

[First Reprint]

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, Nos. 1823 and 2390

STATE OF NEW JERSEY

ADOPTED DECEMBER 16, 1996

Sponsored by Assemblymen O'TOOLE, ZECKER,
WEINGARTEN, Bateman, Dalton and Gregg

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

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. ¹a.¹ A person sentenced to imprisonment or ordered to pretrial
9 or investigative detention in a county correctional facility or held in a
10 municipal detention facility shall be liable for the amount the county
11 or municipality expends for that inmate's or detainee's custody, care
12 and maintenance during incarceration or detention; provided, however,
13 that in the case of pretrial or investigative detention or detention in a
14 municipal facility, the detainee shall be liable only if found guilty of
15 ¹[the offense for which he was detained] a crime, offense or violation¹.

16 ¹b.¹ If a county or municipality chooses to exercise its authority
17 to charge inmates and detainees for the costs associated with their
18 incarceration or detention, the amount due and payable from each
19 inmate or detainee pursuant to this section shall be determined by ¹one
20 of the following methods adopted by the governing body of the
21 county or municipality, as the case may be, by ordinance or resolution,
22 as appropriate:

23 (1) A determination made by¹ the county treasurer or authority
24 responsible for administering the municipal detention facility, as the
25 case may be. In making the determination, the treasurer or municipal
26 authority shall calculate the per capita cost of providing for an inmate's

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly floor amendments adopted March 13, 1997.

1 or detainee's custody, care and maintenance in the county correctional
2 facility or municipal detention facility and shall establish a graduated
3 schedule setting forth the percentage of that per capita cost due and
4 payable by the inmate or detainee based upon that inmate's or
5 detainee's ability to pay. In no case shall the amount the county
6 treasurer or municipal authority determines to be due and payable by
7 an inmate or detainee pursuant to this ¹[section] paragraph¹ exceed the
8 actual, certifiable cost incurred by the county in providing for the
9 custody, care and maintenance of that inmate or detainee. The
10 determinations and schedules authorized under this paragraph shall be
11 established by the county treasurer or municipal authority, as the case
12 may be, in consultation with the county adjuster.

13 ¹(2) A nominal fee determined by the county treasurer or authority
14 responsible for administering the municipal detention facility, as the
15 case may be. The treasurer or municipal authority shall make this
16 determination in accordance with guidelines promulgated by the
17 county adjuster. In no case shall the nominal fee the county treasurer
18 or municipal authority determines to be due and payable by an inmate
19 or detainee pursuant to this paragraph exceed the actual, certifiable
20 cost incurred by the county in providing for the custody, care and
21 maintenance of that inmate or detainee.¹

22
23 2. The county wherein the inmate is incarcerated, regardless of
24 whether the county correctional facility is operated and administered
25 under the provisions of R.S.30:8-17 or R.S.30:8-19, and the
26 municipality wherein the detainee is detained ¹[shall] may¹ have a lien
27 against the property and income of that inmate or detainee for the total
28 amount determined by the county treasurer or municipal authority
29 pursuant to section 1 of this act, to be due and payable by the inmate
30 or detainee for the costs incurred by the county or municipality in
31 providing for the custody, care and maintenance of that inmate or
32 detainee. The lien when properly filed as set forth herein shall have
33 priority over all unrecorded encumbrances.

34
35 3. The lien shall be in the form prescribed by law and shall contain
36 the name of the inmate or detainee, date of the inmate or detainee's
37 incarceration, the per capita cost rate for the inmate or detainee's
38 incarceration and the total amount due the county or municipality, as
39 the case may be, on the date of the filing of the lien, together a with
40 notice of the rate of accumulation of that amount due thereafter, if
41 applicable. In the case of a county, the lien shall be signed by the
42 county treasurer or the treasurer's duly authorized agent. In the case
43 of a municipality, the lien shall be signed by the appropriate municipal
44 authority or his duly authorized agent. Nothing herein shall preclude
45 the county or municipality, as the case may be, from recovering any
46 amount expended for the custody, care and maintenance of an inmate

1 or detainee that was not secured by a lien.

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

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

14

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

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

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, in the case
44 of a county, or the appropriate municipal authority, or that authority's
45 duly authorized agent, in the case of a municipality, shall file with the
46 clerk of the county, the register of deeds and mortgages or clerk of the

1 Superior Court, as the case may be, a duly acknowledged certificate
2 setting forth the fact that the county or municipality desires to
3 discharge the lien of record.

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

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16 8. Any person desiring to secure immediate discharge of any lien
17 filed under the provisions of this act may deposit with the court an
18 amount of cash sufficient to cover the amount of the lien or post a
19 bond in a proper amount and with sureties approved by the court.
20 Upon proper notice to the county treasurer or appropriate municipal
21 authority, a satisfaction of the lien shall be filed with the clerk of the
22 county or the register of deeds and mortgages, as the case may be.

23

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

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

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

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7 Authorizes counties and municipalities to charge inmates' and
8 detainees' incarceration costs and place a lien to ensure payment.