

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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SENATE BILL 118*

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

Sponsors: Senators B. Jackson, Krawiec, and Ballard (Primary Sponsors).

Referred to: Rules and Operations of the Senate

February 25, 2019

A BILL TO BE ENTITLED

AN ACT TO IMPROVE DATA COLLECTION AND COST RECOVERY PRACTICES FOR HEALTH CARE SERVICES FOR SAFEKEEPERS, AS RECOMMENDED BY THE JOINT LEGISLATIVE PROGRAM EVALUATION COMMITTEE.

The General Assembly of North Carolina enacts:

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

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

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

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

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

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

- (1) The date the transfer order was received.



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

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

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

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

49 (c2) Whenever prisoners are arrested in such numbers that county jail facilities are
50 insufficient and inadequate for the safekeeping of such prisoners, the resident judge of the
51 superior court or any superior or district court judge holding court in the district may order the

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

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

46 (d) Whenever a prisoner held in a county jail requires medical or mental health treatment
47 that the county decides can best be provided by the Division of Adult Correction and Juvenile
48 Justice of the Department of Public Safety, the resident judge of the superior court or any judge
49 holding superior court in the district or any district court judge may order the prisoner transferred
50 to a unit of the State prison system designated by the Secretary of Public Safety or ~~his~~the
51 Secretary's authorized ~~representative~~representative for an initial period not to exceed fifteen

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

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

- 32 (1) The county has failed to pay the Department of Public Safety for services
33 rendered pursuant to this section and the bill has remained unpaid for 120 days
34 or more.
35 (2) The county does not participate in the Statewide Misdemeanant Confinement
36 Program by receiving misdemeanants for housing. This subdivision does not
37 apply to a county that has a determination made by the North Carolina
38 Sheriffs' Association, Inc., that the county's facilities are filled to capacity
39 pursuant to G.S. 148-32.1(b4).

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

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

1 **"§ 148-19.3. Medicaid eligibility; county prisoners.**

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

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

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

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