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Milk

SENATE BILL NO. *208*

INTRODUCED BY

Mason Clark, Lyleh Bergala, Dierker, Daniel R. Johnson, Jim Foster, Joanne

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS RELATING TO CONFINEMENT COSTS FOR INMATES, INCLUDING COSTS OF MEDICAL CARE; PROVIDING THAT THE BOARD OF COUNTY COMMISSIONERS MAY ESTABLISH THE RATE OF DAILY CREDIT FOR CONFINEMENT COSTS; AND AMENDING SECTIONS 7-32-2222, 7-32-2245, 46-18-403, AND 46-19-102, MCA." *HARP*

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) Each detention center ~~must~~ shall comply with state and local fire codes for correctional occupancy and with sanitation, safety, and health codes.

(2) Designated exits must permit prompt evacuation of inmates and detention center staff in an emergency.

(3) When there is good reason to believe that the inmates may be injured or endangered, the detention center administrator ~~must~~ shall remove them to a safe and convenient place and confine them there as long as necessary to avoid the danger.

(4) (a) If in the opinion of the detention center administrator an inmate under ~~his~~ the administrator's jurisdiction requires medication, medical services, or hospitalization, the expense must be borne by the arresting agency when the arresting agency is not the county in which the inmate is confined, except as provided in subsection (4)(b).

(b) If a city or town commits a person to the detention center of the county in which the city or town is located for a reason other than detention pending trial for or detention for service of a sentence for violating an ordinance of that city or town, the expense must be paid by the county. If the department of corrections and human services is the arresting agency and the inmate is a probation violator, the expense must be paid by the county in which the district court that retains jurisdiction over the inmate is located.

(c) The county attorney shall initiate proceedings to collect from the inmate any charges arising from the medical services or hospitalization for the inmate involved ~~if he determines the inmate is financially~~

1 ~~able to pay in accordance with 7-32-2245."~~

2
3 **Section 2.** Section 7-32-2245, MCA, is amended to read:

4 **"7-32-2245. Payment of confinement costs by inmate.** An inmate found by the sentencing court
5 to have the ability to pay is liable for the costs, including actual medical costs, of ~~his~~ the inmate's
6 confinement in a detention center. The rate for confinement costs ~~rate at which the inmate must pay the~~
7 ~~costs must be established at the sentencing hearing~~ must be determined in accordance with 46-18-403.
8 Confinement costs, other than actual medical costs, must be ordered by the court and must be paid in
9 advance of confinement and prior to payment of any fine."

10
11 **Section 3.** Section 46-18-403, MCA, is amended to read:

12 **"46-18-403. Credit for incarceration prior to conviction.** (1) Any person incarcerated on a bailable
13 offense and against whom a judgment of imprisonment is rendered ~~shall~~ must be allowed credit for each
14 day of incarceration prior to or after conviction, except that ~~in no case shall~~ the time allowed as a credit
15 may not exceed the term of the prison sentence rendered.

16 (2) Any person incarcerated on a bailable offense who does not supply bail and against whom a
17 fine is levied on conviction of the offense ~~shall~~ must be allowed a credit ~~of \$25~~ for each day ~~incarcerated~~
18 of incarceration prior to conviction, except that ~~in no case shall~~ the amount allowed or credited may not
19 exceed the amount of the fine. The daily rate of credit for incarceration must be established annually by
20 the board of county commissioners by resolution. The daily rate must be equal to the actual cost incurred
21 by the detention facility for which the rate is established."

22
23 **Section 4.** Section 46-19-102, MCA, is amended to read:

24 **"46-19-102. Execution of a fine.** (1) If the judgment is for a fine alone, execution may issue
25 ~~thereon~~ on the judgment as on a judgment in a civil case.

26 (2) If the judgment is for a fine and imprisonment until the fine is paid, the defendant must be
27 committed to the custody of the proper officer and detained ~~until the judgment is complied with. The~~
28 ~~imprisonment must not exceed 1 day for every \$25 of the fine~~ and allowed a credit for each day of
29 incarceration as provided in 46-18-403."

30 -END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0208, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act revising the laws relating to confinement costs for inmates, including costs of medical care.

ASSUMPTIONS:

Department of Corrections and Human Services:


1. This bill will not affect the existing interlocal agreements between the Department of Corrections and Human Services (DCHS) and the counties for the daily rate for incarceration.
2. Probation violators will continue to be the responsibility of the counties.
3. Based upon assumptions 1 and 2, there is no fiscal impact for DCHS.

Department of Justice:

4. The Highway Patrol Division does not track and is unable to determine the costs currently recovered by the county attorneys. Experience indicates that those who are incarcerated are generally unable to pay their confinement costs and do not carry medical insurance to pay for injury or illness.
5. Under present law, daily incarceration rates for Highway Patrol prisoners are negotiated in contract between each county and the Department of Justice. The contracts are negotiated for a two-year period and are presently under renegotiation. This bill will not affect the incarceration rates negotiated with each county and will not affect any other terms of interlocal contracts for county detention services.
6. Based upon assumptions 4 and 5, the bill will have no fiscal impact on the Department of Justice.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

The bill may result in an increased recovery of medical expenses from inmates found to have the ability to pay. The bill also may reduce the term of incarceration for inmates receiving credit against fines because the daily rate for credit purposes can be equal to the actual cost incurred by the detention facility. The amount of recovery and reduced incarceration costs, if any, is not subject to reasonable estimate based upon available information.


DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning


KEN MESAROS, PRIMARY SPONSOR DATE

Fiscal Note for SB0208, as introduced

SB208

1 SENATE BILL NO. 208

2 INTRODUCED BY MESAROS, CLARK, LYNCH, TROPILA, MILLS, QUILICI, HERTEL, R. JOHNSON,
3 SIMON, FOSTER, TOEWS, HARP

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS RELATING TO CONFINEMENT
6 COSTS FOR INMATES, INCLUDING COSTS OF MEDICAL CARE; PROVIDING THAT THE BOARD OF
7 COUNTY COMMISSIONERS MAY ESTABLISH THE RATE OF DAILY CREDIT FOR CONFINEMENT COSTS;
8 ~~AND~~ AMENDING SECTIONS 7-32-2222, 7-32-2242, 7-32-2245, 46-18-403, AND 46-19-102, MCA; ~~AND~~
9 PROVIDING AN IMMEDIATE EFFECTIVE DATE."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12
13 **Section 1.** Section 7-32-2222, MCA, is amended to read:

14 **"7-32-2222. Health and safety of prisoners.** (1) Each detention center ~~must~~ shall comply with
15 state and local fire codes for correctional occupancy and with sanitation, safety, and health codes.

16 (2) Designated exits must permit prompt evacuation of inmates and detention center staff in an
17 emergency.

18 (3) When there is good reason to believe that the inmates may be injured or endangered, the
19 detention center administrator ~~must~~ shall remove them to a safe and convenient place and confine them
20 there as long as necessary to avoid the danger.

21 (4) (a) If in the opinion of the detention center administrator an inmate under ~~his~~ the administrator's
22 jurisdiction requires medication, medical services, or hospitalization, the expense must be borne by the
23 arresting agency when the arresting agency is not the county in which the inmate is confined, except as
24 provided in 7-32-2245 OR subsection (4)(b) OF THIS SECTION.

25 (b) If a city or town commits a person to the detention center of the county in which the city or
26 town is located for a reason other than detention pending trial for or detention for service of a sentence
27 for violating an ordinance of that city or town, the expense must be paid by the county, EXCEPT AS
28 PROVIDED IN 7-32-2245. If the department of corrections and human services is the arresting agency and
29 the inmate is a probation violator, the expense must be paid by the county in which the district court that
30 retains jurisdiction over the inmate is located, EXCEPT AS PROVIDED IN 7-32-2245.

1 (c) The county attorney shall initiate proceedings to collect from the inmate any charges arising
 2 from the medical services or hospitalization for the inmate involved ~~if he determines the inmate is financially~~
 3 ~~able to pay~~ in accordance with 7-32-2245."

4
 5 **SECTION 2. SECTION 7-32-2242, MCA, IS AMENDED TO READ:**

6 **"7-32-2242. Use of detention center -- payment of costs.** (1) Local government, state, and federal
 7 law enforcement and correctional agencies may use any detention center for the confinement of arrested
 8 persons and the punishment of offenders, under conditions imposed by law and with the consent of the
 9 governing body responsible for the detention center.

10 (2) (a) If a person is confined in a detention center by an arresting agency not responsible for the
 11 operation of the detention center, the costs of holding the person in confinement must be paid by the
 12 arresting agency at a rate that is agreed upon by the arresting agency and the detention center and that
 13 covers the reasonable costs of confinement, excluding capital construction costs, except as provided in
 14 7-32-2245 or subsection (2)(b) of this section.

15 (b) If a city or town commits a person to the detention center of the county in which the city or
 16 town is located for a reason other than detention pending trial for or detention for service of a sentence
 17 for violating an ordinance of that city or town, the costs must be paid by the county, except as provided
 18 in 7-32-2245. If the department of corrections and human services is the arresting agency and the inmate
 19 is a probation violator, the costs must be paid by the county in which the district court that retains
 20 jurisdiction over the inmate is located, except as provided in 7-32-2245.

21 (c) Payments must be made to the government unit responsible for the detention center or to the
 22 administrator operating a private detention center under an agreement provided for in 7-32-2201, upon
 23 presentation of a claim to the arresting agency.

24 (3) If a person is a fugitive from justice from an out-of-state jurisdiction, the costs, including
 25 medical expenses, of holding the person in a detention center pending extradition must be paid by the
 26 out-of-state jurisdiction."

27
 28 **Section 3. Section 7-32-2245, MCA, is amended to read:**

29 **"7-32-2245. Payment of ~~confinement~~ costs by inmate.** (1) An inmate found by the sentencing
 30 court to have the ability to pay is liable for the costs, including actual medical costs, of ~~his~~ the inmate's

1 confinement in a detention center. ~~The rate for confinement costs rate at which the inmate must pay the~~
 2 ~~costs must be established at the sentencing hearing~~ must be determined in accordance with 46-18-403.
 3 Confinement costs, other than actual medical costs, must be ordered by the court and must be paid in
 4 advance of confinement and prior to payment of any fine.

5 (2) AN INMATE IS RESPONSIBLE FOR THE ACTUAL COSTS OF MEDICATION, MEDICAL
 6 SERVICES, OR HOSPITALIZATION WHILE THE INMATE IS DETAINED IN A DETENTION CENTER.
 7 INABILITY TO PAY MAY NOT BE A FACTOR IN PROVIDING NECESSARY MEDICAL CARE FOR AN
 8 INMATE. THIS SECTION DOES NOT RESTRICT AN INMATE'S RIGHT TO USE A THIRD-PARTY PAYOR."

9
 10 **Section 4.** Section 46-18-403, MCA, is amended to read:

11 **"46-18-403. Credit for incarceration prior to conviction.** (1) Any person incarcerated on a bailable
 12 offense and against whom a judgment of imprisonment is rendered ~~shall~~ must be allowed credit for each
 13 day of incarceration prior to or after conviction, except that ~~in no case shall~~ the time allowed as a credit
 14 may not exceed the term of the prison sentence rendered.

15 (2) Any person incarcerated on a bailable offense who does not supply bail and against whom a
 16 fine is levied on conviction of the offense ~~shall~~ must be allowed a credit ~~of \$25~~ for each day ~~incarcerated~~
 17 of incarceration prior to conviction, except that ~~in no case shall~~ the amount allowed or credited may not
 18 exceed the amount of the fine. The daily rate of credit for incarceration must be established annually by
 19 the board of county commissioners by resolution. The daily rate must be equal to the actual cost incurred
 20 by the detention facility for which the rate is established."

21
 22 **Section 5.** Section 46-19-102, MCA, is amended to read:

23 **"46-19-102. Execution of a fine.** (1) If the judgment is for a fine alone, execution may issue
 24 ~~thereon~~ on the judgment as on a judgment in a civil case.

25 (2) If the judgment is for a fine and imprisonment until the fine is paid, the defendant must be
 26 committed to the custody of the proper officer and detained ~~until the judgment is complied with.~~ The
 27 imprisonment must not exceed 1 day for every \$25 of the fine and allowed a credit for each day of
 28 incarceration as provided in 46-18-403."

29
 30 **NEW SECTION. SECTION 6. EFFECTIVE DATE. [THIS ACT] IS EFFECTIVE ON PASSAGE AND**

1 APPROVAL.

2

-END-

SENATE BILL NO. 208

INTRODUCED BY MESAROS, CLARK, LYNCH, TROPILA, MILLS, QUILICI, HERTEL, R. JOHNSON,
SIMON, FOSTER, TOEWS, HARP

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS RELATING TO CONFINEMENT COSTS FOR INMATES, INCLUDING COSTS OF MEDICAL CARE; PROVIDING THAT THE BOARD OF COUNTY COMMISSIONERS MAY ESTABLISH THE RATE OF DAILY CREDIT FOR CONFINEMENT COSTS; AND AMENDING SECTIONS 7-32-2222, 7-32-2242, 7-32-2245, 46-18-403, AND 46-19-102, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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) Each detention center ~~must~~ shall comply with state and local fire codes for correctional occupancy and with sanitation, safety, and health codes.

(2) Designated exits must permit prompt evacuation of inmates and detention center staff in an emergency.

(3) When there is good reason to believe that the inmates may be injured or endangered, the detention center administrator ~~must~~ shall remove them to a safe and convenient place and confine them there as long as necessary to avoid the danger.

(4) (a) If in the opinion of the detention center administrator an inmate under ~~his~~ the administrator's jurisdiction requires medication, medical services, or hospitalization, the expense must be borne by the arresting agency when the arresting agency is not the county in which the inmate is confined, except as provided in 7-32-2245 OR subsection (4)(b) OF THIS SECTION.

(b) If a city or town commits a person to the detention center of the county in which the city or town is located for a reason other than detention pending trial for or detention for service of a sentence for violating an ordinance of that city or town, the expense must be paid by the county, EXCEPT AS PROVIDED IN 7-32-2245. If the department of corrections and human services is the arresting agency and the inmate is a probation violator, the expense must be paid by the county in which the district court that retains jurisdiction over the inmate is located, EXCEPT AS PROVIDED IN 7-32-2245.

1 (c) The county attorney shall initiate proceedings to collect from the inmate any charges arising
 2 from the medical services or hospitalization for the inmate involved ~~if he determines the inmate is financially~~
 3 ~~able to pay~~ in accordance with 7-32-2245."

4
 5 **SECTION 2. SECTION 7-32-2242, MCA, IS AMENDED TO READ:**

6 "7-32-2242. **Use of detention center -- payment of costs.** (1) Local government, state, and federal
 7 law enforcement and correctional agencies may use any detention center for the confinement of arrested
 8 persons and the punishment of offenders, under conditions imposed by law and with the consent of the
 9 governing body responsible for the detention center.

10 (2) (a) If a person is confined in a detention center by an arresting agency not responsible for the
 11 operation of the detention center, the costs of holding the person in confinement must be paid by the
 12 arresting agency at a rate that is agreed upon by the arresting agency and the detention center and that
 13 covers the reasonable costs of confinement, excluding capital construction costs, except as provided in
 14 7-32-2245 or subsection (2)(b) of this section.

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 16 town is located for a reason other than detention pending trial for or detention for service of a sentence
 17 for violating an ordinance of that city or town, the costs must be paid by the county, except as provided
 18 in 7-32-2245. If the department of corrections and human services is the arresting agency and the inmate
 19 is a probation violator, the costs must be paid by the county in which the district court that retains
 20 jurisdiction over the inmate is located, except as provided in 7-32-2245.

21 (c) Payments must be made to the government unit responsible for the detention center or to the
 22 administrator operating a private detention center under an agreement provided for in 7-32-2201, upon
 23 presentation of a claim to the arresting agency.

24 (3) If a person is a fugitive from justice from an out-of-state jurisdiction, the costs, including
 25 medical expenses, of holding the person in a detention center pending extradition must be paid by the
 26 out-of-state jurisdiction."

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 28 **Section 3. Section 7-32-2245, MCA, is amended to read:**

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5 (2) AN INMATE IS RESPONSIBLE FOR THE ACTUAL COSTS OF MEDICATION, MEDICAL
 6 SERVICES, OR HOSPITALIZATION WHILE THE INMATE IS DETAINED IN A DETENTION CENTER.
 7 INABILITY TO PAY MAY NOT BE A FACTOR IN PROVIDING NECESSARY MEDICAL CARE FOR AN
 8 INMATE. THIS SECTION DOES NOT RESTRICT AN INMATE'S RIGHT TO USE A THIRD-PARTY PAYOR."
 9

10 **Section 4.** Section 46-18-403, MCA, is amended to read:

11 **"46-18-403. Credit for incarceration prior to conviction.** (1) Any person incarcerated on a bailable
 12 offense and against whom a judgment of imprisonment is rendered ~~shall~~ must be allowed credit for each
 13 day of incarceration prior to or after conviction, except that ~~in no case shall~~ the time allowed as a credit
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 19 the board of county commissioners by resolution. The daily rate must be equal to the actual cost incurred
 20 by the detention facility for which the rate is established."
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22 **Section 5.** Section 46-19-102, MCA, is amended to read:

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 24 ~~thereon on the judgment~~ as on a judgment in a civil case.

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 26 committed to the custody of the proper officer and detained ~~until the judgment is complied with. The~~
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30 NEW SECTION. SECTION 6. EFFECTIVE DATE. [THIS ACT] IS EFFECTIVE ON PASSAGE AND

1 APPROVAL.

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-END-

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 25 medical expenses, of holding the person in a detention center pending extradition must be paid by the
 26 out-of-state jurisdiction."

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 30 court to have the ability to pay is liable for the costs, including actual medical costs, of ~~the~~ the inmate's

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 8 INMATE. THIS SECTION DOES NOT RESTRICT AN INMATE'S RIGHT TO USE A THIRD-PARTY PAYOR."

9
 10 **Section 4.** Section 46-18-403, MCA, is amended to read:

11 **"46-18-403. Credit for incarceration prior to conviction.** (1) Any person incarcerated on a bailable
 12 offense and against whom a judgment of imprisonment is rendered ~~shall~~ must be allowed credit for each
 13 day of incarceration prior to or after conviction, except that ~~in no case shall~~ the time allowed as a credit
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 20 by the detention facility for which the rate is established."

21
 22 **Section 5.** Section 46-19-102, MCA, is amended to read:

23 **"46-19-102. Execution of a fine.** (1) If the judgment is for a fine alone, execution may issue
 24 ~~thereon~~ on the judgment as on a judgment in a civil case.

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 26 committed to the custody of the proper officer and detained ~~until the judgment is complied with.~~ The
 27 ~~imprisonment must not exceed 1 day for every \$25 of the fine~~ and allowed a credit for each day of
 28 incarceration as provided in 46-18-403."

29
 30 **NEW SECTION. SECTION 6. EFFECTIVE DATE. [THIS ACT] IS EFFECTIVE ON PASSAGE AND**

1 APPROVAL.

2

-END-