

Chapter No. 317
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JW / TB / EC

SENATE BILL NO. 2196

Originated in Senate Liz Welch Secretary

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AN ACT TO REENACT SECTIONS 47-5-901, 47-5-903, 47-5-905, 47-5-907 AND 47-5-909, MISSISSIPPI CODE OF 1972, WHICH ADDRESS STATE OFFENDERS SERVING SENTENCES IN COUNTY JAILS; TO REENACT AND AMEND SECTION 47-5-911, MISSISSIPPI CODE OF 1972, TO EXTEND THE REPEAL DATE TO JULY 1, 2014, FOR SECTIONS 47-5-901 THROUGH 47-5-911; AND FOR RELATED PURPOSES.

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

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

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

(2) If state prisoners are housed in county jails due to a lack of capacity at state correctional institutions, the Department of Corrections shall determine the cost for food and medical attention for such prisoners. The cost of feeding and housing offenders confined in such county jails shall be based on

actual costs or contract price per prisoner. In order to maximize the potential use of county jail space, the Department of Corrections is encouraged to negotiate a reasonable per day cost per prisoner, which in no event may exceed Twenty Dollars (\$20.00) per day per offender.

(3) (a) Upon vouchers submitted by the board of supervisors of any county housing persons due to lack of space at state institutions, the Department of Corrections shall pay to such county, out of any available funds, the actual cost of food, or contract price per prisoner, not to exceed Twenty Dollars (\$20.00) per day per offender, as determined under subsection (2) of this section for each day an offender is so confined beginning the day that the Department of Corrections receives a certified copy of the sentencing order and will terminate on the date on which the offender is released or otherwise removed from the custody of the county jail. The department, or its contracted medical provider, will pay to a provider of a medical service for any and all incarcerated persons from a correctional or detention facility an amount based upon negotiated fees as agreed to by the medical care service providers and the department and/or its contracted medical provider. In the absence of negotiated discounted fee schedule, medical care service providers will be paid by the department, or its contracted medical service provider, an amount no greater than the reimbursement rate applicable based on the Mississippi Medicaid reimbursement rate. The board of supervisors of any county shall not be liable for any cost associated with medical attention for prisoners who are pretrial detainees or for prisoners who have been convicted that exceeds the Mississippi Medicaid reimbursement rate or the reimbursement provided by the Department of Corrections, whichever is greater. This limitation applies to all medical care services, durable and nondurable goods, prescription drugs and medications. Such payment shall be

placed in the county general fund and shall be expended only for food and medical attention for such persons.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) The Attorney General of the State of Mississippi shall defend the employees of the Department of Corrections and

officials and employees of political subdivisions against any action brought by any person who was committed to a county jail under the provisions of this section.

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

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

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

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

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

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

Just cause is established if such sheriff can sufficiently prove that such inmate has a dangerous behavior or sufficiently prove that there is no available or suitable medical facility where such inmate can be provided suitable medical services. The commissioner shall respond in writing to the petition no later

than thirty (30) days after the receipt of such petition. If the petition to remove such inmate is denied by the commissioner, such sheriff and his agents shall have from the date of denial absolute immunity from liability for any injury resulting from subsequent behavior or from medical consequences regarding such inmate, provided that such injury resulted from conditions which were set forth in such petition.

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

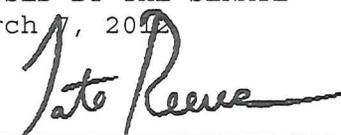
47-5-909. It is the policy of the Legislature that all inmates be removed from county jails as early as practicable. Sections 47-5-901 through 47-5-907 are temporary measures to help alleviate the immediate operating capacity limitations at correctional facilities and are not permanent measures to be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

SECTION 6. Section 47-5-911, Mississippi Code of 1972, is reenacted and amended as follows:

47-5-911. Sections 47-5-901 through 47-5-911 shall stand repealed on July 1, 2014.

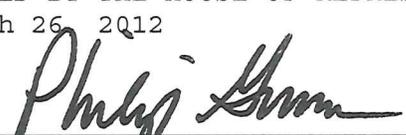
SECTION 7. This act shall take effect and be in force from and after its passage.

PASSED BY THE SENATE
March 7, 2012



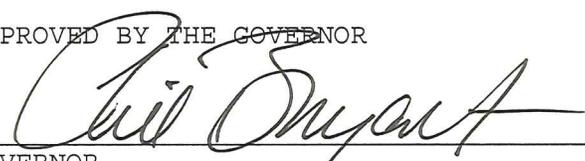
PRESIDENT OF THE SENATE

PASSED BY THE HOUSE OF REPRESENTATIVES
March 26, 2012



SPEAKER OF THE HOUSE OF REPRESENTATIVES

APPROVED BY THE GOVERNOR



GOVERNOR

5:15 pm