



Bill Draft 2019-MQ-1: PED/Safekeeper Health Care Cost Recovery Practices.

2019-2020 General Assembly

Committee:
Introduced by:
Analysis of: 2019-MQ-1

Date: October 3, 2018
Prepared by: Matthew Meinig
Staff Attorney

OVERVIEW: *2019-MQ-1 directs the Department of Public Safety to enhance record-keeping related to prisoner transfers in the Safekeepers program as a way to improve tracking and recoupment of expenses involved in caring for these prisoners. The draft would standardize medical per diem charges for Safekeepers, while imposing deadlines on prisoner transfers. In addition, the draft would prohibit counties from Safekeeper participation for health care purposes if they have delinquent Safekeeper balances or do not participate in the Statewide Misdemeanant Confinement Program, for reasons other than inadequate county jail capacity.*

BILL ANALYSIS: 2019-MQ-1 does the following:

- **Section 1:** Requires the Department of Public Safety (DPS) to maintain records of Safekeeper transfers, including dates of transfer and return, dates and types of health services received, the county of origin and the State facility in which the Safekeeper was placed.
- **Section 2(a):** Requires that counties reimburse DPS for transportation and labor costs associated with providing Safekeepers medical care outside of the State facility.
- **Section 2(b):** Requires DPS to determine Medicaid eligibility of Safekeepers and to ensure that proper applications are submitted. Also requires all non-reimbursed medical expenses to be documented and presented to the county responsible for the Safekeeper, and that DPS contact the responsible county by phone and email when the Safekeeping order has expired and staff determines that it is safe to return the prisoner to county custody.
- **Section 2(c):** Requires DPS to update the medical services schedule of charges assessed to counties for the provision of health care to Safekeepers by considering the actual rate for services provided and current Medicaid rates. Requires DPS to report on updated schedule to the Joint Legislative Oversight Committee on Justice and Public Safety by December 1, 2019.
- **Section 3:** Gives a three day deadline for the sheriff to assume custody of a Safekeeper after notification by DPS. After three days, the county is liable for up to an additional \$20.00 per day charge until the custody change is complete. DPS can approve a grace period of up to five days if documentation of extenuating circumstances is provided.
- **Section 4:** Requires DPS to refuse Safekeepers for health care purposes from counties that have a 120 day, or more, delinquent balance for Safekeeper services provided or if the county does not participate in the Statewide Misdemeanant Confinement Program for any reason other than full capacity.
- **Section 5:** Limits the duration of a Safekeeping order to ten days. If the sheriff is seeking to extend the order, the sheriff shall request that DPS conduct an assessment of treatment and venue

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needs during the initial ten-day order. If the sheriff petitions the court for a supplemental Safekeeping order, the petition must include DPS's assessment.

EFFECTIVE DATE: This act would be effective July 1, 2019.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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BILL DRAFT 2019-MQ-1 [v.11]

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)

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

(Public)

Sponsors:

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE ENHANCED HEALTH CARE DATA COLLECTION FOR
3 COUNTY INMATES TEMPORARILY HOUSED AT STATE CORRECTIONAL
4 FACILITIES; TO ENABLE THE DEPARTMENT OF PUBLIC SAFETY TO RECOUP
5 HEALTH CARE EXPENSES FROM PUBLIC ASSISTANCE AND FROM COUNTIES
6 THAT TRANSFER INMATES TO STATE FACILITIES; TO REQUIRE THE
7 DEPARTMENT OF PUBLIC SAFETY TO UPDATE THE AMOUNTS CHARGED TO
8 COUNTIES FOR INMATE HEALTH SERVICES; TO ESTABLISH A REQUIRED
9 TIMEFRAME FOR TRANSFER OF INMATES BACK TO COUNTY CUSTODY; TO
10 PLACE CERTAIN REQUIREMENTS ON COUNTIES FOR PARTICIPATION IN THE
11 SAFEKEEPER PROGRAM; AND TO PLACE AN INITIAL TIME LIMIT ON THE
12 DURATION OF A HEALTH CARE-RELATED SAFEKEEPING ORDER.

13 The General Assembly of North Carolina enacts:

14 **SECTION 1.** G.S. 162-39 is amended by adding a new subsection to read:

15 (b5) The Division of Health Services in the Department of Public Safety shall maintain
16 records of prisoners transferred to a unit of the State prison system pursuant to G.S. 62-39. The
17 records shall utilize unique identifiers for each transferred prisoner and shall include all of the
18 following information:

- 19 (1) The date the transfer order was received.
- 20 (2) The statutory basis upon which the order was granted.
- 21 (3) The date the prisoner was transferred to State custody.
- 22 (4) The State prison facility where the prisoner was transferred.
- 23 (5) The county where the prisoner was removed.
- 24 (6) The dates the prisoner receives health services from the Department.
- 25 (7) A list of health services provided and the corresponding charges.
- 26 (8) The date the Department determines that the prisoner no longer needs health
27 services to be provided by the State prison system.
- 28 (9) The date and method used by the Department to notify the county that the
29 prisoner should be transferred back to the custody of the county.
- 30 (10) The date that the prisoner is returned to the custody of the county.

31 **SECTION 2.(a)** G.S. 162-39(c) reads as rewritten:

32 "(c) The sheriff of the county from which the prisoner is removed shall be responsible
33 for conveying the prisoner to the jail or prison unit where he is to be held, and for returning him
34 to the common jail of the county from which he was transferred. The return shall be made at



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the expiration of the time designated in the court order directing the transfer unless the judge, by appropriate order, shall direct otherwise. The sheriff or keeper of the jail of the county designated in the court order, or the officer in charge of the prison unit designated by the Secretary of Public Safety, shall receive and release custody of the prisoner in accordance with the terms of the court order. If a prisoner is transferred to a unit of the State prison system, the county from which the prisoner is transferred shall pay the Division of Adult Correction and Juvenile Justice of the Department of Public Safety for maintaining the prisoner for the time designated by the court at the per day, per inmate rate at which the Division of Adult Correction and Juvenile Justice of the Department of Public Safety pays a local jail for maintaining a prisoner. The county shall also pay the Division of Adult Correction and Juvenile Justice of the Department of Public Safety for the costs of ~~extraordinary~~ medical care incurred while the prisoner was in the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, defined as follows:

- (1) Medical expenses incurred as a result of providing health care to a prisoner as an inpatient ~~(hospitalized);(hospitalized).~~
- (2) Other medical expenses when the total cost exceeds thirty-five dollars (\$35.00) per occurrence or illness as a result of providing health care to a prisoner as an outpatient ~~(nonhospitalized); and(nonhospitalized).~~
- (3) Cost of replacement of eyeglasses and dental prosthetic devices if those eyeglasses or devices are broken while the prisoner is incarcerated, provided the prisoner was using the eyeglasses or devices at the time of his commitment and then only if prior written consent of the county is obtained by the Division.
- (4) Transportation and labor costs associated with the transfer of prisoners receiving health care outside of the prison facility.
- (5) Cost of sick call encounters at the rate charged to State prison inmates.

The county shall reimburse the State for services provided to the prisoner at the same rate services are reimbursed pursuant to the Statewide Misdemeanant Confinement Program. If the prisoner is transferred to a jail in some other county, the county from which the prisoner is transferred shall pay to the county receiving the prisoner in its jail the actual cost of maintaining the prisoner for the time designated by the court. Counties are hereby authorized to enter into contractual agreements with other counties to provide jail facilities to which prisoners may be transferred as deemed necessary under this section.

Whenever prisoners are arrested in such numbers that county jail facilities are insufficient and inadequate for the safekeeping of such prisoners, the resident judge of the superior court or any superior or district court judge holding court in the district may order the prisoners transferred to a unit of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety designated by the Secretary of Public Safety or his authorized representative, where the prisoners may be held for such length of time as the judge may direct, such detention to be in cell separate from that used for imprisonment of persons already convicted of crimes, except when admission to an inpatient prison medical or mental health unit is required to provide services deemed necessary by a prison health care clinician. The sheriff of the county from which the prisoners are removed shall be responsible for conveying the prisoners to the prison unit or units where they are to be held, and for returning them to the common jail of the county from which they were transferred. However, if due to the number of prisoners to be conveyed the sheriff is unable to provide adequate transportation, he may request the assistance of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, and the Division of Adult Correction and Juvenile Justice of the Department of Public Safety is hereby authorized and directed to cooperate with the sheriff and provide whatever assistance is available, both in vehicles and manpower, to accomplish the conveying of the prisoners to and from the county to the designated prison unit or units. The officer in charge of the prison unit

designated by the Secretary of Public Safety or his authorized representative shall receive and release the custody of the prisoners in accordance with the terms of the court order. The county from which the prisoners are transferred shall pay to the Division of Adult Correction and Juvenile Justice of the Department of Public Safety the actual cost of transporting the prisoners and the cost of maintaining the prisoners at the per day, per inmate rate at which the Division of Adult Correction and Juvenile Justice of the Department of Public Safety pays a local jail for maintaining a prisoner, provided, however, that a county is not required to reimburse the State for transporting or maintaining a prisoner who was a resident of another state or county at the time he was arrested. However, if the county commissioners shall certify to the Governor that the county is unable to pay the bill submitted by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety to the county for the services rendered, either in whole or in part, the Governor may recommend to the Council of State that the State of North Carolina assume and pay, in whole or in part, the obligation of the county to the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, and upon approval of the Council of State the amount so approved shall be paid from Contingency and Emergency Fund to the Division of Adult Correction and Juvenile Justice of the Department of Public Safety.

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

SECTION 2.(b) G.S. 148-32.1 is amended by adding a new subsection to read:

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

SECTION 2.(c) The Department of Public Safety shall update the medical services schedule of charges assessed to counties for the provision of health care services to county prisoners housed in the State prison system pursuant to safekeeping orders under G.S. 162-39. In updating the schedule of charges, at a minimum, the Department shall consider the actual rate for services provided and current established Medicaid rates for respective services. The schedule of charges shall be updated annually and shall be included in the Department's policies and procedures. The Department shall assess charges to counties for health care services provided to county prisoners at all State prison facilities. The Department shall submit a report on its updated medical services schedule of charges to the Joint Legislative Oversight Committee on Justice and Public Safety on or before December 1, 2019.

SECTION 3. G.S. 162-39 is amended by adding a new subsection to read:

(f) If, after three days of receiving notification and request for transfer from the Department of Public Safety pursuant to G.S. 148-32.1(f), the sheriff fails to assume custody of the county prisoner from the State prison facility to which the prisoner was assigned, then, in addition to the actual cost of transporting the prisoners and the cost of maintaining the prisoners at the per day, per inmate rate at which the Division of Adult Correction and Juvenile Justice of the Department of Public Safety pays a local jail for maintaining a prisoner, the county shall be liable for an additional per day, per inmate rate not to exceed twenty dollars (\$20.00) for each day the sheriff fails to assume custody of the prisoner. Upon approval by the Director of Health Services in the Department of Public Safety, up to five days of the additional per day, per inmate rate may be waived if documentation of extenuating circumstances is presented."

SECTION 4. G.S. 162-39(e) reads as rewritten:

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

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

SECTION 5. G.S. 162-39(d) reads as rewritten:

"(d) Whenever a prisoner held in a county jail requires medical or mental health treatment that the county decides can best be provided by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, 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~~ representative for an initial period not to exceed ten days. The sheriff of the county from which the prisoner is removed shall be responsible for conveying the prisoner to the prison unit where he is to be held, and for returning him to the jail of the county from which he was transferred. ~~The prisoner shall be returned when the attending medical or mental health professional determines that the prisoner may be returned safely.~~ The officer in charge of the prison unit designated by the Secretary of Public Safety shall receive custody of the prisoner in accordance with the terms of the ~~order~~ order. If the sheriff seeks to extend the order beyond the initial ten-day period, the sheriff shall request that the Division of Adult Correction and Juvenile Justice conduct an assessment of treatment and venue needs. The assessment shall be conducted by the attending medical or mental health professional and shall assess the medical and mental health needs of the prisoner and make a recommendation on whether the prisoner should remain in the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety or if the prisoner should be returned to the custody of the county. To extend the order beyond the initial ten-day period, the sheriff shall provide the assessment to the resident judge of the superior court or any judge holding superior court in the district or any district court judge who shall determine whether to extend the transfer of the prisoner to a unit of the State prison system beyond the initial ten-day period. The officer in charge of the prison unit designated by the Secretary of Public Safety and shall release custody of the prisoner in accordance with the court order and the instructions of the

1 attending medical or mental health professional. The county from which the prisoner is
2 transferred shall pay the Division of Adult Correction and Juvenile Justice of the Department of
3 Public Safety for maintaining the prisoner for the period of treatment at the per day, per inmate
4 rate at which the Division of Adult Correction and Juvenile Justice of the Department of Public
5 Safety pays a local jail for maintaining a prisoner, and for extraordinary medical expenses as
6 set forth in subsection (c) of this section."

7 **SECTION 6.** This act becomes effective July 1, 2019.