 COUNTY JAILS BY DIRECTING THE DEPARTMENT OF CORRECTIONS TO PAY
9 COUNTY JAILS FOR HOUSING STATE OFFENDERS; TO AMEND SECTION
10 99-19-42, MISSISSIPPI CODE OF 1972, TO INCREASE THE RATE OF PAY
11 FOR HOUSING STATE OFFENDERS IN COUNTY JAILS; AND FOR RELATED
12 PURPOSES.

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

14 **SECTION 1.** Section 47-5-901, Mississippi Code of 1972, is
15 amended as follows:

16 47-5-901. (1) (a) Any person committed, sentenced or
17 otherwise placed under the custody of the Department of
18 Corrections, on order of the sentencing court and subject to the
19 other conditions of this subsection, may serve all or any part of
20 his sentence in the county jail of the county wherein such person
21 was convicted if the Commissioner of Corrections determines that
22 physical space is not available for confinement of such person in
23 the state correctional institutions. Such determination shall be



24 promptly made by the Department of Corrections upon receipt of
25 notice of the conviction of such person. The commissioner shall
26 certify in writing that space is not available to the sheriff or
27 other officer having custody of the person. Any person serving
28 his sentence in a county jail shall be classified in accordance
29 with Section 47-5-905.

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



48 county jail. Any person serving his sentence in a county jail
49 shall be classified in accordance with Section 47-5-905.

50 (2) If state prisoners are housed in county jails due to a
51 lack of capacity at state correctional institutions, the
52 Department of Corrections shall determine the cost for food and
53 medical attention for such prisoners. The cost of feeding and
54 housing offenders confined in such county jails shall be based on
55 actual costs or contract price per prisoner. In order to maximize
56 the potential use of county jail space, the Department of
57 Corrections is encouraged to negotiate a reasonable per day cost
58 per prisoner, which in no event may exceed * * * Twenty-five
59 Dollars (\$25.00) per day per offender, except as authorized in
60 Section 47-5-909(2).

61 (3) (a) Upon vouchers submitted by the board of supervisors
62 of any county housing persons due to lack of space at state
63 institutions, the Department of Corrections shall pay to such
64 county, out of any available funds, the actual cost of food, or
65 contract price per prisoner, not to exceed * * * Twenty-five
66 Dollars (\$25.00) per day per offender, except as authorized in
67 Section 47-5-909(2), as determined under subsection (2) of this
68 section for each day an offender is so confined beginning the day
69 that the Department of Corrections receives a certified copy of
70 the sentencing order or five (5) days after the sentencing order
71 is sent, in writing, by such county to the department, whichever
72 is earlier, and will terminate on the date on which the offender



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

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



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

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) of this
109 section.

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

115 (6) This section does not create in the Department of
116 Corrections, or its employees or agents, any new liability,
117 express or implied, nor shall it create in the Department of
118 Corrections any administrative authority or responsibility for the
119 construction, funding, administration or operation of county or
120 other local jails or other places of confinement which are not
121 staffed and operated on a full-time basis by the Department of



122 Corrections. The correctional system under the jurisdiction of
123 the Department of Corrections shall include only those facilities
124 fully staffed by the Department of Corrections and operated by it
125 on a full-time basis.

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

131 **SECTION 2.** Section 47-5-909, Mississippi Code of 1972, is
132 amended as follows:

133 47-5-909. (1) It is the policy of the Legislature that all
134 inmates be removed from county jails as early as practicable.
135 Sections 47-5-901 through 47-5-907 are temporary measures to help
136 alleviate the immediate operating capacity limitations at
137 correctional facilities and are not permanent measures to be
138 included in the long-term operating capacity of the correctional
139 system.

140 (2) Notwithstanding any other provision of law, to expedite
141 the removal of inmates from county jails as early as practicable,
142 absent a contract negotiated between the Department of Corrections
143 and the county jail, the Department of Corrections shall pay
144 county jails for housing state offenders out of any available
145 funds as follows: Twenty-five Dollars (\$25.00) per day per
146 offender for days one (1) through thirty (30), Thirty Dollars



147 (\$30.00) per day per offender for days thirty-one (31) through
148 sixty (60), and Thirty-five Dollars (\$35.00) per day per offender
149 for days sixty-one (61) or greater when:

150 (a) An offender remains in the county jail after the
151 Department of Corrections receives a certified copy of the
152 sentencing order or five (5) days after the sentencing order is
153 sent, in writing, by such county to the Department of Corrections,
154 whichever is earlier.

155 (b) An offender remains in the county jail after being
156 revoked from parole or probation or is sentenced to a technical
157 violation center.

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

161 **SECTION 3.** Section 99-19-42, Mississippi Code of 1972, is
162 amended as follows:

163 99-19-42. Any offender in the custody of the Department of
164 Corrections who is summoned to a county by court order for any
165 post-conviction proceeding shall have such proceeding heard during
166 the term of court in which the offender is returned to the custody
167 of a county. If the offender's case is not heard during such term
168 of court, the offender shall be returned to the facility of the
169 Department of Corrections from which he was summoned. If the
170 offender is not returned within one (1) week of the end of the
171 term of court, the county housing the offender shall not receive



172 the * * * Twenty-five Dollars (\$25.00) allowed under Section
173 47-5-901, except as authorized in Section 47-5-909(2), for housing
174 state offenders after the one-week time period required for
175 returning the offender to the Department of Corrections.

176 **SECTION 4.** This act shall take effect and be in force from
177 and after July 1, 2023.

