

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2019

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HOUSE BILL 108\*

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

Sponsors: Representatives Horn and Lucas (Primary Sponsors).

*For a complete list of sponsors, refer to the North Carolina General Assembly web site.*

Referred to: Judiciary, if favorable, Rules, Calendar, and Operations of the House

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:



- 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~~ authorized to  
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 fifteen  
2 days. The sheriff of the county from which the prisoner is removed shall be responsible for  
3 conveying the prisoner to the prison unit where he the prisoner is to be held, and for returning  
4 him the prisoner to the jail of the county from which he the prisoner was transferred. The prisoner  
5 shall be returned when the attending medical or mental health professional determines that the  
6 prisoner may be returned safely. The officer in charge of the prison unit designated by the  
7 Secretary of Public Safety shall receive custody of the prisoner in accordance with the terms of  
8 the ~~order and~~ order. If the sheriff seeks to extend the order beyond the initial fifteen-day period,  
9 the sheriff shall request that the Division of Adult Correction and Juvenile Justice conduct an  
10 assessment of treatment and venue needs. The assessment shall be conducted by the attending  
11 medical or mental health professional and shall assess the medical and mental health needs of the  
12 prisoner and make a recommendation on whether the prisoner should remain in the custody of  
13 the Division of Adult Correction and Juvenile Justice of the Department of Public Safety or if  
14 the prisoner should be returned to the custody of the county. To extend the order beyond the  
15 initial fifteen-day period, the sheriff shall provide the assessment to the resident judge of the  
16 superior court or any judge holding superior court in the district or any district court judge who  
17 shall determine whether to extend the transfer of the prisoner to a unit of the State prison system  
18 beyond the initial fifteen-day period. The officer in charge of the prison unit designated by the  
19 Secretary of Public Safety shall release custody of the prisoner in accordance with the court order  
20 and the instructions of the attending medical or mental health professional. The county from  
21 which the prisoner is transferred shall pay the Division of Adult Correction and Juvenile Justice  
22 of the Department of Public Safety for maintaining the prisoner for the period of treatment at the  
23 per day, per inmate rate at which the Division of Adult Correction and Juvenile Justice of the  
24 Department of Public Safety pays a local jail for maintaining a prisoner, and for extraordinary  
25 medical expenses as set forth in subsection (c) of this section.

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

33 (1) The county has failed to pay the Department of Public Safety for services  
34 rendered pursuant to this section and the bill has remained unpaid for 120 days  
35 or more.

36 (2) The county does not participate in the Statewide Misdemeanant Confinement  
37 Program by receiving misdemeanants for housing. This subdivision does not  
38 apply to a county that has a determination made by the North Carolina  
39 Sheriffs' Association, Inc., that the county's facilities are filled to capacity  
40 pursuant to G.S. 148-32.1(b4).

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

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

3 **"§ 148-19.3. Medicaid eligibility; county prisoners.**

4           "(a) For county prisoners housed in the State prison system pursuant to safekeeping orders  
5 under G.S. 162-39, the Department shall determine the prisoner's eligibility for enrollment in  
6 Medicaid to be used for reimbursement for qualifying health care services and shall take steps to  
7 ensure proper Medicaid applications are completed and submitted. All unreimbursed charges for  
8 health care services provided shall be documented and presented to the county for payment in  
9 accordance with G.S. 162-39. Upon expiration of the terms of the order and a determination that  
10 the prisoner may be safely returned to the custody of the county, the Department shall notify the  
11 sheriff, or the sheriff's designee, by telephone and electronic mail and request the transfer of the  
12 prisoner to the custody of the county.

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

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

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