

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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HOUSE BILL 108*
Committee Substitute Favorable 3/25/19
Committee Substitute #2 Favorable 4/10/19

Short Title: PED/Safekeeper Health Care Cost Recov. Pract.

(Public)

Sponsors:

Referred to:

February 20, 2019

1 A BILL TO BE ENTITLED
2 AN ACT TO IMPROVE DATA COLLECTION AND COST RECOVERY PRACTICES FOR
3 HEALTH CARE SERVICES FOR SAFEKEEPERS, AS RECOMMENDED BY THE
4 JOINT LEGISLATIVE PROGRAM EVALUATION COMMITTEE.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 162-39 reads as rewritten:

7 "§ 162-39. Transfer of prisoners when necessary for safety and security; application of
8 section to municipalities.

9 (a) Whenever necessary for the safety of a prisoner held in any county jail or to avoid a
10 breach of the peace in any county or whenever prisoners are arrested in such numbers that county
11 jail facilities are insufficient and inadequate for the housing of such prisoners, the resident judge
12 of the superior court or any judge holding superior court in the district or any district court judge
13 may order the prisoner transferred to a fit and secure jail in some other county where the prisoner
14 shall be held for such length of time as the judge may direct.

15 (b) Whenever necessary to avoid a security risk in any county jail, or whenever prisoners
16 are arrested in such numbers that county jail facilities are insufficient and inadequate for the
17 housing of such prisoners, the resident judge of the superior court or any judge holding superior
18 court in the district or any district court judge may order the prisoner transferred to a unit of the
19 State prison system designated by the Secretary of Public Safety or his authorized representative.
20 For purposes of this subsection, a prisoner poses a security risk if the prisoner:

- 21 (1) Poses a serious escape risk;
22 (2) Exhibits violently aggressive behavior that cannot be contained and warrants
23 a higher level of supervision;
24 (3) Needs to be protected from other inmates, and the county jail facility cannot
25 provide such protection;
26 (4) Is a female or a person 18 years of age or younger, and the county jail facility
27 does not have adequate housing for such prisoners;
28 (5) Is in custody at a time when a fire or other catastrophic event has caused the
29 county jail facility to cease or curtail operations; or
30 (6) Otherwise poses an imminent danger to the staff of the county jail facility or
31 to other prisoners in the facility.

32 (b1) The Department of Public Safety, Health Services Section, shall maintain records of
33 prisoners transferred to a unit of the State prison system pursuant to subsection (b) of this section.
34 The records shall utilize unique identifiers for each transferred prisoner and shall include all of
35 the following information:



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- 1 (1) The date the transfer order was received.
- 2 (2) The statutory basis upon which the order was granted.
- 3 (3) The date the prisoner was transferred to State custody.
- 4 (4) The State prison facility where the prisoner was transferred.
- 5 (5) The county where the prisoner was removed.
- 6 (6) The dates the prisoner received health services from the Department.
- 7 (7) A list of health services provided to the prisoner and the corresponding
8 charges.
- 9 (8) The date the Department determined that the prisoner no longer needs health
10 services to be provided by the State prison system.
- 11 (9) The date and method used by the Department to notify the county that the
12 prisoner should be transferred back to the custody of the county.
- 13 (10) The date that the prisoner is returned to the custody of the county.

14 (c) The sheriff of the county from which the prisoner is removed shall be responsible for
15 conveying the prisoner to the jail or prison unit where ~~he~~the prisoner is to be held, and for
16 returning ~~him~~the prisoner to the common jail of the county from which ~~he~~the prisoner was
17 transferred. The return shall be made at the expiration of the time designated in the court order
18 directing the transfer unless the judge, by appropriate order, ~~shall direct~~directs otherwise. The
19 sheriff or keeper of the jail of the county designated in the court order, or the officer in charge of
20 the prison unit designated by the Secretary of Public Safety, shall receive and release custody of
21 the prisoner in accordance with the terms of the court order. If a prisoner is transferred to a unit
22 of the State prison system, the county from which the prisoner is transferred shall pay the
23 Division of Adult Correction and Juvenile Justice of the Department of Public Safety for
24 maintaining the prisoner for the time designated by the court at the per day, per inmate rate at
25 which the Division of Adult Correction and Juvenile Justice of the Department of Public Safety
26 pays a local jail for maintaining a prisoner. The county shall also pay the Division of Adult
27 Correction and Juvenile Justice of the Department of Public Safety for the costs of ~~extraordinary~~
28 medical care incurred while the prisoner was in the custody of the Division of Adult Correction
29 and Juvenile Justice of the Department of Public Safety, defined as follows:

- 30 (1) Medical expenses incurred as a result of providing health care to a prisoner as
31 an inpatient ~~(hospitalized);~~(hospitalized).
- 32 (2) Other medical expenses when the total cost exceeds thirty-five dollars
33 (\$35.00) per occurrence or illness as a result of providing health care to a
34 prisoner as an outpatient ~~(nonhospitalized); and~~(nonhospitalized).
- 35 (3) Cost of replacement of eyeglasses and dental prosthetic devices if those
36 eyeglasses or devices are broken while the prisoner is incarcerated, provided
37 the prisoner was using the eyeglasses or devices at the time of his commitment
38 and then only if prior written consent of the county is obtained by the Division.
- 39 (4) Transportation and custody costs associated with the transfer of prisoners
40 receiving health care outside of the prison facility. The county shall reimburse
41 the State for services provided to the prisoner at the same mileage
42 reimbursement rate and hourly custody rate that are reimbursed pursuant to
43 the Statewide Misdemeanant Confinement Program.
- 44 (5) Cost of sick call encounters at the rate charged to State prison inmates.

45 (c1) If the prisoner is transferred to a jail in some other county, the county from which the
46 prisoner is transferred shall pay to the county receiving the prisoner in its jail the actual cost of
47 maintaining the prisoner for the time designated by the court. Counties are ~~hereby~~
48 enter into contractual agreements with other counties to provide jail facilities to which prisoners
49 may be transferred as deemed necessary under this section.

50 (c2) Whenever prisoners are arrested in such numbers that county jail facilities are
51 insufficient and inadequate for the safekeeping of such prisoners, the resident judge of the

1 superior court or any superior or district court judge holding court in the district may order the
2 prisoners transferred to a unit of the Division of Adult Correction and Juvenile Justice of the
3 Department of Public Safety designated by the Secretary of Public Safety or ~~his~~ the Secretary's
4 authorized representative, where the prisoners may be held for such length of time as the judge
5 may direct, such detention to be in ~~cell~~ cells separate from ~~that~~ those used for imprisonment of
6 persons already convicted of crimes, except when admission to an inpatient prison medical or
7 mental health unit is required to provide services deemed necessary by a prison health care
8 clinician. The sheriff of the county from which the prisoners are removed shall be responsible
9 for conveying the prisoners to the prison unit or units where they are to be held, and for returning
10 them to the common jail of the county from which they were transferred. However, if due to the
11 number of prisoners to be conveyed the sheriff is unable to provide adequate transportation, ~~he~~
12 the sheriff may request the assistance of the Division of Adult Correction and Juvenile Justice of
13 the Department of Public Safety, and the Division of Adult Correction and Juvenile Justice of
14 the Department of Public Safety is hereby authorized and directed to cooperate with the sheriff
15 and provide whatever assistance is available, both in vehicles and manpower, to accomplish the
16 conveying of the prisoners to and from the county to the designated prison unit or units. The
17 officer in charge of the prison unit designated by the Secretary of Public Safety or ~~his~~ the
18 Secretary's authorized representative shall receive and release the custody of the prisoners in
19 accordance with the terms of the court order. The county from which the prisoners are transferred
20 shall pay to the Division of Adult Correction and Juvenile Justice of the Department of Public
21 Safety the actual cost of transporting the prisoners and the cost of maintaining the prisoners at
22 the per day, per inmate rate at which the Division of Adult Correction and Juvenile Justice of the
23 Department of Public Safety pays a local jail for maintaining a prisoner, provided, however, that
24 a county is not required to reimburse the State for transporting or maintaining a prisoner who
25 was a resident of another state or county at the time ~~he~~ the prisoner was arrested. However, if the
26 county commissioners shall certify to the Governor that the county is unable to pay the bill
27 submitted by the Division of Adult Correction and Juvenile Justice of the Department of Public
28 Safety to the county for the services rendered, either in whole or in part, the Governor may
29 recommend to the Council of State that the State of North Carolina assume and pay, in whole or
30 in part, the obligation of the county to the Division of Adult Correction and Juvenile Justice of
31 the Department of Public Safety, and upon approval of the Council of State the amount so
32 approved shall be paid from the Contingency and Emergency Fund to the Division of Adult
33 Correction and Juvenile Justice of the Department of Public Safety.

34 (c3) When, due to an emergency, it is not feasible to obtain from a judge of the superior
35 or district court a prior order of transfer, the sheriff of the county and the Division of Adult
36 Correction and Juvenile Justice of the Department of Public Safety may exercise the authority
37 hereinafter conferred; provided, however, that the sheriff shall, as soon as possible after the
38 emergency, obtain an order from the judge authorizing the prisoners to be held in the designated
39 place of confinement for such period as the judge may direct. All provisions of this ~~subsection~~
40 section shall be applicable to municipalities whenever prisoners are arrested in such numbers that
41 the municipal jail facilities and the county jail facilities are insufficient and inadequate for the
42 safekeeping of the prisoners. The chief of police is hereby authorized to exercise the authority
43 herein conferred upon the sheriff, and the municipality shall be liable for the cost of transporting
44 and maintaining the prisoners to the same extent as a county would be unless action is taken by
45 the Governor and Council of State as herein provided for counties which are unable to pay such
46 costs.

47 (d) Whenever a prisoner held in a county jail requires medical or mental health treatment
48 that the county decides can best be provided by the Division of Adult Correction and Juvenile
49 Justice of the Department of Public Safety, the resident judge of the superior court or any judge
50 holding superior court in the district or any district court judge may order the prisoner transferred
51 to a unit of the State prison system designated by the Secretary of Public Safety or ~~his~~ the

1 ~~Secretary's authorized representative.~~ representative for an initial period not to exceed 30 days.
2 The sheriff of the county from which the prisoner is removed shall be responsible for conveying
3 the prisoner to the prison unit where ~~he~~ the prisoner is to be held, and for returning ~~him~~ the
4 prisoner to the jail of the county from which ~~he~~ the prisoner was transferred. ~~The prisoner shall~~
5 ~~be returned when the attending medical or mental health professional determines that the prisoner~~
6 ~~may be returned safely.~~ The officer in charge of the prison unit designated by the Secretary of
7 Public Safety shall receive custody of the prisoner in accordance with the terms of the ~~order and~~
8 order. Prior to the conclusion of the 30-day period, the Division of Adult Correction and Juvenile
9 Justice shall conduct an assessment of treatment and venue needs. The assessment shall be
10 conducted by the attending medical or mental health professional and shall assess the medical
11 and mental health needs of the prisoner and make a recommendation on whether the prisoner
12 should remain in the custody of the Division of Adult Correction and Juvenile Justice of the
13 Department of Public Safety or if the prisoner should be returned to the custody of the county.
14 To extend the order beyond the initial 30-day period, the sheriff shall provide the Division of
15 Adult Correction and Juvenile Justice assessment and any other relevant information to the
16 resident judge of the superior court or any judge holding superior court in the district or any
17 district court judge who shall determine whether to extend the transfer of the prisoner to a unit
18 of the State prison system beyond the initial 30-day period. The officer in charge of the prison
19 unit designated by the Secretary of Public Safety shall release custody of the prisoner in
20 accordance with the court order and the instructions of the attending medical or mental health
21 professional. The county from which the prisoner is transferred shall pay the Division of Adult
22 Correction and Juvenile Justice of the Department of Public Safety for maintaining the prisoner
23 for the period of treatment at the per day, per inmate rate at which the Division of Adult
24 Correction and Juvenile Justice of the Department of Public Safety pays a local jail for
25 maintaining a prisoner, and for extraordinary medical expenses as set forth in subsection (c) of
26 this section.

27 (e) The number of county prisoners incarcerated in the State prison system pursuant to
28 safekeeping orders from the various counties pursuant to subsection (b) of this section or for
29 medical or mental health treatment pursuant to subsection (d) of this section may not exceed 200
30 at any given time unless authorized by the Secretary of Public Safety. The Secretary may refuse
31 to accept any safekeeper and may return any safekeeper transferred under a safekeeping order
32 when this capacity limit is reached. The Secretary shall not refuse to accept a safekeeper because
33 a county has failed to pay the Department of Public Safety for services rendered pursuant to this
34 section.

35 (f) If, after 10 days of receiving notification and request for transfer from the Department
36 of Public Safety pursuant to G.S. 148-19.3(a), the sheriff fails to assume custody of the county
37 prisoner from the State prison facility to which the prisoner was assigned, then, in addition to the
38 actual cost of transporting the prisoner and the cost of maintaining the prisoner at the per day,
39 per inmate rate at which the Division of Adult Correction and Juvenile Justice of the Department
40 of Public Safety pays a local jail for maintaining a prisoner, the county shall be liable to the State
41 for an additional per day, per inmate rate not to exceed twenty dollars (\$20.00) for each day the
42 sheriff fails to assume custody of the prisoner, unless the sheriff has obtained an extension of the
43 order because the inmate cannot be safely housed in the local jail. The section chief of the Health
44 Services Section may waive up to 10 days of the additional per day rate if the sheriff provides
45 documentation of extenuating circumstances."

46 **SECTION 2.(a)** Article 2 of Chapter 148 is amended by adding a new section to
47 read:

48 **"§ 148-19.3. Medicaid eligibility; county prisoners.**

49 (a) For county prisoners housed in the State prison system pursuant to safekeeping orders
50 under G.S. 162-39 and who receive health care services outside the prison, the Department shall
51 notify the county sheriff of the potential Medicaid eligibility of the safekeeper given data

1 available to the Department. All charges that are the responsibility of the transferring county for
2 health care services provided to prisoners held under a safekeeping order shall not be paid by the
3 Department and shall be submitted by the health care provider to the Inmate Medical Costs
4 Management Plan through the North Carolina Sheriffs' Association for the Plan to review and
5 negotiate all charges for health care services to avoid overpayment and reduce overall health care
6 service costs. The Department shall notify the health care provider when services are being
7 provided to the prisoner that the invoice for health care services shall be submitted by the provider
8 directly to the Plan. In the event an invoice is sent to the Department by a health care provider
9 for health care services provided to a safekeeper under this section, the Department shall forward
10 the invoice to the Plan within three days of receipt. All unreimbursed charges for health care
11 services provided shall be documented and presented to the county for payment in accordance
12 with G.S. 162-39. Upon expiration of the terms of the order and a determination that the prisoner
13 may be safely returned to the custody of the county, the Department shall notify the sheriff, or
14 the sheriff's designee, by telephone and electronic mail and request the transfer of the prisoner to
15 the custody of the county.

16 (b) The Department shall update the medical services schedule of charges assessed to
17 counties for the provision of health care services to county prisoners housed in the State prison
18 system pursuant to safekeeping orders under G.S. 162-39. In updating the schedule of charges,
19 at a minimum, the Department shall consider the actual rate for services provided and current
20 established Medicaid rates for respective services. The schedule of charges shall be updated
21 annually and shall be included in the Department's policies and procedures. The Department shall
22 assess charges to counties for health care services provided to county prisoners at all State prison
23 facilities."

24 **SECTION 2.(b)** The Department shall submit a report on the updated medical
25 services schedule of charges required in subsection (a) of this section to the Joint Legislative
26 Oversight Committee on Justice and Public Safety on or before December 1, 2019.

27 **SECTION 3.** This act becomes effective July 1, 2019.