

ASSEMBLY, No. 2390

STATE OF NEW JERSEY

INTRODUCED OCTOBER 7, 1996

By Assemblymen O'TOOLE, ZECKER and Weingarten

1 AN ACT concerning the costs of detention in municipal detention  
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 held in a municipal detention facility shall be liable  
9 for the amount the municipality expends for that person's custody,  
10 care and maintenance during detention.

11 The amount due and payable from each detainee pursuant to this  
12 section shall be determined by the authority responsible for the  
13 municipal detention facility. The amount due and payable shall be  
14 based upon the calculated per capita cost of providing for a detainee's  
15 custody, care and maintenance in the municipal detention facility. The  
16 authority responsible for the municipal detention facility shall establish  
17 a graduated schedule setting forth the percentage of that per capita  
18 cost due and payable by a detainee based upon that detainee's ability  
19 to pay. In no case shall the amount due and payable by a detainee  
20 pursuant to this section exceed the actual, certifiable cost incurred by  
21 the municipality in providing for the custody, care and maintenance of  
22 that detainee.

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24 2. The municipality wherein the detainee was detained shall have  
25 a lien against the property and income of that detainee for the total  
26 amount determined by the authority responsible for the municipal  
27 detention facility, pursuant to section 1 of this Act, to be due and  
28 payable by the detainee for the costs incurred by the municipality in  
29 providing for the custody, care and maintenance of that detainee. The  
30 lien when properly filed as set forth herein shall have priority over all  
31 unrecorded encumbrances.

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33 3. The lien shall be in the form prescribed by law and shall contain  
34 the name of the detainee, date of the detainee's detention, the per  
35 capita cost rate for the detainee's detention, and the total amount due  
36 the municipality on the date of the filing of the lien, together with a  
37 notice of the rate of accumulation of that amount due thereafter, if

1 applicable. Nothing herein shall preclude the municipality from  
2 recovering any amount it has expended for custody, care and  
3 maintenance of a detainee, but not covered by a lien.

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

11 If it is believed that the detainee 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 detainee wherever situate  
15 within the State.

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17 5. If it is found that any detainee 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 detainee, 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 municipality 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 municipality, register of deeds and mortgages,  
33 or clerk of the Superior Court, as the case may be, shall provide  
34 suitable books in which shall be entered the liens filed pursuant to this  
35 act. All such entries shall be properly indexed in the name of the  
36 detainee.

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

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42 7. To discharge any lien filed under the provisions of this act, the  
43 authority responsible for the municipal detention facility shall file with  
44 the clerk of the municipality, the register of 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 municipality desires to

1 discharge the lien of record.

2 The governing body of the municipality, by ordinance or resolution,  
3 as appropriate, may authorize a compromise for settlement of any lien  
4 filed under the provisions of this act for the total amount due the  
5 municipality for the custody, care and maintenance provided during a  
6 detainee's detention. Any such ordinance or resolution shall provide  
7 that a memorandum of the compromise and settlement signed by the  
8 governing body shall be sufficient authorization for a complete  
9 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 authority responsible for  
16 the municipal detention facility, a satisfaction of the lien shall be filed  
17 with the clerk of the municipality or the register of deeds and  
18 mortgages, as the case may be.

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20 9. This act shall take effect on the first day of the fourth month  
21 following enactment.

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#### STATEMENT

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26 This bill would authorize municipalities to charge persons held in  
27 a municipal detention facility the amount the municipality expends for  
28 that person's custody, care and maintenance during detention in the  
29 facility.

30 Under the provisions of the bill, the authority responsible for the  
31 municipal detention facility is to determine the amount each detainee  
32 is to be charged. To make that determination, the per capita basis and  
33 the cost of providing for the custody, care and maintenance of  
34 detainees in the municipal detention facility are to be calculated, and  
35 a graduated schedule setting forth the percentage of the per capita cost  
36 each detainee is to be charged based upon his ability to pay is to be  
37 established. The bill specifies, however, that the amount so  
38 determined may not exceed the actual certifiable cost the municipality  
39 incurs in providing for the detainee's custody, care and maintenance in  
40 its detention facility.

41 To ensure that these amounts are collected, the bill authorizes  
42 municipalities to place liens against the property and income of the  
43 detainees who are assessed custody, care and maintenance charges.  
44 The bill sets forth the procedures for filing and discharging these liens,  
45 including a provision that grants municipal governing bodies the  
46 authority to agree to compromises for the settlement of any detainee

1 lien. The bill also provides that these detainee liens have priority over  
2 all other unrecorded encumbrances.

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7 Authorizes municipalities to charge detainees detention costs on a  
8 sliding scale and to place a lien to ensure payment.