

By: Representative Shanks

To: Corrections

HOUSE BILL NO. 757
(As Sent to Governor)

1 AN ACT TO REENACT SECTIONS 47-5-901 THROUGH 47-5-909,
2 MISSISSIPPI CODE OF 1972, WHICH AUTHORIZE AND ESTABLISH CONDITIONS
3 FOR THE HOUSING OF STATE OFFENDERS IN COUNTY JAILS WHENEVER THE
4 COMMISSIONER OF CORRECTIONS DETERMINES THAT PHYSICAL SPACE IS NOT
5 AVAILABLE IN THE STATE CORRECTIONAL INSTITUTIONS; TO AMEND SECTION
6 47-5-911, MISSISSIPPI CODE OF 1972, TO EXTEND THE DATE OF THE
7 REPEALER ON THOSE REENACTED CODE SECTIONS; AND FOR RELATED
8 PURPOSES.

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

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

12 47-5-901. (1) (a) Any person committed, sentenced or
13 otherwise placed under the custody of the Department of
14 Corrections, on order of the sentencing court and subject to the
15 other conditions of this subsection, may serve all or any part of
16 his sentence in the county jail of the county wherein such person
17 was convicted if the Commissioner of Corrections determines that
18 physical space is not available for confinement of such person in
19 the state correctional institutions. Such determination shall be
20 promptly made by the Department of Corrections upon receipt of
21 notice of the conviction of such person. The commissioner shall



22 certify in writing that space is not available to the sheriff or
23 other officer having custody of the person. Any person serving
24 his sentence in a county jail shall be classified in accordance
25 with Section 47-5-905.

26 (b) Any person committed, sentenced or otherwise placed
27 under the custody of the Department of Corrections, on order of
28 the sentencing court and subject to the other conditions of this
29 subsection, may serve all or any part of his or her sentence in
30 the county jail of the county wherein such person was convicted if
31 the sheriff or president of the board of supervisors, requests
32 such inmate or inmates. Upon such request, the department may
33 allow such inmate or inmates to serve all or any part of such
34 inmate's or inmates' sentence(s), as the case may be, in the
35 county of conviction of the inmate or inmates or the county of
36 request of a sheriff or board of supervisors outside the county of
37 conviction. Such determination shall be promptly made by the
38 Department of Corrections upon receipt of notice of the conviction
39 of such person. Whenever a request is denied for an inmate or
40 inmates, then the commissioner shall certify in writing to the
41 sentencing court, sheriff, or president of the board of
42 supervisors of a county, as the case may be, that such inmate or
43 inmates does not qualify to serve the sentence or sentences in the
44 county jail. Any person serving his sentence in a county jail
45 shall be classified in accordance with Section 47-5-905.



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

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



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

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

93 (c) If the probation or parole of an offender is
94 revoked, the additional cost of housing the offender pending the



95 revocation hearing shall be assessed as part of the offender's
96 court cost and shall be remitted to the department.

97 (4) A person, on order of the sentencing court, may serve
98 not more than twenty-four (24) months of his sentence in a county
99 jail if the person is classified in accordance with Section
100 47-5-905 and the county jail is an approved county jail for
101 housing state inmates under federal court order. The sheriff of
102 the county shall have the right to petition the Commissioner of
103 Corrections to remove the inmate from the county jail. The county
104 shall be reimbursed in accordance with subsection (2) of this
105 section.

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

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



120 fully staffed by the Department of Corrections and operated by it
121 on a full-time basis.

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

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

129 47-5-903. (1) A person committed, sentenced or otherwise
130 placed under the custody of the Department of Corrections, on
131 order of the sentencing court, may serve his or her sentence in
132 any county jail if all of the following conditions are complied
133 with:

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

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

138 (c) The sheriff of the county where the person will
139 serve his or her sentence must request in writing that the person
140 be allowed to serve his or her sentence in that county jail;

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



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

147 (2) This section does not apply to inmates housed in county
148 jails due to lack of space at state correctional facilities. The
149 department may reimburse the county for the expense of housing an
150 inmate under this section.

151 (3) The Attorney General of the State of Mississippi shall
152 defend the employees of the Department of Corrections and
153 officials and employees of political subdivisions against any
154 action brought by any person who was committed to a county jail
155 under the provisions of this section.

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

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

161 47-5-905. (1) All persons placed under the custody of the
162 Department of Corrections shall be processed at a reception and
163 diagnostic center of the Department of Corrections and then be
164 assigned to an appropriate correctional facility for a complete
165 and thorough classification, not to exceed ninety (90) days,
166 unless the department determines that a person can be properly
167 processed and classified at the county jail in accordance with the
168 department's classification plan.



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

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

174 47-5-907. The sheriff of any county in this state shall have
175 the right to petition the Commissioner of the Department of
176 Corrections to remove a state inmate from the county jail in such
177 county to the State Penitentiary. The commissioner shall remove
178 such inmate from such county jail if the sheriff of such county
179 sets forth just cause in his petition indicating why an inmate
180 should be removed from such county jail to the State Penitentiary.

181 Just cause is established if such sheriff can sufficiently
182 prove that such inmate has a dangerous behavior or sufficiently
183 prove that there is no available or suitable medical facility
184 where such inmate can be provided suitable medical services. The
185 commissioner shall respond in writing to the petition no later
186 than thirty (30) days after the receipt of such petition. If the
187 petition to remove such inmate is denied by the commissioner, such
188 sheriff and his agents shall have from the date of denial absolute
189 immunity from liability for any injury resulting from subsequent
190 behavior or from medical consequences regarding such inmate,
191 provided that such injury resulted from conditions which were set
192 forth in such petition.



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

195 47-5-909. (1) It is the policy of the Legislature that all
196 inmates be removed from county jails as early as practicable.
197 Sections 47-5-901 through 47-5-907 are temporary measures to help
198 alleviate the immediate operating capacity limitations at
199 correctional facilities and are not permanent measures to be
200 included in the long-term operating capacity of the correctional
201 system.

202 (2) Notwithstanding any other provision of law, to expedite
203 the removal of inmates from county jails as early as practicable,
204 absent a contract negotiated between the Department of Corrections
205 and the county jail, the Department of Corrections shall pay
206 county jails for housing state offenders out of any available
207 funds as follows:

208 (a) Twenty-five Dollars (\$25.00) per day per offender
209 for days one (1) through thirty (30);

210 (b) Thirty-two Dollars and Seventy-one Cents (\$32.71)
211 per day per offender for days thirty-one (31) or greater when:

212 (i) An offender remains in the county jail after
213 the Department of Corrections receives a certified copy of the
214 sentencing order or five (5) days after the sentencing order is
215 sent, in writing, by such county to the Department of Corrections,
216 whichever is earlier; or



217 (ii) An offender remains in the county jail after
218 being revoked from parole or probation or is sentenced to a
219 technical violation center.

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

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

225 47-5-911. Sections 47-5-901 through 47-5-911 shall stand
226 repealed on July 1, * * * 2027.

227 **SECTION 7.** This act shall take effect and be in force from
228 and after July 1, 2024.

