

ASSEMBLY, No. 1823

STATE OF NEW JERSEY

INTRODUCED MAY 2, 1996

By Assemblyman O'TOOLE

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. Each person sentenced to imprisonment, or ordered to pretrial
9 or investigative detention, in a county correctional facility shall be
10 liable for the amount the county expends for that inmate's custody,
11 care and maintenance during incarceration.

12 The amount due and payable from each inmate pursuant to this
13 section shall be determined by the county treasurer. In making his
14 determination, the treasurer shall calculate the per capita cost of
15 providing for an inmate's custody, care and maintenance in the county
16 correctional facility and shall establish a graduated schedule setting
17 forth the percentage of that per capita cost due and payable by an
18 inmate based upon that inmate's ability to pay. In no case shall the
19 amount the county treasurer determines to be due and payable by an
20 inmate pursuant to this section exceed the actual, certifiable cost
21 incurred by the county in providing for the custody, care and
22 maintenance of that inmate.

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24 2. Regardless of whether the county correctional facility is
25 operated and administered under the provisions of R.S.30:8-17 or
26 R.S.30:8-19, the county wherein the inmate was incarcerated shall
27 have a lien against the property and income of that inmate for the total
28 amount determined by the county treasurer, pursuant to section 1 of
29 this act, to be due and payable by the inmate for the costs incurred by
30 the county in providing for the custody, care and maintenance of that
31 inmate. The lien when properly filed as set forth herein shall have
32 priority over all unrecorded encumbrances.

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34 3. The lien shall be in the form prescribed by law and shall contain
35 the name of the inmate, date of the inmate's incarceration, the per
36 capita cost rate for the inmate's incarceration, and the total amount
37 due the county on the date of the filing of the lien, together a with

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

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

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

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

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

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

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

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

1 lien of record.

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

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

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

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

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42 10. This act shall take effect on the first day of the fourth month
43 following enactment.

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STATEMENT

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

Under the provisions of the bill, the county treasurer is to determine the amount each inmate is to be charged. To make that determination, the treasurer is to calculate, on a per capita basis, the cost of providing for the custody, care and maintenance of inmates in the county correctional facility and to establish a graduated schedule setting forth the percentage of that per capita cost each inmate is to be charged based upon his ability to pay. The bill specifies, however, that the amount so determined by the treasurer may not exceed the actual certifiable cost the county incurs in providing for the inmate's custody, care and maintenance in its correctional facility.

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

Authorizes counties to charge inmates incarceration costs on a sliding scale and to place a lien to ensure payment.