

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

SENATE BILL NO. 2495
(As Passed the Senate)

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; TO BRING FORWARD
12 SECTIONS 47-5-931 AND 47-5-933, MISSISSIPPI CODE OF 1972, FOR
13 PURPOSES OF POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

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

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

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



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

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



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

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

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



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

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



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

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

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

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



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

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

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

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

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



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

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

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

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

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

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



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

177 **SECTION 4.** Section 47-5-931, Mississippi Code of 1972, is
178 brought forward as follows:

179 47-5-931. (1) The Department of Corrections, in its
180 discretion, may contract with the board of supervisors of one or
181 more counties or with a regional facility operated by one or more
182 counties, to provide for housing, care and control of offenders
183 who are in the custody of the State of Mississippi. Any facility
184 owned or leased by a county or counties for this purpose shall be
185 designed, constructed, operated and maintained in accordance with
186 American Correctional Association standards, and shall comply with
187 all constitutional standards of the United States and the State of
188 Mississippi, and with all court orders that may now or hereinafter
189 be applicable to the facility. If the Department of Corrections
190 contracts with more than one (1) county to house state offenders
191 in county correctional facilities, excluding a regional facility,
192 then the first of such facilities shall be constructed in Sharkey
193 County and the second of such facilities shall be constructed in
194 Jefferson County.

195 (2) The Department of Corrections shall contract with the
196 board of supervisors of the following counties to house state
197 inmates in regional facilities: (a) Marion and Walthall Counties;



198 (b) Carroll and Montgomery Counties; (c) Stone and Pearl River
199 Counties; (d) Winston and Choctaw Counties; (e) Kemper and Neshoba
200 Counties; (f) Alcorn County and any contiguous county in which
201 there is located an unapproved jail; (g) Yazoo County and any
202 contiguous county in which there is located an unapproved jail;
203 (h) Chickasaw County and any contiguous county in which there is
204 located an unapproved jail; (i) George and Greene Counties and any
205 contiguous county in which there is located an unapproved jail;
206 (j) Washington County and any contiguous county in which there is
207 located an unapproved jail; (k) Hinds County and any contiguous
208 county in which there is located an unapproved jail; (l) Leake
209 County and any contiguous county in which there is located an
210 unapproved jail; (m) Issaquena County and any contiguous county in
211 which there is located an unapproved jail; (n) Jefferson County
212 and any contiguous county in which there is located an unapproved
213 jail; (o) Franklin County and any contiguous county in which there
214 is located an unapproved jail; (p) Holmes County and any
215 contiguous county in which there is located an unapproved jail;
216 and (q) Bolivar County and any contiguous county in which there is
217 located an unapproved jail. The Department of Corrections shall
218 decide the order of priority of the counties listed in this
219 subsection with which it will contract for the housing of state
220 inmates. For the purposes of this subsection, the term
221 "unapproved jail" means any jail that the local grand jury



222 determines should be condemned or has found to be of substandard
223 condition or in need of substantial repair or reconstruction.

224 (3) In addition to the offenders authorized to be housed
225 under subsection (1) of this section, the Department of
226 Corrections may contract with any regional facility to provide for
227 housing, care and control of not more than seventy-five (75)
228 additional offenders who are in the custody of the State of
229 Mississippi.

230 (4) The Governor and the Commissioner of Corrections are
231 authorized to increase administratively the number of offenders
232 who are in the custody of the State of Mississippi that can be
233 placed in regional correctional facilities.

234 **SECTION 5.** Section 47-5-933, Mississippi Code of 1972, is
235 brought forward as follows:

236 47-5-933. The Department of Corrections may contract for the
237 purposes set out in Section 47-5-931 for a period of not more than
238 twenty (20) years. The contract may provide that the Department
239 of Corrections pay a fee of no more than Thirty-one Dollars
240 (\$31.00) per day for each offender that is housed in the facility.
241 The Department of Corrections may include in the contract, as an
242 inflation factor, a three percent (3%) annual increase in the
243 contract price. The state shall retain responsibility for medical
244 care for state offenders to the extent that is required by law;
245 provided, however, the department may reimburse each facility for
246 contract medical services as provided by law in an amount not to



247 exceed Six Dollars and Twenty-five Cents (\$6.25) per day per
248 offender.

249 **SECTION 6.** This act shall take effect and be in force from
250 and after July 1, 2023, and shall stand repealed on June 30, 2023.

