

ASSEMBLY, No. 256

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblyman GARCIA

1 AN ACT concerning the costs of incarceration in county correctional  
2 facilities and supplementing chapter 8 of Title 30 of the Revised  
3 Statutes.

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5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

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8 1. Except as provided in P.L. 1995, c.254, each person sentenced  
9 to imprisonment, or ordered to pretrial or investigative detention, in  
10 a county correctional facility shall be liable for the total amount the  
11 county actually expends for that person's custody, care and  
12 maintenance during incarceration.

13 The amount so due from each inmate shall be determined on a per  
14 capita cost rate by the county treasurer; provided, however, that the  
15 amount so determined shall not exceed the actual, certifiable cost  
16 incurred by the county in providing for the custody, care and  
17 maintenance of that inmate.

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19 2. Regardless of whether the county correctional facility is  
20 operated and administered under the provisions of R.S.30:8-17 or  
21 R.S.30:8-19, the county wherein the inmate was incarcerated shall  
22 have a lien against the property and income of that inmate for the total  
23 amount actually expended by the county in providing for the inmate's  
24 custody, care and maintenance in the county correctional facility. The  
25 lien when properly filed as set forth herein shall have priority over all  
26 unrecorded encumbrances.

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28 3. The lien shall be in the form prescribed by law and shall contain  
29 the name of the inmate, date of the inmate's incarceration, the per  
30 capita cost rate for the inmate's incarceration, and the total amount  
31 due the county on the date of the filing of the lien, together with  
32 notice of the rate of accumulation of that amount due thereafter, if

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 applicable. The lien shall be signed by the county treasurer, or the  
2 treasurer's duly authorized agent. Nothing herein shall preclude the  
3 county from recovering any amounts it has expended for custody, care  
4 and maintenance of an inmate, but not covered by a lien.

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6 4. The lien shall be filed with the clerk of the county or the register  
7 of deeds and mortgages, as the case may be, and shall immediately  
8 attach to and become binding upon all real property in the ownership  
9 of the inmate in the county wherein the lien is filed and shall have the  
10 force and effect of a money judgment of the Superior Court.

11 If it is believed that the inmate is the owner of real property within  
12 the State, but the exact location of that property is not known, then  
13 the lien may be filed with the clerk of the Superior Court and shall  
14 become binding upon all real property of the inmate wherever situate  
15 within the State.

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17 5. If it is found that any inmate is possessed of any goods, rights,  
18 credits, chattels, moneys or effects which are held by any person, firm  
19 or corporation for the present or subsequent use of that inmate, then  
20 the lien, or a notice thereof, may be forwarded by registered mail to  
21 that person, firm or corporation and shall become binding upon any  
22 property rights so held. The person, firm or corporation shall  
23 thereafter be precluded from disposing of the property rights until the  
24 lien is satisfied or until the holder of the lien consents thereto.

25 Any person, firm or corporation disposing of any such property or  
26 moneys after receipt of notice of a lien authorized under this act shall  
27 be liable to the county for the value of the property or moneys so  
28 disposed; provided, however, that when the corporation served notice  
29 pursuant to this section is a banking institution, the lien shall be  
30 effective only in the amount set forth in that notice.

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32 6. The clerk of the county, register of deeds and mortgages, or  
33 clerk of the Superior Court, as the case may be, shall provide suitable  
34 books in which shall be entered the liens filed pursuant to this act. All  
35 such entries shall be properly indexed in the name of the inmate.

36 All liens, and any related documentation which may be required,  
37 shall be received and recorded by the clerk of the county, register of  
38 deeds and mortgages, or clerk of the Superior Court, as the case may  
39 be, without fee.

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41 7. To discharge any lien filed under the provisions of this act, the  
42 county treasurer, or the treasurer's duly authorized agent, shall file  
43 with the clerk of the county, the register or deeds and mortgages, or  
44 clerk of the Superior Court, as the case may be, a duly acknowledged  
45 certificate setting forth the fact that the county desires to discharge the  
46 lien of record.

1 The governing body of the county, by ordinance or resolution, as  
2 appropriate, may authorize the county treasurer to compromise for  
3 settlement any lien filed under the provisions of this act for the total  
4 amount due the county for the custody, care and maintenance provided  
5 during an inmate's incarceration. Any such ordinance or resolution  
6 shall provide that a memorandum of the compromise and settlement  
7 signed by the county treasurer shall be sufficient authorization for a  
8 complete discharge of the lien.

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10 8. Any person desiring to secure immediate discharge of any lien  
11 filed under the provisions of this act may deposit with the court either  
12 an amount of cash sufficient to cover the amount of the lien or may  
13 post a bond in a proper amount and with sureties approved by the  
14 court. Upon proper notice being given to the county treasurer, a  
15 satisfaction of the lien shall be filed with the clerk of the county or the  
16 register of deeds and mortgages, as the case may be.

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18 9. a. Nothing in R.S.30:8-17 concerning a sheriff's responsibility  
19 to provide for the care and custody of the prisoners in a jail under the  
20 sheriff's control shall be construed to prohibit, restrict or otherwise  
21 hinder the county from making an inmate liable for the actual amounts  
22 the county expended in providing for the custody, care and  
23 maintenance of that inmate during the inmate's incarceration, as  
24 provided in section 1 of P.L. , c. (C. )(now pending before the  
25 Legislature as this bill) or, to ensure the payment of those amounts,  
26 the county from placing a lien against the property and income of that  
27 inmate, in accordance with the provisions of sections 2 through 8 of  
28 P.L. , c. (C. )(now pending before the Legislature as this bill).

29 b. Nothing in R.S.30:8-18 concerning the county governing body's  
30 responsibility to provided for the custody and care of the inmates in a  
31 jail under its control shall be construed to prohibit, restrict or  
32 otherwise hinder the county from making an inmate liable for the  
33 actual amounts the county expended in providing for the custody, care  
34 and maintenance of that inmate during the inmate's incarceration, as  
35 provided in section 1 of P.L. , c. (C. )(now pending before the  
36 Legislature as this bill) or, to ensure the payment of those amounts,  
37 the county from placing a lien against the property and income of that  
38 inmate, in accordance with the provisions of sections 2 through 8 of  
39 P.L. , c. (C. )(now pending before the Legislature as this bill).

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41 10. Section 13 of P.L.1993, c.220 (C.2C:46-4.1) is amended to  
42 read as follows:

43 13. Moneys that are collected in satisfaction of any assessment  
44 imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1), or  
45 section 1 of P.L. 1995, c. (now pending befor the Legislature as this  
46 bill), or in satisfaction of restitution or fines imposed in accordance

1 with the provisions of Title 2C of the New Jersey Statutes, shall be  
2 applied in the following order:

3 a. first, in satisfaction of all assessments imposed pursuant to  
4 section 2 of P.L.1979, c.396 (C.2C:43-3.1);

5 b. second, in satisfaction of any restitution ordered;

6 c. third, in satisfaction of all assessments imposed pursuant to  
7 section 11 of P.L. c. (C. )(now pending in the Legislature as this  
8 bill).

9 d. fourth, in satisfaction of any forensic laboratory fee assessed  
10 pursuant to N.J.S.2C:35-20;

11 e. fifth, in satisfaction of any mandatory Drug Enforcement and  
12 Demand Reduction penalty assessed pursuant to N.J.S.2C:35-15;  
13 [and]

14 f. sixth, in satisfaction of any fine;

15 g. seventh, in satisfaction of any amounts assessed for custody,  
16 care and maintenance pursuant to section 1 of P.L. 1995, c. (Now  
17 pending before the Legislature as this bill), or any amounts assessed  
18 for any medical care, surgery, dental care, hospitalization or treatment  
19 pursuant to P.L.1995, c.254, which are unpaid at the time of release.  
20 (cf: P.L.1991, c.329, s.13)

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22 11. This act shall take effect on the first day of the fourth month  
23 following enactment.

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#### STATEMENT

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28 This bill would permit counties to charge persons sentenced to  
29 imprisonment, or ordered to pretrial or investigative detention, in the  
30 county correctional facility for the costs of their incarceration.

31 Under the provisions of the bill, the county treasurer is to  
32 determine, on a per capita cost rate, the amount due from each inmate.  
33 The bill specifies, however, that the amount so determined may not  
34 exceed the actual, certifiable cost incurred by the county in providing  
35 for the custody, care and maintenance of the inmate.

36 To ensure that these charges are collected, the bill authorizes the  
37 counties to place liens against the property and income of the inmates  
38 who are assessed custody, care and maintenance charges. The bill sets  
39 forth the procedures for filing and discharging these liens, including a  
40 provision that grants county governing bodies the authority to agree  
41 to compromises for the settlement of any inmate lien. The bill also  
42 provides that these inmate liens have priority over all other unrecorded  
43 encumbrances.

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- 1 Authorizes counties to charge inmates for costs of incarceration and
- 2 to place a lien to ensure payment.