

HOUSE BILL 291

Introduced by Thomas

|      |  |
|------|--|
| 1/18 | Introduced                               |
| 1/19 | Referred to Judiciary                    |
| 1/20 | Fiscal Note Requested                    |
| 1/30 | Fiscal Note Received                     |
| 1/31 | Fiscal Note Printed                      |
| 2/02 | Hearing                                  |
| 2/09 | Tabled in Committee                      |
| 2/17 | Taken from Table by Committee            |
| 2/18 | Committee Report--Bill Passed as Amended |
| 2/20 | 2nd Reading Passed as Amended            |
| 2/21 | 3rd Reading Passed                       |

Transmitted to Senate

|      |                              |
|------|------------------------------|
| 2/28 | Referred to Local Government |
| 3/07 | Hearing                      |
|      | Died in Committee            |

1 House BILL NO. 291  
 2 INTRODUCED BY THOMAS

3  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING  
 5 RESPONSIBILITY FOR PAYMENT OF MEDICAL EXPENSES INCURRED BY A  
 6 PRISONER CONFINED IN A COUNTY JAIL; AND AMENDING SECTION  
 7 7-32-2222, MCA."  
 8

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

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

11 "7-32-2222. Health and safety of prisoners. (1) When a  
 12 county jail or building contiguous to it is on fire and  
 13 there is reason to believe that the prisoners may be injured  
 14 or endangered, the sheriff, jail administrator, or private  
 15 party jailer must remove them to a safe and convenient place  
 16 and there confine them in that place as long as it may be  
 17 necessary to avoid the danger.

18 (2) When a pestilence or contagious disease breaks out  
 19 in or near a jail and ~~the~~ a physician ~~thereof~~ certifies that  
 20 it is likely to endanger the health of the prisoners, the  
 21 district judge may by a written appointment designate a safe  
 22 and convenient place in the county or the jail in a  
 23 contiguous county as the place of their confinement. The  
 24 appointment must be filed in the office of the clerk and  
 25 authorize the sheriff, jail administrator, or private party

1 jailer to remove the prisoners to the designated place or  
 2 jail and there confine them in that place until they can be  
 3 safely returned to the jail from which they were taken.

4 (3) (a) If in the opinion of the sheriff, jail  
 5 administrator, or private party jailer any prisoner, while  
 6 detained, requires medication, medical services, or  
 7 hospitalization, the expense of the same medication, medical  
 8 services, or hospitalization shall be borne by the agency or  
 9 authority--at--whose--instance--the--prisoner--is--detained--when  
 10 the--agency--or--authority--is--not--the--county--wherein--the  
 11 prisoner--is--being--detained prisoner if he is financially  
 12 able to pay. The county attorney shall initiate proceedings  
 13 to collect from the prisoner any charges arising from such  
 14 the medication, medical services, or hospitalization for the  
 15 prisoner--involved--if--it--is--determined--the--prisoner--is  
 16 financially-able-to-pay.

17 (b) Upon receipt of a claim from the sheriff, jail  
 18 administrator, or private party jailer, the department of  
 19 justice shall pay the prisoner's medical expenses from funds  
 20 appropriated for this purpose if the prisoner is:

21 (i) financially unable to pay the medical expenses;  
 22 and  
 23 (ii) being detained for an alleged violation of state  
 24 law or incarcerated for a violation of state law."

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB291, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

This legislation would establish that responsibility for payment of medical expenses incurred by a prisoner confined in a county jail would be borne by those prisoners who are financially able to pay or by the Department of Justice for those who are unable to pay.

ASSUMPTIONS:

1. It is not possible to estimate local government expenditures for medical expenses for prisoners because data is not generally available. In FY88 four counties spent \$150,500 for medical expenses of prisoners in county jails (Cascade \$29,500; Gallatin \$18,000; Lewis & Clark \$25,000; and Yellowstone \$78,000).
2. There are 22,525 prisoner days per year in county jails and, based on an average stay of one week, it is assumed there are approximately 3,218 prisoners per year in county jails.
3. It is assumed that no more than 10% or approximately 322 prisoners would be able to pay their own medical expenses, leaving about 2,896 prisoners for whom the Dept. of Justice would be responsible.
5. County attorneys would be able to assume the additional workload of initiating proceedings to collect medical fees from prisoners determined financially able to pay.
6. It is not possible to accurately predict prisoner medical expenses which would be variable and could be sizeable.
7. Since there is no fund for this purpose in the Dept. of Justice, it is assumed that a significant general fund appropriation to the Dept. of Justice would be required to implement this legislation.

FISCAL IMPACT:

Expenditures:

Dept. of Justice

General Fund

Impossible to predict without additional research

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

County general fund expenditures for medical expenses of prisoners would decrease by an undetermined amount.

TECHNICAL NOTES:

1. The county attorney could have the workload for federal prisoners or persons detained for violations of municipal laws but held in the county jail as a result of the authority language being deleted (p. 2, lines 8 - 12) and no further clarification language being added.
2. Criteria defining "financially able to pay" or language that this is to be defined by rule might be helpful.
3. Possible conflict with Montana Supreme Court decision 88-91 which held counties to be responsible for these costs based in part upon 7-1-2101, 7-4-2716, and 7-32-2201, MCA.

*Ray Shackleford*

*1/28/89*

RAY SHACKLEFORD, BUDGET DIRECTOR  
OFFICE OF BUDGET AND PROGRAM PLANNING

DATE

*Fred Thomas*

*1-30-89*

FRED THOMAS, PRIMARY SPONSOR

DATE

Fiscal Note for HB291, as introduced

**HB 291**

APPROVED BY COMMITTEE  
ON JUDICIARY

HOUSE BILL NO. 291

INTRODUCED BY THOMAS

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING  
RESPONSIBILITY FOR PAYMENT OF MEDICAL EXPENSES INCURRED BY A  
PRISONER CONFINED IN A COUNTY JAIL; AND AMENDING SECTION  
7-32-2222, MCA."

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) When a  
county jail or building contiguous to it is on fire and  
there is reason to believe that the prisoners may be injured  
or endangered, the sheriff, jail administrator, or private  
party jailer must remove them to a safe and convenient place  
and there confine them in that place as long as it may be  
necessary to avoid the danger.

(2) When a pestilence or contagious disease breaks out  
in or near a jail and the a physician thereof certifies that  
it is likely to endanger the health of the prisoners, the  
district judge may by a written appointment designate a safe  
and convenient place in the county or the jail in a  
contiguous county as the place of their confinement. The  
appointment must be filed in the office of the clerk and  
authorize the sheriff, jail administrator, or private party

jailer to remove the prisoners to the designated place or  
jail and there confine them in that place until they can be  
safely returned to the jail from which they were taken.

(3) ~~to~~ If in the opinion of the sheriff, jail  
administrator, or private party jailer any prisoner, while  
detained, requires medication, medical services, or  
hospitalization, the expense of the same medication, medical  
services, or hospitalization shall be borne by the agency or  
authority--at--whose--instance--the--prisoner--is--detained--when  
the--agency--or--authority--is--not--the--county--wherein--the  
prisoner--is--being--detained prisoner if he is financially  
able to pay. The county attorney shall initiate proceedings  
to collect from the prisoner any charges arising from such  
the medication, medical services, or hospitalization for--the  
prisoner--involved--if--it--is--determined--the--prisoner--is  
financially--able--to--pay.

~~(b)--Upon--receipt--of--a--claim--from--the--sheriff,--jail  
administrator,--or--private--party--jailer,--the--department--of  
justice--shall--pay--the--prisoner's--medical--expenses--from--funds  
appropriated--for--this--purpose--if--the--prisoner--is:~~

~~(i)--financially--unable--to--pay--the--medical--expenses;  
and~~

~~(ii)--being--detained--for--an--alleged--violation--of--state  
law--or--incarcerated--for--a--violation--of--state--law;"~~

-End-

HOUSE BILL NO. 291

INTRODUCED BY THOMAS

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING RESPONSIBILITY FOR PAYMENT OF MEDICAL EXPENSES INCURRED BY A PRISONER CONFINED IN A COUNTY JAIL; AND AMENDING SECTION 7-32-2222, MCA."

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) When a county jail or building contiguous to it is on fire and there is reason to believe that the prisoners may be injured or endangered, the sheriff, jail administrator, or private party jailer must remove them to a safe and convenient place and there confine them in that place as long as it may be necessary to avoid the danger.

(2) When a pestilence or contagious disease breaks out in or near a jail and the a physician thereof certifies that it is likely to endanger the health of the prisoners, the district judge may by a written appointment designate a safe and convenient place in the county or the jail in a contiguous county as the place of their confinement. The appointment must be filed in the office of the clerk and authorize the sheriff, jail administrator, or private party

jailer to remove the prisoners to the designated place or jail and there confine them in that place until they can be safely returned to the jail from which they were taken.

(3) ~~fat~~ If in the opinion of the sheriff, jail administrator, or private party jailer any prisoner, while detained, requires medication, medical services, or hospitalization, the expense of the same medication, medical services, or hospitalization shall be borne by the ~~agency or authority--at--whose--instance--the--prisoner--is--detained--when--the--agency--or--authority--is--not--the--county--wherein--the--prisoner--is--being--detained~~ prisoner if he is financially able to pay. The county attorney shall initiate proceedings to collect from the prisoner any charges arising from such the medication, medical services, or hospitalization for the prisoner involved--if--it--is--determined--the--prisoner--is--financially--able--to--pay.

~~(b)--Upon--receipt--of--a--claim--from--the--sheriff,--jail--administrator,--or--private--party--jailer,--the--department--of--justice--shall--pay--the--prisoner's--medical--expenses--from--funds--appropriated--for--this--purpose--if--the--prisoner--is:~~

~~(i)--financially--unable--to--pay--the--medical--expenses, and (ii)--being--detained--for--an--alleged--violation--of--state--law--or--incarcerated--for--a--violation--of--state--law."~~

-End-