

SENATE BILL NO. 370

INTRODUCED BY GEBHARDT

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING WHICH ENTITIES PAY FOR THE MEDICAL EXPENSES OF INMATES HELD IN COUNTY DETENTION FACILITIES; PROVIDING CIRCUMSTANCES UNDER WHICH THE INMATE IS RESPONSIBLE FOR PAYMENT; REQUIRING THE HEALTH CARE PROVIDER TO COLLECT PAYMENTS FOR TREATMENT FROM INMATES WHO ARE ABLE TO PAY; PROVIDING CIRCUMSTANCES UNDER WHICH THE COUNTY IS RESPONSIBLE FOR PAYMENT; AMENDING SECTIONS 7-32-2222 AND 7-32-2245, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 7-32-2222, MCA, is amended to read:

"7-32-2222. Health and safety of prisoners. (1) Each detention center shall comply with state and local fire codes for correctional occupancy and with sanitation, safety, and health codes.

(2) Designated exits must permit prompt evacuation of inmates and detention center staff in an emergency.

(3) When there is good reason to believe that the inmates may be injured or endangered, the detention center administrator shall remove them to a safe and convenient place and confine them there as long as necessary to avoid the danger.

~~(4) (a) If in the opinion of the detention center administrator an inmate under the administrator's jurisdiction requires medication, medical services, or hospitalization, the expense must be borne by the arresting agency when the arresting agency is not the county in which the inmate is confined, except as provided in 7-32-2245 or subsection (4)(b) of this section.~~

~~—— (b) If a city or town commits a person to the detention center of the county in which the city or town is located for a reason other than detention pending trial for or detention for service of a sentence for violating an ordinance of that city or town, the expense must be paid by the county, except as provided in 7-32-2245. If the department of corrections is the arresting agency and the inmate is a probation violator, the expense must be paid by the county in which the district court that retains jurisdiction over the inmate is located, except as provided in 7-32-2245.~~

~~———— (c) The county attorney shall initiate proceedings to collect from the inmate any charges arising from the medical services or hospitalization for the inmate involved in accordance with 7-32-2245."~~

Section 2. Section 7-32-2245, MCA, is amended to read:

"7-32-2245. Payment of confinement and medical costs by inmate. (1) An inmate found by the sentencing court to have the ability to pay is liable for the costs, including actual medical costs, of the inmate's confinement in a detention center. The rate for confinement costs must be determined in accordance with 46-18-403. Confinement costs, other than actual medical costs, must be ordered by the court and must be paid in advance of confinement and prior to payment of any fine.

(2) ~~An If, in the opinion of the detention center administrator, an inmate requires medical treatment, the inmate is responsible for the actual costs of medication, medical services, or hospitalization while the inmate is detained in a detention center. Inability to pay may not be a factor in providing necessary medical care for an inmate. This section does not restrict an inmate's right to use a third-party payor~~ medical costs associated with:

(a) preexisting conditions;

(b) self-inflicted injuries while in custody;

(c) injuries incurred while in custody if the injuries are not the result of negligent or intentionally torturous acts committed by the detention center administrator or a member of the administrator's staff;

(d) injuries incurred during the commission of a crime or while unlawfully resisting arrest or attempting to avoid an arrest; and

(e) any other injuries or illnesses that are not the responsibility of other entities as provided in 7-32-2242(3) and [section 3].

(3) (A) If an inmate is found to be able to pay for the inmate's medical costs, AS PROVIDED IN SUBSECTIONS (1) AND (2), the health care provider who treats the inmate shall collect the cost of the treatment from the inmate or the inmate's third-party payor. DETENTION CENTER ADMINISTRATOR MAY ARRANGE WITH THE HEALTH CARE PROVIDER TO PURSUE REIMBURSEMENT FROM A THIRD-PARTY PAYOR FOR THE SERVICES PROVIDED.

(B) IF THE HEALTH CARE PROVIDER IS UNABLE TO COLLECT FROM THE INMATE OR THIRD-PARTY PAYOR WITHIN 120 DAYS FROM THE DATE OF THE SERVICE, THE COUNTY IS RESPONSIBLE FOR REIMBURSING THE HEALTH CARE PROVIDER FOR THE SERVICES AT:

(I) THE MEDICAID REIMBURSEMENT RATE OR AT A RATE THAT IS 70% OF THE PROVIDER'S CUSTOMARY CHARGES, WHICHEVER IS GREATER; OR

1 (II) A NEGOTIATED RATE.

2 (C) IF THE HEALTH CARE PROVIDER IS REIMBURSED BY THE INMATE OR THE THIRD-PARTY PAYOR AFTER THE
3 PROVIDER HAS BEEN REIMBURSED BY THE COUNTY, THE PROVIDER SHALL REFUND TO THE COUNTY THE AMOUNT THAT THE
4 PROVIDER HAD BEEN PAID BY THE COUNTY FOR THE SERVICES PROVIDED TO THE INMATE.

5 (4) Inability to pay may not be a factor in providing necessary medical care for an inmate.

6 (5) This section does not restrict an inmate's right to use a third-party payor.

7 (6) If a city or town is the arresting agency and commits a person to the detention center of the county
8 in which the city or town is located, the inmate is responsible for the inmate's medical expenses AND THE
9 PROVISIONS OF THIS SECTION APPLY."

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11 NEW SECTION. **Section 3. Payment of medical costs by entities other than inmate.** (1) The
12 detention center administrator shall forward to the appropriate arresting agency all charges for medical treatment
13 for which the agency is responsible.

14 (2) When the inmate is in the custody of a county detention center and the detention center
15 administrator determines that the inmate requires medical treatment, the county or the arresting agency is
16 responsible for medical costs associated with:

17 (a) conditions that are not preexisting;

18 (b) injuries incurred by the inmate:

19 (i) while in the custody of the detention center if the injuries are the result of an accident, an assault by
20 another inmate, or negligent or intentionally torturous acts committed by the detention center administrator or
21 the administrator's staff;

22 (ii) during the arrest of the inmate by the sheriff or the sheriff's staff if the injuries were not incurred while
23 unlawfully resisting arrest; or

24 (iii) while on a work program or while the inmate is performing duties assigned by the detention center
25 administrator or the administrator's staff;

26 (c) infections or contagious or communicable diseases that the inmate contracts while in the custody
27 of the detention center; or

28 (d) medical examinations that are required by law or court order unless the order provides otherwise.

29 (3) In order to determine which entity is responsible for medical charges that are not the responsibility
30 of the inmate, the following applies:

(a) If the arresting agency is a law enforcement agency whose jurisdiction is limited to the county boundaries of the county or a municipality in the county where the detention center is located, then the county is responsible.

(b) If the arresting agency is a law enforcement agency with statewide jurisdiction or whose jurisdiction is a county or municipality in a county other than the county where the detention center is located, then the arresting agency is responsible.

(c) IF A MUNICIPALITY COMMITS A PERSON TO THE DETENTION CENTER OF THE COUNTY IN WHICH THE MUNICIPALITY IS LOCATED FOR A REASON OTHER THAN DETENTION PENDING TRIAL FOR OR DETENTION FOR SERVICE OF A SENTENCE FOR VIOLATING AN ORDINANCE OF THAT MUNICIPALITY, THEN THE COUNTY IN WHICH THE MUNICIPALITY IS LOCATED IS RESPONSIBLE.

(4) For the purposes of 7-32-2245 and this section, "preexisting condition" means an illness or condition that began or injuries that were sustained before a person was in the custody of county officers.

NEW SECTION. **Section 4. Codification instruction.** [Section 3] is intended to be codified as an integral part of Title 7, chapter 32, part 22, and the provisions of Title 7, chapter 32, part 22, apply to [section 3].

NEW SECTION. **Section 5. Effective date.** [This act] is effective on passage and approval.

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