

House Bill 295

By: Representatives Lane of the 167th, Barnard of the 166th, Dollar of the 45th, Levitas of the 82nd, and Weldon of the 3rd

A BILL TO BE ENTITLED
AN ACT

1 To establish "The Jail and Prison Reimbursement Act"; to amend Code Section 42-4-50 of
2 the Official Code of Georgia Annotated, relating to definitions pertaining to medical services
3 for inmates in jails, so as to provide for the recovery of costs for mental health and other
4 related services; to amend Article 3 of Chapter 5 of Title 42 of the Official Code of Georgia
5 Annotated, relating to conditions of detention generally, so as to provide for the
6 reimbursement of medical and mental health care costs and related costs provided to an
7 inmate by state, county, and private detention facilities; to provide for the repayment of
8 designated costs of detention by certain inmates; to provide legislative findings; to provide
9 a short title; to provide for definitions; to provide for related matters; to provide an effective
10 date; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 style="text-align:center">**SECTION 1.**

13 The General Assembly recognizes that the costs of detaining a criminal offender continues
14 to rise while government resources remain limited. It is further recognized that many
15 inmates in the detention system have rich sources of income and assets outside of the
16 detention system which may include bank accounts, inheritances, real estate, social security
17 payments, veteran's payments, and other types of financial resources. In recognition of this
18 fact, the daily subsistence cost of incarcerating inmates, which is a great burden on the
19 taxpayers of this state, should be reduced by requiring each inmate, who is financially
20 capable, to pay their fair portion of their costs of incarceration.

21 style="text-align:center">**SECTION 2.**

22 This Act shall be known and may be cited as "The Jail and Prison Reimbursement Act."

23 **SECTION 3.**

24 Code Section 42-4-50 of the Official Code of Georgia Annotated, relating to definitions
 25 pertaining to medical services for inmates in jails, is amended in paragraph (4) as follows:

26 "(4) 'Medical care' ~~includes~~ means medical attention, dental care, mental health care,
 27 optometry care, physical or mental health therapy, and prescribed medicine and
 28 prosthesis and necessary and associated medical, dental, mental health treatment, or
 29 optometry, costs such as transportation, hospitalization, guards, room, and board."

30 **SECTION 4.**

31 Article 3 of Chapter 5 of Title 42 of the Official Code of Georgia Annotated, relating to
 32 conditions of detention generally, is amended by revising Code Section 42-5-54, relating to
 33 information from inmates relating to medical insurance, as follows:

34 "42-5-54.

35 (a) As used in this Code section, the term:

36 (1) 'Detention facility' means a state, county, or private prison, correctional institution,
 37 workcamp, or other ~~county detention~~ facility used for the detention of persons convicted
 38 of a felony or a misdemeanor, but shall not include a jail.

39 (2) 'Inmate' means a person who is lawfully detained in a detention facility by reason of
 40 being convicted of a felony or a misdemeanor ~~and who is insured under existing~~
 41 ~~individual health insurance, group health insurance, or prepaid medical care coverage or~~
 42 ~~is eligible for benefits under Article 7 of Chapter 4 of Title 49, the 'Georgia Medical~~
 43 ~~Assistance Act of 1977.'~~ Such term does not include any sentenced inmate who is the
 44 responsibility of the ~~Department of Corrections.~~

45 (3) 'Officer in charge' means the warden, captain, or superintendent or other person
 46 having the supervision of any detention facility.

47 (4) 'Medical care' means medical, dental, mental health, and optometry treatment,
 48 including physical or mental health therapy, prescribed medicine, professional services,
 49 and prosthesis, and all necessary and associated services incidental to treatment such as
 50 transportation, hospitalization, and security.

51 (b) The officer in charge or his or her designee may require an inmate to furnish the
 52 following information:

53 (1) The existence of any health insurance, group health plan, dental insurance,
 54 ophthalmological insurance, or prepaid medical care coverage under which the inmate
 55 is insured;

56 (2) The eligibility for benefits to which the inmate is entitled under Article 7 of Chapter
 57 4 of Title 49, the 'Georgia Medical Assistance Act of 1977';

58 (3) The name and address of the third-party payor; and

- 59 (4) The policy or other identifying number.
- 60 (c) The officer in charge will provide a sick, injured, or disabled inmate access to medical
61 services and may arrange for the inmate's health insurance carrier to pay the health care
62 provider for the medical services rendered.
- 63 (d) The liability for payment for medical care described under subsection (b) and (c) of
64 this Code section may not be construed as requiring payment by any person or entity,
65 except by an inmate personally or by his or her carrier through coverage or benefits
66 described under paragraph (1) of subsection (b) of this Code section or by or at the
67 direction of the Department of Community Health pursuant to paragraph (2) of such
68 subsection.
- 69 (e) If an inmate is not eligible for health insurance benefits, then the inmate shall be liable
70 for the costs of medical care provided to the inmate and the assets and property of such
71 inmate may be subject to levy and execution under court order to satisfy such costs. An
72 inmate's account maintained by the detention facility in excess of \$100.00 may be attached
73 for payment of medical care costs owed without a court order. An inmate in a detention
74 facility shall cooperate with the governing authority in seeking reimbursement under this
75 article for medical care expenses incurred by the governing authority for that inmate. An
76 inmate who willfully refuses to cooperate as provided in this Code section shall not receive
77 or be eligible to receive any good-time allowance or other reduction of time to be served.
- 78 (f)(1) An attorney for a governing authority may file a civil action to seek reimbursement
79 from an inmate for the costs of medical care provided to such inmate while incarcerated.
- 80 (2) A civil action brought under this article shall be instituted in the name of the officer
81 in charge and shall state the date and place of sentence, the medical care provided to such
82 inmate, and the amount or amounts due to the governing authority pursuant to this Code
83 section. The reimbursements secured under this Code section shall be credited to the
84 general fund of the governing authority to be available for general fund purposes. Any
85 action brought on behalf of a private detaining entity shall be considered an action on
86 behalf of the governing authority detention facility or officer in charge with whom such
87 private entity has contracted to house the inmate who is the subject of the civil action.
- 88 (3) If necessary to protect the governing authority's right to obtain reimbursement under
89 this article against the disposition of known property, the governing authority in the name
90 of the officer in charge may seek issuance of an ex parte restraining order to restrain the
91 inmate from disposing of the property pending a hearing on an order to show cause why
92 the particular property should not be applied to reimbursement of the governing authority
93 for the costs of medical care provided to the inmate.
- 94 (4) To protect and maintain the property pending resolution of the matter, the court, upon
95 request, may appoint a receiver.

96 (g) Before entering any order on behalf of the governing authority against the inmate, the
 97 court shall take into consideration any legal obligation of the inmate to support a spouse,
 98 minor children, or other dependents and any moral obligation to support dependents to
 99 whom the inmate is providing or has in fact provided support.

100 (h) The court may enter a money judgment against the inmate and may order that the
 101 inmate's property be liable for reimbursement for the costs of medical care provided to the
 102 inmate. Any order directing payment of an inmate's medical care cost shall survive against
 103 the estate of the inmate.

104 (i) The sentencing judge and the sheriff of any county in which an inmate's property is
 105 located shall furnish to the attorney for the governing authority all information and
 106 assistance possible to enable the attorney to secure reimbursement for the governing
 107 authority under this article.

108 ~~(e)~~(j) Nothing in this Code section shall be construed to relieve the governing authority,
 109 governmental unit, subdivision, or agency having the physical custody of an inmate from
 110 its responsibility to pay for any medical and hospital care rendered to such inmate
 111 regardless of whether such individual has been convicted of a crime."

112 **SECTION 5.**

113 Said Article is further amended by adding a new Code section as follows:

114 "42-5-55.1.

115 (a) As used in this Code section, the term:

116 (1) 'Cost of incarceration' means the costs associated with providing room, board,
 117 clothing, food, security, and other normal living expenses for an inmate but shall not
 118 include the costs of medical or mental health care expenses.

119 (2) 'Detention facility' means a state, county, municipal, or private correctional
 120 institution, workcamp, work release facility, detention center, jail, or other facility used
 121 for the detention of persons convicted of a felony or a misdemeanor.

122 (3) 'Inmate' means a person who is lawfully held in a detention facility by reason of
 123 being charged or convicted of a felony, misdemeanor, or municipal offense.

124 (4) 'Officer in charge' means a warden, superintendent, sheriff, or any person having
 125 authority to supervise a detention facility.

126 (b) A detention facility is authorized to establish an average per diem cost of incarceration
 127 in an amount not to exceed \$40.00 per day. Any inmate held in a detention facility shall
 128 be charged the per diem cost of incarceration for each 24 hour period of incarceration. An
 129 inmate shall be liable for the costs of incarceration.

130 (c) The costs and expenses provided for in this Code section may be collected upon release
131 of the inmate from the detention facility or biannually where the inmate remains in the
132 custody of a detention facility. Collection of cost of incarceration may be conducted:

133 (1) By deducting payment from an inmate's account maintained by the detention facility
134 from funds in the account exceeding \$100.00;

135 (2) By an attorney filing, in the name of the officer in charge on behalf of the governing
136 authority, a civil action to seek reimbursement from an inmate for the costs of
137 incarceration, thereby subjecting an inmate's assets and property to levy and execution
138 under court order; provided, however, before entering any order on behalf of the
139 governing authority against an inmate, the court may consider the inmate's ability to pay
140 and take into consideration any legal obligation of the inmate to support a spouse, minor
141 children, or other dependents and any moral obligation to support dependents to whom
142 the inmate is providing or has in fact provided support;

143 (3) If the inmate possesses any estate or becomes possessed of any estate, by petitioning,
144 in the name of the officer in charge, the court having jurisdiction of the detention facility
145 where the inmate is housed indicating there is good reason to believe the inmate has such
146 an estate and pray for the appointment of a guardian, if a guardian has not already been
147 so appointed, and pray the estate may be subjected to payment to the governing authority
148 of the reimbursement costs owed the governing authority. If it appears, upon a hearing,
149 that the inmate has an estate which ought to be subject to the claim of the governing
150 authority, the court shall make an order requiring the guardian of the estate to appropriate
151 and apply the estate or such part thereof, as may appear to be proper toward reimbursing
152 the government authority, to the payment of the cost of incarceration so far incurred by
153 the governing authority and a part thereof towards reimbursing the governing authority
154 for the future expenses which shall be incurred; and

155 (4) If the sentencing court sentences an inmate to credit for time served and does not
156 provide for any additional incarceration or provides for additional incarceration not to
157 exceed 6 months, by the sentencing court making a determination at the time of
158 sentencing whether the inmate shall be able and required to pay all or part of the costs of
159 incarceration, said determination shall include consideration of the provisions set forth
160 in paragraph (2) of this subsection and shall become a part of the final sentencing order.

161 (d) If necessary to protect the governing authority's right to obtain reimbursement under
162 this Code section against the disposition of known property, the governing authority may,
163 in the name of the officer in charge, seek issuance of an ex parte restraining order to
164 restrain the inmate from disposing of the property pending a hearing on an order to show
165 cause why the particular property should not be applied to reimbursement of the governing

166 authority for the costs of incarceration provided to the inmate. To protect and maintain the
167 property pending resolution of the matter, the court, upon request, may appoint a receiver.
168 (e) An inmate in a detention facility shall cooperate with the personnel of the detention
169 facility and governing authority in seeking reimbursement under this Code section for per
170 diem costs. An inmate who willfully refuses to cooperate as provided in this Code section
171 shall not receive or be eligible to receive any good-time allowance or other reduction of
172 time to be served.
173 (f) The sentencing judge and prosecutor responsible for the inmate's conviction and the
174 sheriff of any county in which an inmate's property is located shall furnish to the attorney
175 for the governing authority all information and assistance possible to enable the attorney
176 to secure reimbursement for the costs and expenses authorized by this Code section.
177 (g) A grant of parole or probation shall be conditioned on the payment of part or all
178 reimbursements owed under this Code section as determined by the authority granting
179 parole or providing probation.
180 (h) The reimbursements secured under this Code section shall be credited to the general
181 fund of the governing authority to be available for general fund purposes. Any action
182 brought on behalf of a private detaining entity and in the name of such private entity's
183 officer in charge, shall be considered an action on behalf of the governing authority,
184 detention facility, or officer in charge with whom such private entity has contracted to
185 house the inmate who is the subject of the civil action.
186 (i) The officer in charge may determine the amount due the detention facility under this
187 Code section and render a sworn statement thereof. Such a sworn statement shall be
188 admissible in court as direct evidence of the amount due.
189 (j) Nothing in this Code section shall be construed to relieve the governing authority, state,
190 officer in charge, or any person having the physical custody of an inmate from its
191 responsibility to pay for any medical and hospital care or costs of incarceration provided
192 to such inmate regardless of whether such individual has been convicted of a crime.
193 (k) Any order directing payment of all or a fair portion of an inmate's cost of incarceration
194 shall survive against the estate of the inmate.
195 (l) Nothing in this Code section shall be construed to relieve the inmate of any other court
196 ordered or statutorily required obligation to pay any expense, fine, fee, restitution, or other
197 costs or amounts. The costs provided for in this Code section shall be in addition to other
198 such costs and amounts; provided, however, that the total costs charged shall not exceed
199 actual costs incurred.
200 (m) If an inmate's conviction is subsequently overturned and a final order to that effect
201 entered, any moneys paid by an inmate pursuant to this Code section shall be returned by

202 the collecting governmental authority. The amount of funds returned shall include
203 reasonable interest charges, in an amount not exceeding 5 percent.
204 (n) The amounts owed by an inmate pursuant to this Article shall be automatically
205 deducted from any award, judgement, or taxes owed to such inmate by a governing
206 authority."

207 **SECTION 6.**

208 This Act shall become effective upon its approval by the Governor or upon its becoming law
209 without such approval.

210 **SECTION 7.**

211 All laws and parts of laws in conflict with this Act are repealed.