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SENATE BILL 321
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Short Title: Inmate Costs/Ct.Appt./Notaries.

(Public)

Sponsors:

Referred to:

March 14, 2013

A BILL TO BE ENTITLED

AN ACT TO CAP REIMBURSEMENT BY COUNTIES, TO MAKE ADDITIONAL PROVISIONS RELATING TO PAYMENT, FOR MEDICAL SERVICES PROVIDED TO INMATES IN COUNTY JAILS, TO ALLOW COUNTIES TO UTILIZE MEDICAID FOR ELIGIBLE PRISONERS, TO PROVIDE THAT VACANCIES IN THE OFFICE OF DISTRICT COURT JUDGE SHALL BE FILLED BY APPOINTMENT OF THE GOVERNOR, AND TO CREATE A PRIVATE RIGHT OF ACTION AGAINST NOTARIES WHO VIOLATE THE NOTARY PUBLIC ACT.

The General Assembly of North Carolina enacts:

SECTION 1. Article 10 of Chapter 153A of the General Statutes is amended by adding a new section to read:

"§ 153A-225.2. Payment of medical care of prisoners.

(a) Counties shall reimburse those providers and facilities providing requested or emergency medical care outside of the local confinement facility to prisoners or other persons under arrest by, or in the lawful custody of, county law enforcement officers the lesser amount of either a rate of seventy percent (70%) of the provider's then-current prevailing charge or two times the then-current Medicaid rate for any given service. Each county shall have the right to audit any provider from whom the county has received a bill for services under this section, but only to the extent necessary to determine the actual prevailing charge to ensure compliance with this section.

For the purposes of this section, "requested or emergency medical care" shall include all medically necessary and appropriate care provided to an individual from the time that individual presents to the provider or facility in the custody of county law enforcement officers until the time that the individual is safely transferred back to the care of county law enforcement officers or medically discharged to another community setting, as appropriate.

Nothing in this section shall preclude a county from contracting with a provider for services at rates that provide greater documentable cost avoidance for the county than do the rates contained in this subsection or at rates that are less favorable to the county but that will ensure the continued access to care.



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1 **(b)** No county may avoid liability for payment of medical care by discharging or
2 otherwise releasing a prisoner or other person under arrest or in lawful custody of county law
3 enforcement officers for the purposes of avoiding liability for payment of medical care for
4 which the county is otherwise responsible.

5 **(c)** The county shall make reasonable efforts to equitably distribute prisoners among all
6 hospitals or other appropriate health care facilities located within the same county and shall do
7 so based upon the licensed acute care bed capacity at each of the hospitals located within the
8 same county. Counties with more than one hospital or other appropriate health care facility
9 shall provide semiannual reports conspicuously posted on the county's Web site that detail
10 compliance with this section, including information on the distribution of prisoner health care
11 services among different hospitals and health care facilities."

12 **SECTION 2.** G.S. 153A-225(a) reads as rewritten:

13 **"(a)** Each unit that operates a local confinement facility shall develop a plan for
14 providing medical care for prisoners in the facility. The plan-plan:

- 15 (1) Shall be designed to protect the health and welfare of the prisoners and to
16 avoid the spread of contagious disease;
- 17 (2) Shall provide for medical supervision of prisoners and emergency medical
18 care for prisoners to the extent necessary for their health and welfare;
- 19 (3) Shall provide for the detection, examination and treatment of prisoners who
20 are infected with tuberculosis or venereal ~~diseases-diseases; and~~
- 21 (4) May utilize Medicaid coverage for inpatient hospitalization or for any other
22 Medicaid services allowable for eligible prisoners, provided that the plan
23 includes a reimbursement process which pays to the State the State portion
24 of the costs, including the costs of the services provided and any
25 administrative costs directly related to the services to be reimbursed, to the
26 State's Medicaid program.

27 The unit shall develop the plan in consultation with appropriate local officials and
28 organizations, including the sheriff, the county physician, the local or district health director,
29 and the local medical society. The plan must be approved by the local or district health director
30 after consultation with the area mental health, developmental disabilities, and substance abuse
31 authority, if it is adequate to protect the health and welfare of the prisoners. Upon a
32 determination that the plan is adequate to protect the health and welfare of the prisoners, the
33 plan must be adopted by the governing body.

34 As a part of its plan, each unit may establish fees of not more than twenty dollars (\$20.00)
35 per incident for the provision of nonemergency medical care to prisoners. In establishing fees
36 pursuant to this section, each unit shall establish a procedure for waiving fees for indigent
37 prisoners."

38 **SECTION 3.** In preparation for the July 1, 2014, effective date of Section 2 of this
39 act, the Department of Health and Human Services, Division of Medical Assistance, shall work
40 with the North Carolina Association of County Commissioners to prepare for the change to
41 G.S. 153A-225(a)(4) contained in Section 2 of this act. The Department of Health and Human
42 Services, Division of Medical Assistance, shall use a uniform method, developed by the North
43 Carolina Association of County Commissioners, which will allow all counties to interface with
44 the Division of Medical Assistance to implement this act. The Department of Public Safety
45 shall provide technical assistance as needed.

46 **SECTION 4.** G.S. 7A-142 reads as rewritten:

47 **"§ 7A-142. Vacancies in office.**

48 A vacancy in the office of district judge shall be filled for the unexpired term by
49 appointment of the ~~Governor-Governor~~. The bar of the judicial district, as defined in
50 G.S. 84-19, shall nominate five persons who are residents of the judicial district who are duly
51 authorized to practice law in the district for consideration by the Governor. The nominees shall

1 be selected by vote of only those bar members who reside in the district. In the event less than
2 five persons are nominated, upon providing the nominations to the Governor, the bar shall
3 certify that there were insufficient nominations in the district to comply with this section. Prior
4 to filling the vacancy, the Governor shall give due consideration to the nominations provided
5 by the bar of the judicial district.~~from nominations submitted by the bar of the judicial district~~
6 ~~as defined in G.S. 84-19, except that in judicial District 9, when vacancies occur in District~~
7 ~~Court District 9 or 9B, only those members who reside in the district court district shall~~
8 ~~participate in the selection of the nominees. When vacancies occur in District Court District 18,~~
9 ~~all members who reside in the district court district shall participate in the selection of the~~
10 ~~nominees. If the district court district is comprised of counties in more than one judicial district,~~
11 ~~the nominees shall be submitted jointly by the bars of those judicial districts, but only those~~
12 ~~members who reside in the district court district shall participate in the selection of the~~
13 ~~nominees. If the district court judge was elected as the nominee of a political party, then the~~
14 ~~district bar shall submit to the Governor the names of three persons who are residents of the~~
15 ~~district court district who are duly authorized to practice law in the district and who are~~
16 ~~members of the same political party as the vacating judge; provided that if there are not three~~
17 ~~persons who are available, the bar shall submit the names of two persons who meet the~~
18 ~~qualifications of this sentence. If the district court judge was not elected as the nominee of a~~
19 ~~political party, then the district bar shall submit to the Governor the names of three persons~~
20 ~~who are residents of the district court district and who are duly authorized to practice law in the~~
21 ~~district; provided that if there are not three persons who are available, the bar shall submit the~~
22 ~~names of two persons who meet the qualifications of this sentence. Within 60 days after the~~
23 ~~district bar submits nominations for a vacancy, the Governor shall appoint to fill the vacancy. If~~
24 ~~the Governor fails to appoint a district bar nominee within 60 days, then the district bar~~
25 ~~nominee who received the highest number of votes from the district bar shall fill the vacancy. If~~
26 ~~the district bar fails to submit nominations within 30 days from the date the vacancy occurs, the~~
27 ~~Governor may appoint to fill the vacancy without waiting for nominations."~~

28 **SECTION 5.** Part 8 of Article 1 of Chapter 10B of the General Statutes is amended
29 by adding a new section to read:

30 **"§ 10B-61. Private right of action.**

31 (a) Any party to a transaction requiring a notarial certificate for verification, and any
32 attorney licensed in this State who is involved in such a transaction in any capacity, whether or
33 not the attorney is representing one of the parties to the transaction, shall have standing to bring
34 a civil action in superior court against any notary commissioned under this Chapter who
35 violates the provisions of this act in connection with that transaction.

36 (b) A party or attorney having standing under subsection (a) of this section may
37 maintain an action for damages against the notary or may seek injunctive relief against the
38 notary, or both. The action shall be brought in the county where the transaction took place, and
39 if that cannot be determined, then the action may be filed in the Superior Court of Wake
40 County.

41 (c) The remedies available in this section are cumulative and do not affect the
42 availability of any other sanction, remedy, or claim against a notary allowed under this Chapter
43 or other State or federal law.

44 (d) It is the intention of the General Assembly that if the provisions of this act are held
45 invalid as a grant of an exclusive or separate emolument or privilege or as a denial of the equal
46 protection of the laws, within the meaning of Sections 19 and 32 of Article I of the North
47 Carolina Constitution, the remainder of this act shall be given effect without the invalid
48 provision or provisions."

49 **SECTION 6.** Sections 1 and 3 of this act become effective September 1, 2013.
50 Section 2 of this act becomes effective July 1, 2014. Section 5 of this act is effective when it

- 1 becomes law and applies to notarial acts and omissions occurring on or after that date. The
- 2 remainder of this act is effective when it becomes law.