

COUNTY JAIL MEDICAL EXPENSES

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Bradley M. Daw

Senate Sponsor: Margaret Dayton

LONG TITLE

General Description:

This bill provides a standard for when jails are to provide medical care to prisoners and amends procedures for collecting medical expenses owed by an inmate.

Highlighted Provisions:

This bill:

- ▶ provides standards regarding when a sheriff is required to provide medical care to persons being held in the county jail;
- ▶ allows a county to seek reimbursement from an inmate for medical care in addition to any other outstanding costs the inmate owes to the county jail at the time of release;
- ▶ includes inmate medical care in the costs incurred by a county that the court may order be paid by the inmate to the county as restitution; and
- ▶ extends the time period when a county jail may make a claim against a current inmate for costs incurred during a prior incarceration from three years to 10 years.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17-22-8, as last amended by Laws of Utah 1993, Chapter 227

17-50-319, as last amended by Laws of Utah 2010, Chapter 366

30 76-3-201, as last amended by Laws of Utah 2010, Chapter 85



31
32 *Be it enacted by the Legislature of the state of Utah:*

33 Section 1. Section 17-22-8 is amended to read:

34 **17-22-8. Care of prisoners -- Funding of services -- Private contractor.**

35 (1) Except as provided in Subsection (3), the sheriff shall:

36 (a) receive all persons committed to jail by competent authority; [~~and~~]

37 (b) provide them with necessary food, clothing, and bedding in the manner prescribed
38 by the county legislative body[-]; and

39 (c) provide medical care when:

40 (i) the person's symptoms evidence a serious disease or injury;

41 (ii) the person's disease or injury is curable or may be substantially alleviated; and

42 (iii) the potential for harm to the person by reason of delay or the denial of medical
43 care would be substantial.

44 (2) The expense incurred in providing these services to prisoners shall be paid from the
45 county treasury, except as provided in Section 17-22-10.

46 (3) If the county executive contracts with a private contractor to provide the services
47 required by this section, the sheriff shall provide only those services required of him by the
48 contract between the county and the private contractor.

49 Section 2. Section 17-50-319 is amended to read:

50 **17-50-319. County charges enumerated.**

51 (1) County charges are:

52 (a) those incurred against the county by any law;

53 (b) the necessary expenses of the county attorney or district attorney incurred in
54 criminal cases arising in the county, and all other expenses necessarily incurred by the county
55 or district attorney in the prosecution of criminal cases, except jury and witness fees;

56 (c) [~~the~~] medical [needs] care as described in Section 17-22-8, and other expenses
57 necessarily incurred in the support of persons charged with or convicted of a criminal offense

58 and committed to the county jail, except as provided in Subsection (2);

59 (d) for a county not within the state district court administrative system, the sum
60 required by law to be paid jurors in civil cases;

61 (e) all charges and accounts for services rendered by any justice court judge for
62 services in the trial and examination of persons charged with a criminal offense not otherwise
63 provided for by law;

64 (f) the contingent expenses necessarily incurred for the use and benefit of the county;

65 (g) every other sum directed by law to be raised for any county purposes under the
66 direction of the county legislative body or declared a county charge;

67 (h) the fees of constables for services rendered in criminal cases;

68 (i) the necessary expenses of the sheriff and deputies incurred in civil and criminal
69 cases arising in the county, and all other expenses necessarily incurred by the sheriff and
70 deputies in performing the duties imposed upon them by law;

71 (j) the sums required by law to be paid by the county to jurors and witnesses serving at
72 inquests and in criminal cases in justice courts; and

73 (k) subject to Subsection (2), expenses incurred by a health care facility or provider in
74 providing medical services, treatment, hospitalization, or related transportation, at the request
75 of a county sheriff for:

76 (i) persons booked into a county jail on a charge of a criminal offense; or

77 (ii) persons convicted of a criminal offense and committed to a county jail.

78 (2) (a) Expenses described in Subsections (1)(c) and (1)(k) are a charge to the county
79 only to the extent that they exceed any private insurance in effect that covers those expenses.

80 (b) Subject to the priorities for payment under Subsection 64-13-30(1), the county may
81 collect costs of medical care, treatment, hospitalization, and related transportation provided to
82 the person described in Subsection (1)(k) who has the resources or the ability to pay.

83 (c) A county may seek reimbursement from a person described in Subsection (1)(k) for
84 expenses incurred by the county in behalf of the inmate for medical care, treatment,
85 hospitalization, or related transportation by:

86 (i) deducting the cost from the inmate's cash account on deposit with the detention
87 facility during the inmate's incarceration or during a subsequent incarceration if the subsequent
88 incarceration occurs within the same county and the incarceration is within [~~three~~] 10 years of
89 the date of the expense in behalf of the inmate; [~~or~~]

90 (ii) placing a lien for the amount of the expense against the inmate's personal property
91 held by the jail[-]; and

92 (iii) adding the amount of expenses incurred to any other amount owed by the inmate
93 to the jail upon the inmate's release, as allowed under Subsection 76-3-201(6)(a).

94 (d) An inmate who receives medical care, treatment, hospitalization, or related
95 transportation shall cooperate with the jail facility seeking payment or reimbursement under
96 this section for the inmate's expenses.

97 (e) If there is no contract between a county jail and a health care facility or provider
98 that establishes a fee schedule for medical services rendered, expenses under Subsection (1)(k)
99 shall be commensurate with:

100 (i) for a health care facility, the current noncapitated state Medicaid rates; and

101 (ii) for a health care provider, 65% of the amount that would be paid to the health care
102 provider:

103 (A) under the Public Employees' Benefit and Insurance Program, created in Section
104 49-20-103; and

105 (B) if the person receiving the medical service were a covered employee under the
106 Public Employees' Benefit and Insurance Program.

107 (f) Subsection (1)(k) does not apply to expenses of a person held at the jail at the
108 request of an agency of the United States.

109 (g) A county that receives information from the Public Employees' Benefit and
110 Insurance Program to enable the county to calculate the amount to be paid to a health care
111 provider under Subsection (2)(e)(ii) shall keep that information confidential.

112 Section 3. Section **76-3-201** is amended to read:

113 **76-3-201. Definitions -- Sentences or combination of sentences allowed -- Civil**

114 **penalties.**

115 (1) As used in this section:

116 (a) "Conviction" includes a:

117 (i) judgment of guilt; and

118 (ii) plea of guilty.

119 (b) "Criminal activities" means any offense of which the defendant is convicted or any

120 other criminal conduct for which the defendant admits responsibility to the sentencing court

121 with or without an admission of committing the criminal conduct.

122 (c) "Pecuniary damages" means all special damages, but not general damages, which a

123 person could recover against the defendant in a civil action arising out of the facts or events

124 constituting the defendant's criminal activities and includes the money equivalent of property

125 taken, destroyed, broken, or otherwise harmed, and losses including earnings and medical

126 expenses.

127 (d) "Restitution" means full, partial, or nominal payment for pecuniary damages to a

128 victim, and payment for expenses to a governmental entity for extradition or transportation and

129 as further defined in Title 77, Chapter 38a, Crime Victims Restitution Act.

130 (e) (i) "Victim" means any person who the court determines has suffered pecuniary

131 damages as a result of the defendant's criminal activities.

132 (ii) "Victim" does not include any coparticipant in the defendant's criminal activities.

133 (2) Within the limits prescribed by this chapter, a court may sentence a person

134 convicted of an offense to any one of the following sentences or combination of them:

135 (a) to pay a fine;

136 (b) to removal or disqualification from public or private office;

137 (c) to probation unless otherwise specifically provided by law;

138 (d) to imprisonment;

139 (e) on or after April 27, 1992, to life in prison without parole; or

140 (f) to death.

141 (3) (a) This chapter does not deprive a court of authority conferred by law to:

- 142 (i) forfeit property;
- 143 (ii) dissolve a corporation;
- 144 (iii) suspend or cancel a license;
- 145 (iv) permit removal of a person from office;
- 146 (v) cite for contempt; or
- 147 (vi) impose any other civil penalty.
- 148 (b) A civil penalty may be included in a sentence.
- 149 (4) (a) When a person is convicted of criminal activity that has resulted in pecuniary
- 150 damages, in addition to any other sentence it may impose, the court shall order that the
- 151 defendant make restitution to the victims, or for conduct for which the defendant has agreed to
- 152 make restitution as part of a plea agreement.
- 153 (b) In determining whether restitution is appropriate, the court shall follow the criteria
- 154 and procedures as provided in Title 77, Chapter 38a, Crime Victims Restitution Act.
- 155 (5) (a) In addition to any other sentence the court may impose, and unless otherwise
- 156 ordered by the court, the defendant shall pay restitution of governmental transportation
- 157 expenses if the defendant was:
- 158 (i) transported pursuant to court order from one county to another within the state at
- 159 governmental expense to resolve pending criminal charges;
- 160 (ii) charged with a felony or a class A, B, or C misdemeanor; and
- 161 (iii) convicted of a crime.
- 162 (b) The court may not order the defendant to pay restitution of governmental
- 163 transportation expenses if any of the following apply:
- 164 (i) the defendant is charged with an infraction or on a subsequent failure to appear a
- 165 warrant is issued for an infraction; or
- 166 (ii) the defendant was not transported pursuant to a court order.
- 167 (c) (i) Restitution of governmental transportation expenses under Subsection (5)(a)(i)
- 168 shall be calculated according to the following schedule:
- 169 (A) \$100 for up to 100 miles a defendant is transported;

170 (B) \$200 for 100 up to 200 miles a defendant is transported; and

171 (C) \$350 for 200 miles or more a defendant is transported.

172 (ii) The schedule of restitution under Subsection (5)(c)(i) applies to each defendant
173 transported regardless of the number of defendants actually transported in a single trip.

174 (d) If a defendant has been extradited to this state under Title 77, Chapter 30,
175 Extradition, to resolve pending criminal charges and is convicted of criminal activity in the
176 county to which he has been returned, the court may, in addition to any other sentence it may
177 impose, order that the defendant make restitution for costs expended by any governmental
178 entity for the extradition.

179 (6) (a) In addition to any other sentence the court may impose, and unless otherwise
180 ordered by the court pursuant to Subsection (6)(c), the defendant shall pay restitution to the
181 county for the cost of incarceration and costs of medical care provided to the defendant while
182 in the county correctional facility before and after sentencing if:

183 (i) the defendant is convicted of criminal activity that results in incarceration in the
184 county correctional facility; and

185 (ii) (A) the defendant is not a state prisoner housed in a county correctional facility
186 through a contract with the Department of Corrections; or

187 (B) the reimbursement does not duplicate the reimbursement provided under Section
188 64-13e-104 if the defendant is a state probationary inmate, as defined in Section 64-13e-102, or
189 a state parole inmate, as defined in Section 64-13e-102.

190 (b) (i) The costs of incarceration under Subsection (6)(a) are the amount determined by
191 the county correctional facility, but may not exceed the daily inmate incarceration costs and
192 medical and transportation costs for the county correctional facility.

193 (ii) The costs of incarceration under Subsection (6)(a) do not include expenses incurred
194 by the county correctional facility in providing reasonable accommodation for an inmate
195 qualifying as an individual with a disability as defined and covered by the federal Americans
196 with Disabilities Act of 1990, 42 U.S.C. 12101 through 12213, including medical and mental
197 health treatment for the inmate's disability.

198 (c) In determining whether to order that the restitution required under this Subsection
199 (6) be reduced or that the defendant be exempted from the restitution, the court shall consider
200 the criteria under Subsections 77-38a-302(5)(c)(i) through (iv) and shall enter the reason for its
201 order on the record.

202 (d) If on appeal the defendant is found not guilty of the criminal activity under
203 Subsection (6)(a)(i) and that finding is final as defined in Section 76-1-304, the county shall
204 reimburse the defendant for restitution the defendant paid for costs of incarceration under
205 Subsection (6)(a).