

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 1105*
Appropriations Committee Substitute Adopted 7/2/92

Short Title: Safekeeper Changes.

(Public)

Sponsors:

Referred to:

June 2, 1992

1 A BILL TO BE ENTITLED
2 AN ACT TO DECREASE STATE EXPENDITURES FOR SAFEKEEPERS BY
3 CLARIFYING THE LAW REGARDING THE MEDICAL COSTS OF
4 SAFEKEEPERS AND BY CHANGING THE LAW REGARDING THE
5 TRANSFER OF SAFEKEEPERS TO THE DEPARTMENT OF CORRECTION.

6 The General Assembly of North Carolina enacts:

7 Section 1. G.S. 162-39 reads as rewritten:

8 "**§ 162-39. Transfer of prisoners when necessary for safety and security;**
9 **application of section to municipalities.**

10 (a) Whenever necessary for the safety of a prisoner held in any county jail or to
11 avoid a breach of the peace in any county or whenever prisoners are arrested in such
12 numbers that county jail facilities are insufficient and inadequate for the housing of such
13 prisoners, the resident judge of the superior court or any judge holding superior court in
14 the district or any district court judge may order the prisoner transferred to a fit and
15 secure jail in some other county, or to a unit of the State prison system designated by the
16 Secretary of Correction or his authorized representative, county where the prisoner shall be
17 held for such length of time as the judge may direct.

18 (b) Whenever necessary to avoid a security risk in any county jail, or whenever
19 prisoners are arrested in such numbers that county jail facilities are insufficient and
20 inadequate for the housing of such prisoners, the resident judge of the superior court or
21 any judge holding superior court in the district or any district court judge may order the
22 prisoner transferred to a unit of the State prison system designated by the Secretary of

1 Correction or his authorized representative. For purposes of this subsection, a prisoner
2 poses a security risk if the prisoner:

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

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

- 29 (1) Medical expenses incurred as a result of providing health care to a
30 prisoner as an inpatient (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
33 to a prisoner as an outpatient (nonhospitalized); and
- 34 (3) Cost of replacement of eyeglasses and dental prosthetic devices if
35 those eyeglasses or devices are broken while the prisoner is
36 incarcerated, provided the prisoner was using the eyeglasses or devices
37 at the time of his commitment and then only if prior written consent of
38 the county is obtained by the Department.

39 ~~provided, however, that~~ However, a county is not required to reimburse the State for
40 maintaining a prisoner who was a resident of another state or county at the time he
41 committed the crime for which he is imprisoned. If the prisoner is transferred to a jail in
42 some other county, the county from which the prisoner is transferred shall pay to the
43 county receiving the prisoner in its jail the actual cost of maintaining the prisoner for the
44 time designated by the court. Counties are hereby authorized to enter into contractual

1 agreements with other counties to provide jail facilities to which prisoners may be
2 transferred as deemed necessary under this section.

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

36 When, due to an emergency, it is not feasible to obtain from a judge of the superior
37 or district court a prior order of transfer, the sheriff of the county and the Department of
38 Correction may exercise the authority hereinafter conferred; provided, however, that the
39 sheriff shall, as soon as possible after the emergency, obtain an order from the judge
40 authorizing the prisoners to be held in the designated place of confinement for such
41 period as the judge may direct. All provisions of this ~~section~~-subsection shall be
42 applicable to municipalities whenever prisoners are arrested in such numbers that the
43 municipal jail facilities and the county jail facilities are insufficient and inadequate for
44 the safekeeping of the prisoners. The chief of police is hereby authorized to exercise the

1 authority herein conferred upon the sheriff, and the municipality shall be liable for the
2 cost of transporting and maintaining the prisoners to the same extent as a county would
3 be unless action is taken by the Governor and Council of State as herein provided for
4 counties which are unable to pay such costs.

5 (d) Whenever a prisoner held in a county jail requires medical or mental health
6 treatment that the county decides can best be provided by the Department of Correction,
7 the resident judge of the superior court or any judge holding superior court in the district
8 or any district court judge may order the prisoner transferred to a unit of the State prison
9 system designated by the Secretary of Correction or his authorized representative. The
10 sheriff of the county from which the prisoner is removed shall be responsible for
11 conveying the prisoner to the prison unit where he is to be held, and for returning him to
12 the jail of the county from which he was transferred. The prisoner shall be returned
13 when the attending medical or mental health professional determines that the prisoner
14 may be returned safely. The officer in charge of the prison unit designated by the
15 Secretary of Correction shall receive custody of the prisoner in accordance with the
16 terms of the order and shall release custody of the prisoner in accordance with the
17 instructions of the attending medical or mental health professional. The county from
18 which the prisoner is transferred shall pay the Department of Correction for maintaining
19 the prisoner for the period of treatment at the per day, per inmate rate at which the
20 Department of Correction pays a local jail for maintaining a prisoner, and for
21 extraordinary medical expenses as set forth in subsection (c) of this section.

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

28 Sec. 2. Notwithstanding any other provision of law, counties shall not be
29 liable for extraordinary medical expenses of safekeepers incurred prior to the effective
30 date of this act; however, no county that has reimbursed the Department of Correction
31 for extraordinary medical expenses of safekeepers prior to the effective date of this act
32 has the right to a refund or credit for such payment.

33 Sec. 3. This act is effective upon ratification.