

By: Representative Bounds

To: Local and Private  
Legislation

HOUSE BILL NO. 1494  
(As Sent to Governor)

1 AN ACT TO AMEND CHAPTER 991, LOCAL AND PRIVATE LAWS OF 1998,  
2 AS AMENDED BY CHAPTER 915, LOCAL AND PRIVATE LAWS OF 2013, AS  
3 AMENDED BY CHAPTER 913, LOCAL AND PRIVATE LAWS OF 2019, TO  
4 AUTHORIZE THE WALNUT GROVE CORRECTIONAL AUTHORITY TO CONTRACT WITH  
5 THE STATE OF MISSISSIPPI FOR THE OPERATION OF THE WALNUT GROVE  
6 CORRECTIONAL FACILITY; AND FOR RELATED PURPOSES.

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

8 **SECTION 1.** Chapter 991, Local and Private Laws of 1998, as  
9 amended by Chapter 915, Local and Private Laws of 2013, as amended  
10 by Chapter 913, Local and Private Laws of 2019, is amended as  
11 follows:

12 Section 1. As used in this act, unless the context otherwise  
13 requires:

14 (a) "American Correctional Association Standards" means  
15 standards promulgated by the American Correctional Association as  
16 in effect from time to time.

17 (b) "Authority" means the Walnut Grove Correctional  
18 Authority.

19 (c) "Board of commissioners" means the board of  
20 commissioners of the authority.



21 (d) "Governing authorities" means the governing  
22 authorities of the city.

23 (e) "City" means Walnut Grove, Mississippi.

24 (f) "Equipment" means any personal property which the  
25 authority determines is necessary or helpful for the operation of  
26 a facility.

27 (g) "Facility" means a jail, prison or other  
28 incarceration facility located in the city which is constructed,  
29 acquired or operated pursuant to this act.

30 (h) "Management contract" means a contract between the  
31 authority and a private contractor for the operation and  
32 management of a facility by a private contractor.

33 (i) "Private contractor" means a person or legal entity  
34 which leases or subleases a facility from the authority or has  
35 entered into a management contract with the authority pursuant to  
36 this act.

37 (j) "State" means the State of Mississippi.

38 Section 2. (1) There is created in the city a public body  
39 corporate and politic to be known as the "Walnut Grove  
40 Correctional Authority." The authority shall not transact any  
41 business or exercise any powers under this act until the governing  
42 authorities adopts a resolution finding that it is in the public  
43 interest to have the authority exercise the powers set forth in  
44 this act. The resolution shall designate the manner in which  
45 funds of the authority in excess of amounts needed to pay the



46 authority's operating expenses and debt service will be applied,  
47 provided that none of the excess funds of the authority may inure  
48 to the benefit of any private person.

49 (2) Alternatively, the governing authorities may by  
50 resolution designate a nonprofit corporation incorporated under  
51 the general laws of the state to exercise the powers of the  
52 authority set forth in this act, in which event the governing  
53 authorities may take all actions necessary for the nonprofit  
54 corporation to be treated as acting on behalf of the city under  
55 the Internal Revenue Code. The nonprofit corporation shall have,  
56 in addition to the powers and authority generally exercisable by  
57 nonprofit corporations in the state, all powers and authority  
58 granted to the authority under this act and shall be deemed to be  
59 a charitable society, for purposes of Section 27-31-1, Mississippi  
60 Code of 1972. All provisions of this act applicable to  
61 obligations, agreements, contracts and property of, and purchases  
62 by, contracting with and leasing or conveyance of property to an  
63 authority shall be applicable to obligations, agreements,  
64 contracts and property of, and purchases by, contracting with and  
65 leasing or conveyance of property to the nonprofit corporation.

66 Section 3. Nothing in this act shall authorize payment of  
67 tax revenues or other public funds of the city to the authority.

68 Section 4. The authority shall exist until dissolved  
69 pursuant to a resolution adopted by the governing authorities.  
70 Upon dissolution of the authority, title to all property owned by



71 the authority shall vest in the city. Dissolution of the  
72 authority shall not adversely affect the rights of any holders of  
73 obligations issued by the authority, including, but not limited  
74 to, any bonds, notes or other evidences of indebtedness issued by  
75 the authority or the rights of any parties to contracts with the  
76 authority, including, but not limited to, leases, lease purchase  
77 agreements and management contracts entered into before the date  
78 of dissolution of the authority. A dissolution shall not be  
79 effective at any time that any bonds, notes or other evidence of  
80 indebtedness of the authority, including, but not limited to,  
81 lease-purchase agreements, shall be outstanding, except to the  
82 extent permitted in the documents executed in connection with the  
83 initial issuance of the bonds, notes or other indebtedness.

84 Section 5. (1) All powers of the authority shall be  
85 exercised by its board of commissioners to be composed of five (5)  
86 members, one (1) appointed by the governing authorities of the  
87 City of Walnut Grove from each ward and one (1) appointed by the  
88 governing authorities from the municipality at large.

89 (2) The initial members of the board shall serve for terms  
90 of office as follows:

91 (a) Two (2) members appointed by the governing  
92 authorities of the City of Walnut Grove shall serve for a term of  
93 four (4) years.



94 (b) Two (2) members appointed by the governing  
95 authorities of the City of Walnut Grove shall serve for a term of  
96 three (3) years.

97 (c) One (1) member appointed by the governing  
98 authorities of the City of Walnut Grove shall serve for a term of  
99 two (2) years.

100 The term of each initial appointee shall begin on the first  
101 day of the next month after the date that all initial appointees  
102 have been appointed.

103 After the expiration of the initial terms, all subsequent  
104 appointments shall be made for terms of five (5) years from the  
105 expiration date of the previous term. Any vacancy that may occur  
106 shall be filled in the same manner as the original appointment and  
107 shall be made for the unexpired term.

108 (3) The members of the board of commissioners shall elect  
109 annually from among themselves the officers of president, vice  
110 president, secretary and treasurer. The board of commissioners  
111 shall adopt bylaws, rules and regulations as may be necessary to  
112 govern the time, place and manner for holding subsequent meetings  
113 of the board of commissioners and for the conduct of its business  
114 consistent with the provisions of this act. All meetings of the  
115 board of commissioners shall be conducted in accordance with  
116 Section 25-41-1 et seq., Mississippi Code of 1972. Any action  
117 taken by the board of commissioners shall be official at the time



118 the action is taken. Actions may be taken by the board of  
119 commissioners at any regular, special or recessed meeting.

120 (4) The members of the board of commissioners may receive  
121 per diem compensation for attending meetings of the board of  
122 commissioners in the amount provided for in Section 37-6-13,  
123 Mississippi Code of 1972, and shall meet at least once quarterly  
124 at a time and place determined by the board of commissioners. The  
125 board of commissioners shall keep minutes of its proceedings as  
126 necessary to carry out its responsibilities. A quorum of the  
127 board of commissioners shall consist of three (3) members.

128 (5) A board member may be removed, upon recommendation by a  
129 vote of three (3) members of the board of commissioners and  
130 approval by the governing authorities of the city.

131 (6) The authority may employ an executive director,  
132 technical experts and other agents and employees, permanent and  
133 temporary, as it may require, and may determine their  
134 qualifications, duties and compensation.

135 Section 6. The authority shall have all the powers necessary  
136 or convenient to effectuate and carry out the provisions of this  
137 act, including the following powers in addition to others granted  
138 in this act:

139 (a) To have perpetual succession as a body politic and  
140 corporate exercising essential public functions until dissolved  
141 pursuant to Section 4 of this act;

142 (b) To sue and be sued in its own name;



143 (c) To have an official seal and alter it at will;

144 (d) To adopt, appeal and amend bylaws, rules and  
145 regulations consistent with this act, to regulate its affairs and  
146 conduct its business;

147 (e) To maintain one or more offices at a place or  
148 places within the city as it may designate;

149 (f) To make and execute contracts and all other  
150 instruments necessary or convenient for the performance of its  
151 duties and the exercise of its powers under this act;

152 (g) To employ architects, engineers, contractors,  
153 developers, attorneys, inspectors, accountants, financial advisors  
154 and any other advisors, consultants and agents as may be  
155 necessary, in its judgment, to carry out its powers under this  
156 act, and to fix their compensation;

157 (h) To procure insurance against any loss in connection  
158 with its property and other assets, in amounts and from insurers  
159 as it may deem advisable, and to pay premiums on any such  
160 insurance;

161 (i) To construct, purchase, receive, lease,  
162 lease-purchase, or otherwise acquire, own, hold, improve or use a  
163 facility or any item of equipment, and to enter into agreements  
164 relating thereto, including, but not limited to, sale and issuance  
165 of certificates of participation, which may extend for a period of  
166 time, notwithstanding any provision or rule of law to the  
167 contrary, and provide for the consideration and other terms and



168 conditions that are acceptable to the authority and are not in  
169 conflict with the provisions of this act, without regard to any  
170 general laws of the state regulating public purchases and  
171 acquisitions or restricting the time periods of agreements;

172 (j) To lease a facility or any item of equipment to a  
173 private contractor for rentals and upon the terms and conditions  
174 that are acceptable to the authority and are not in conflict with  
175 the provisions of this act, without regard to any general laws of  
176 the state regulating the disposition or conveyance of an interest  
177 in public property;

178 (k) To operate and manage a facility in accordance with  
179 the provisions of this act and to take all actions necessary in  
180 connection therewith, or alternatively to contract with a private  
181 contractor to operate and manage a facility in accordance with the  
182 provisions of this act; to contract with the State of Mississippi  
183 to operate and manage a facility in accordance with the provisions  
184 of this act; or to lease to the State of Mississippi the real  
185 property comprising the facility as defined under this act, upon  
186 such terms as determined by and satisfactory to the state;

187 (l) To borrow money and issue its obligations therefor  
188 for the purpose of carrying out its powers under this act, at  
189 rates of interest and upon terms and conditions that are  
190 acceptable to the authority and are not in conflict with the  
191 provisions of this act, without regard to any general laws of the  
192 state regulating the borrowing of money or issuance of obligations





193 by public bodies, provided that any obligations issued by the  
194 authority shall be payable solely out of revenues received by the  
195 authority in connection with the operation or lease of a facility  
196 and shall never constitute a debt or obligation of the city or the  
197 state;

198 (m) In connection with borrowing money and issuance of  
199 obligations as set forth in the preceding paragraphs (i) and (l),  
200 in Section 13 of this act, and elsewhere in this act, to pledge or  
201 assign its property, assets and revenues, enter into trust  
202 indentures, deeds of trust, mortgages and security agreements,  
203 contract for bond insurance and other credit enhancement devices,  
204 and to take any other action and enter into any other agreements  
205 as the authority deems necessary or appropriate, all on terms and  
206 conditions that are acceptable to the authority and are not in  
207 conflict with the provisions of this act, without regard to any  
208 provision or rule of law which would otherwise be applicable  
209 thereto;

210 (n) To contract with the United States or the State of  
211 Mississippi, or any political subdivision of the State of  
212 Mississippi, to provide for housing, care and control in a  
213 facility of offenders who are in the custody of the jurisdiction,  
214 who have been classified to any custody level, who do not have  
215 histories of escape, and who are sentenced to terms of  
216 incarceration for conviction of a felony, or who are sentenced to  
217 terms of incarceration for a misdemeanor, provided that the



218 incarceration in the facility for a misdemeanor is consistent with  
219 American Correctional Association Standards relating to the  
220 incarceration of offenders convicted of more serious offenses, to  
221 enter into agreements relating thereto which may extend for time  
222 periods that are acceptable to the parties, notwithstanding any  
223 provision or rule of law to the contrary, and to exercise all  
224 powers necessary or desirable in connection with the operation of  
225 a prison or other type of correctional facility, including, but  
226 not limited to, the power to incarcerate offenders described  
227 above; and

228           (o) To contract with the Department of Corrections or  
229 other appropriate state, federal or local entity for the  
230 inspection, monitoring or provision of any assistance necessary or  
231 desirable to maintain suitable, safe and secure correctional  
232 facilities.

233           Section 7. (1) A facility shall be designed, constructed,  
234 operated and maintained in accordance with American Correctional  
235 Association Standards. The facility shall meet the percentage of  
236 standards required for accreditation by the American Correctional  
237 Association, except where a contract with a private contractor  
238 requires compliance with a higher percentage of nonmandatory  
239 standards.

240           (2) The facility shall comply with all constitutional  
241 standards of the United States and the state and with all court  
242 orders applicable to the facility.



243           (3) The Department of Corrections shall place a compliance  
244 officer at the facility. The authority or private contractor  
245 shall provide an on-site work area for the compliance officer and  
246 shall permit access to all areas of the facility and to the  
247 offenders and staff at all times. The authority or private  
248 contractor shall reimburse the Department of Corrections for all  
249 costs incurred for the compliance officer.

250           Section 8. (1) A person shall not be employed as a  
251 corrections officer at the facility unless the person has been  
252 trained in the use of force and firearms in accordance with  
253 American Correctional Association Standards. If a person is  
254 employed as a corrections officer by a private contractor that is  
255 operating a facility pursuant to a management contract, the  
256 private contractor shall cause the required training to be  
257 provided at its own expense.

258           (2) A corrections officer employed at the facility shall not  
259 use force or firearms except while on the grounds of a facility or  
260 while transporting offenders of a facility and then only under the  
261 circumstances set forth in subsections (3) and (4) of this  
262 section.

263           (3) A corrections officer shall not use force except such  
264 nondeadly force as is reasonably necessary in the following  
265 situations:

266                   (a) To prevent the commission of a felony or  
267 misdemeanor, including escape;



268 (b) To defend himself or others against physical  
269 assault;

270 (c) To prevent serious damage to property;

271 (d) To enforce facility regulations and orders; and

272 (e) To prevent or quell a riot.

273 (4) A corrections officer shall not use firearms or other  
274 deadly force except as a last resort when reasonably necessary to  
275 prevent the commission of a violent felony, to prevent the escape  
276 of a convicted felon from custody, or to defend the officer or any  
277 other person from imminent danger of death or serious bodily  
278 injury.

279 (5) A private contractor shall have the same standing,  
280 authority, rights and responsibilities as the authority in any  
281 agreement, formal or informal, with local law enforcement agencies  
282 concerning the latter's obligations in the event of a riot, escape  
283 or other emergency situation involving the facility. To the  
284 extent provided in any management contract, a private contractor  
285 may exercise the powers granted to the authority under this act.

286 Section 9. Any offense which would be a crime if committed  
287 within a correctional institution operated by the state shall be a  
288 crime if committed in the facility.

289 Section 10. (1) Neither the state nor the city shall assume  
290 jurisdiction or custody of any federal offenders or offenders from  
291 other states who are incarcerated in the facility. The offenders  
292 shall remain subject to the jurisdiction of the United States or



293 another state, as applicable. Neither the state nor the city  
294 shall be liable for loss or injury resulting from the acts of the  
295 offenders, nor shall the state or the city be liable for any  
296 injuries to the offenders. The authority or private contractor  
297 shall reimburse the Department of Corrections for any expenses  
298 incurred in quelling a prison riot.

299 (2) Neither the state nor the city shall be liable for any  
300 actions taken by the authority or a private contractor in  
301 connection with the facility, nor shall they be liable for any  
302 debt incurred or obligations issued by the authority.

303 Section 11. (1) The facility shall at all times be operated  
304 and managed by a private contractor pursuant to a management  
305 contract unless the board of commissioners determines that the  
306 operation and management by a private contractor is not feasible  
307 or desirable. \* \* \* In the event the board of commissioners  
308 determines not to contract with a private contractor, it may  
309 contract with the State of Mississippi to operate and manage a  
310 facility in accordance with the provisions of this act or to lease  
311 to the State of Mississippi the real property comprising the  
312 facility as defined under this act, upon such terms as approved by  
313 the board of commissioners.

314 (2) A management contract may authorize a private contractor  
315 to contract on behalf of the authority for the incarceration of  
316 offenders in the facility as set forth in Section 6(1)(n) of this  
317 act and shall grant the private contractor any other powers that



318 are necessary or convenient for the operation and management of  
319 the facility and are consistent with the provisions of this act,  
320 including, but not limited to, the power to employ personnel who  
321 are needed for the operation and management of a facility and to  
322 provide or cause to be provided the training in the use of force  
323 and firearms required by Section 8(1) of this act.

324 (3) A management contract shall provide that any sovereign  
325 immunity of the state, any sovereign immunity of the county, any  
326 sovereign immunity of the city or any sovereign immunity of the  
327 authority shall not extend to the private contractor. Neither the  
328 private contractor nor any insurer of the private contractor may  
329 plead the defense of sovereign immunity in any action arising out  
330 of or related to the performance of the management contract.

331 (4) A management contract shall provide that the private  
332 contractor shall be responsible for the reimbursement of all costs  
333 and expenses incurred by the state, the city or the authority in  
334 connection with legal actions brought in the state by or on behalf  
335 of any offender incarcerated in the facility, including, but not  
336 limited to, court costs, sheriff's fees, witness fees, district  
337 attorney expenses, expenses of the Office of the Attorney General,  
338 indigent or public defender fees and expenses, judicial expenses,  
339 court reporter expenses and damage awards. The contract shall  
340 provide for the reimbursement of all costs and expenses incurred  
341 by the Department of Corrections for maintaining a compliance  
342 officer at the facility and for all costs and expenses incurred by



343 the Department of Corrections for aiding in quelling a prison  
344 riot.

345 (5) A management contract shall provide that the private  
346 contractor shall indemnify and hold harmless the authority, the  
347 city and the state, and any officers, members, employees or agents  
348 of the foregoing, for any claim or liability for damage or injury  
349 to any person or property related to or arising from the operation  
350 and management of a facility, including, but not limited to,  
351 liability for loss or injury resulting from the acts of offenders  
352 incarcerated at the facility and liability for any injuries to the  
353 offenders.

354 (6) A management contract may contain any other provisions  
355 the authority deems necessary or appropriate, including, but not  
356 limited to, provisions that may be necessary to cause the  
357 management contract to comply with promulgations of the Internal  
358 Revenue Service applicable to the contract.

359 Section 12. Neither the state, the city nor the authority,  
360 nor any members, officers, employees or agents of the foregoing,  
361 shall be liable for a private contractor's actions or failure to  
362 act while operating and managing a facility pursuant to a  
363 management contract.

364 Section 13. (1) The authority or the private contractor  
365 shall permit the Investigative Task Force of the Department of  
366 Corrections to have full access to all areas of the facility and  
367 to the offenders and staff. The investigators may exercise any



368 and all police powers provided under Section 47-5-54, Mississippi  
369 Code of 1972.

370 (2) The authority or private contractor shall provide for  
371 the issuance of an immediate warrant through the National Crime  
372 Information Center for any offender who escapes.

373 (3) The authority or private contractor shall return any  
374 offender released from the facility to the state from which the  
375 offender was sent.

376 Section 14. (1) The authority may enter into lease  
377 agreements with a person or legal entity pursuant to which the  
378 authority may agree to lease the facility or equipment for use by  
379 the authority for a primary term not to exceed thirty (30) years.  
380 All lease agreements may contain terms and conditions as the board  
381 of commissioners of the authority shall determine to be  
382 appropriate and in the public interest, including, but not limited  
383 to, any provision which a master lease-purchase agreement may  
384 contain pursuant to Section 31-7-10(5), Mississippi Code of 1972,  
385 may provide for the payment of lease payments which include an  
386 interest component computed at a rate or rates as shall be  
387 approved by the board of commissioners, may include an annual  
388 allocation dependency clause, may contain an option granting to  
389 the authority the right to purchase the leased property upon the  
390 expiration of the primary term, or upon an earlier date that may  
391 be agreed upon by the parties, at a price as set forth in or  
392 computed in accordance with the lease agreement and may provide





393 that all or any obligations thereunder are payable from specified  
394 revenues pledged as security therefor.

395 (2) The authority may lease publicly owned real property to  
396 a person or legal entity for the purpose of enabling the person or  
397 legal entity to construct a facility on the property and to lease  
398 the facility to the authority. A ground lease shall not be for a  
399 primary term in excess of twice the primary term of the lease with  
400 respect to the facility to be constructed on the real property.  
401 Any public body in the state may lease, sell or otherwise convey  
402 property to the authority without consideration or for  
403 consideration as the governing body of the public body shall  
404 determine to be appropriate under the circumstances, and to enter  
405 into agreements with the authority relating thereto, which  
406 agreements may extend over any period of time, notwithstanding any  
407 provision or rule of law to the contrary.

408 (3) This section shall be full and complete authority for  
409 the authorization, execution and delivery of lease agreements  
410 authorized under this act, and none of the restrictions,  
411 requirements, conditions and limitations of the general law of the  
412 state applicable to acquisition, construction and drawing of  
413 buildings or facilities shall apply to lease agreements under this  
414 section, and all powers necessary to carry out the provisions of  
415 this section are conferred upon the authority.

416 Section 15. All obligations, including, but not limited to,  
417 bonds, notes, lease-purchase agreements and other evidence of



418 indebtedness issued by the authority pursuant to this act and all  
419 interest payable thereunder or with respect thereto, all leases,  
420 trust indentures, deeds of trust, mortgages, security agreements  
421 and other contracts or agreements entered into pursuant to this  
422 act, and all purchases required to construct the facility or to  
423 acquire equipment shall be exempt from all taxation in the state,  
424 including, but not limited to, sales taxes and the contractor's  
425 tax imposed by Section 27-65-21, Mississippi Code of 1972. As  
426 provided by general law applicable to political subdivisions of  
427 the state, a facility and the revenues derived from its operation  
428 shall be exempt from all taxation in the state, including, but not  
429 limited to, all ad valorem taxes levied by the state or any  
430 political subdivision thereof.

431 Section 16. This act shall be full and complete authority of  
432 the exercise of all powers and authority granted in this act and  
433 any requirements or restrictions of law which would otherwise be  
434 applicable to acts of the authority shall not be applicable except  
435 as expressly provided in this act. Debt of the authority shall  
436 not be considered to be debt of the city or any other political  
437 subdivision of the state for purposes of any provision or rule of  
438 law restricting the amount of indebtedness of the city or any  
439 other political subdivision or for any other purpose under the  
440 laws of the state.

441 **SECTION 2.** This act shall take effect and be in force from  
442 and after its passage.

