

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019**

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**HOUSE BILL 108
PROPOSED COMMITTEE SUBSTITUTE H108-PCS10254-TU-2**

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

(Public)

Sponsors:

Referred to:

February 20, 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.



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- 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 30 days.

1 The sheriff of the county from which the prisoner is removed shall be responsible for conveying
2 the prisoner to the prison unit where ~~he~~the prisoner is to be held, and for returning ~~him~~the
3 prisoner to the jail of the county from which ~~he~~the prisoner was transferred. ~~The prisoner shall~~
4 ~~be returned when the attending medical or mental health professional determines that the prisoner~~
5 ~~may be returned safely.~~ The officer in charge of the prison unit designated by the Secretary of
6 Public Safety shall receive custody of the prisoner in accordance with the terms of the ~~order and~~
7 order. Prior to the conclusion of the 30-day period, the Division of Adult Correction and Juvenile
8 Justice shall conduct an assessment of treatment and venue needs. The assessment shall be
9 conducted by the attending medical or mental health professional and shall assess the medical
10 and mental health needs of the prisoner and make a recommendation on whether the prisoner
11 should remain in the custody of the Division of Adult Correction and Juvenile Justice of the
12 Department of Public Safety or if the prisoner should be returned to the custody of the county.
13 To extend the order beyond the initial 30-day period, the sheriff shall provide the Division of
14 Adult Correction and Juvenile Justice assessment and any other relevant information to the
15 resident judge of the superior court or any judge holding superior court in the district or any
16 district court judge who shall determine whether to extend the transfer of the prisoner to a unit
17 of the State prison system beyond the initial 30-day period. The officer in charge of the prison
18 unit designated by the Secretary of Public Safety shall release custody of the prisoner in
19 accordance with the court order and the instructions of the attending medical or mental health
20 professional. The county from which the prisoner is transferred shall pay the Division of Adult
21 Correction and Juvenile Justice of the Department of Public Safety for maintaining the prisoner
22 for the period of treatment at the per day, per inmate rate at which the Division of Adult
23 Correction and Juvenile Justice of the Department of Public Safety pays a local jail for
24 maintaining a prisoner, and for extraordinary medical expenses as set forth in subsection (c) of
25 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 not refuse to accept a safekeeper because
32 a county has failed to pay the Department of Public Safety for services rendered pursuant to this
33 section. However, the North Carolina Department of Revenue shall immediately pursue
34 collection from the county of unpaid fees for services rendered pursuant to this section that have
35 remained unpaid for 120 days or more.

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

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

50 "§ 148-19.3. Medicaid eligibility; county prisoners.

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

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

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

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