

SENATE, No. 1936

STATE OF NEW JERSEY

INTRODUCED MARCH 20, 1997

By Senator BASSANO, SCOTT, Connors,
Kosco and Cardinale

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.

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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. A person sentenced to imprisonment or ordered to pretrial or
9 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 the
15 offense for which he was detained.

16 If a county or municipality chooses to exercise its authority to
17 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 the
20 county treasurer or authority responsible for administering the
21 municipal detention facility, as the case may be. In making the
22 determination, the treasurer or municipal authority shall calculate the
23 per capita cost of providing for an inmate's or detainee's custody, care
24 and maintenance in the county correctional facility or municipal
25 detention facility and shall establish a graduated schedule setting forth
26 the percentage of that per capita cost due and payable by the inmate
27 or detainee based upon that inmate's or detainee's ability to pay. In no
28 case shall the amount the county treasurer or municipal authority
29 determines to be due and payable by an inmate or detainee pursuant to
30 this section exceed the actual, certifiable cost incurred by the county
31 in providing for the custody, care and maintenance of that inmate or
32 detainee. The determinations and schedules authorized under this
33 paragraph shall be established by the county treasurer or municipal
34 authority, as the case may be, in consultation with the county adjuster.

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36 2. The county wherein the inmate is incarcerated, regardless of

1 whether the county correctional facility is operated and administered
2 under the provisions of R.S.30:8-17 or R.S.30:8-19, and the
3 municipality wherein the detainee is detained shall have a lien against
4 the property and income of that inmate or detainee for the total
5 amount determined by the county treasurer or municipal authority
6 pursuant to section 1 of this act, to be due and payable by the inmate
7 or detainee for the costs incurred by the county or municipality in
8 providing for the custody, care and maintenance of that inmate or
9 detainee. The lien when properly filed as set forth herein shall have
10 priority over all unrecorded encumbrances.

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12 3. The lien shall be in the form prescribed by law and shall contain
13 the name of the inmate or detainee, date of the inmate or detainee's
14 incarceration, the per capita cost rate for the inmate or detainee's
15 incarceration and the total amount due the county or municipality, as
16 the case may be, on the date of the filing of the lien, together with
17 notice of the rate of accumulation of that amount due thereafter, if
18 applicable. In the case of a county, the lien shall be signed by the
19 county treasurer or the treasurer's duly authorized agent. In the case
20 of a municipality, the lien shall be signed by the appropriate municipal
21 authority or his duly authorized agent. Nothing herein shall preclude
22 the county or municipality, as the case may be, from recovering any
23 amount expended for the custody, care and maintenance of an inmate
24 or detainee that was not secured by a lien.

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

32 If it is believed that the inmate or detainee is the owner of real
33 property within the State, but the exact location of that property is not
34 known, then the lien may be filed with the clerk of the Superior Court
35 and shall become binding upon all real property of the inmate or
36 detainee wherever situated within the State.

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38 5. If it is found that any inmate or detainee is possessed of any
39 goods, rights, credits, chattels, moneys or effects which are held by
40 any person, firm or corporation for the present or subsequent use of
41 that inmate or detainee, then the lien, or a notice thereof, may be
42 forwarded by registered mail to that person, firm or corporation and
43 shall become binding upon any property rights so held. The person,
44 firm or corporation shall thereafter be precluded from disposing of the
45 property rights until the lien is satisfied or until the holder of the lien
46 consents thereto.

1 Any person, firm or corporation disposing of any such property or
2 moneys after receipt of notice of a lien authorized under this act shall
3 be liable to the county or municipality, as the case may be, for the
4 value of the property or moneys so disposed; provided, however, that
5 when the corporation served notice pursuant to this section is a
6 banking institution, the lien shall be effective only in the amount set
7 forth in that notice.

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9 6. The clerk of the county, register of deeds and mortgages or
10 clerk of the Superior Court, as the case may be, shall provide suitable
11 books in which shall be entered the liens filed pursuant to this act. All
12 such entries shall be properly indexed in the name of the inmate or
13 detainee.

14 All liens, and any related documentation which may be required,
15 shall be received and recorded by the clerk of the county, register of
16 deeds and mortgages or clerk of the Superior Court, as the case may
17 be, without fee.

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19 7. To discharge any lien filed under the provisions of this act, the
20 county treasurer, or the treasurer's duly authorized agent, in the case
21 of a county, or the appropriate municipal authority, or that authority's
22 duly authorized agent, in the case of a municipality, shall file with the
23 clerk of the county, the register of deeds and mortgages or clerk of the
24 Superior Court, as the case may be, a duly acknowledged certificate
25 setting forth the fact that the county or municipality desires to
26 discharge the lien of record.

27 The governing body of the county, by ordinance or resolution, as
28 appropriate, and the governing body of a municipality, by ordinance,
29 may authorize the county treasurer or appropriate municipal authority,
30 as the case may be, to compromise for settlement any lien filed under
31 the provisions of this act for the total amount due the county or
32 municipality for the custody, care and maintenance provided during an
33 inmate's incarceration or detainee's detention. Any such ordinance or
34 resolution shall provide that a memorandum of the compromise and
35 settlement signed by the county treasurer or the appropriate municipal
36 authority, as the case may be, shall be sufficient authorization for a
37 complete discharge of the lien.

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39 8. Any person desiring to secure immediate discharge of any lien
40 filed under the provisions of this act may deposit with the court an
41 amount of cash sufficient to cover the amount of the lien or post a
42 bond in a proper amount and with sureties approved by the court.
43 Upon proper notice to the county treasurer or appropriate municipal
44 authority, a satisfaction of the lien shall be filed with the clerk of the
45 county or the register of deeds and mortgages, as the case may be.

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

12 b. Nothing in R.S.30:8-18 concerning the county governing body's
13 responsibility to provide for the custody and care of the inmates in a
14 jail under its control shall be construed to prohibit, restrict or
15 otherwise hinder the county from holding an inmate liable for the
16 actual amounts the county expended in providing for the custody, care
17 and maintenance of that inmate during the inmate's incarceration, as
18 provided in section 1 of PL. , c. (C.)(now pending before the
19 Legislature as this bill) or, to ensure the payment of those amounts,
20 placing a lien against the property and income of that inmate, in
21 accordance with the provisions of sections 2 through 8 of PL. , c.
22 (C.)(now pending before the Legislature as this bill).

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

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STATEMENT

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30 This bill supplements chapter 8 of Title 30 of the Revised Statutes
31 to permit counties and municipalities to charge inmates and detainees
32 in county correctional facilities and municipal detention centers for
33 the custody, care and maintenance costs associated with their
34 incarceration or detention based on a sliding scale and their ability to
35 pay. In the case of detainees, however, the county or municipality may
36 charge only those detainees who are subsequently convicted of the
37 offense for which they were detained. The bill also authorizes those
38 counties and municipalities which decide to charge their inmates and
39 detainees for the costs of their incarceration or detention to place a
40 lien on the property and income of those inmates or detainees to
41 ensure payment.

42 Under the provisions of the bill, whenever a county or municipality
43 chooses to exercise the authority afforded under this bill to charge
44 inmates and detainees for the costs of their incarceration or detention,
45 the county treasurer, in the case of county correctional facilities, and
46 the appropriate municipal authority, in the case of municipal detention

1 centers, is to determine the amount each inmate or detainee is to be
2 charged. To make that determination, the treasurer or municipal
3 authority, as the case may be, is to calculate, on a per capita basis, the
4 governmental unit's costs and to establish a graduated schedule setting
5 forth the percentage of that per capita cost each inmate or detainee is
6 to be charged based upon the ability to pay. The bill specifies,
7 however, that the amount so determined may not exceed the actual
8 certifiable cost the county or municipality incurs in providing for the
9 inmate's or detainee's custody, care and maintenance. These
10 determinations and schedules are to be established with the assistance
11 of the county adjuster.

12 To insure that these amounts are collected, the bill authorizes the
13 counties and municipalities to place liens against the property and
14 income of the inmates and detainees who are assessed custody, care
15 and maintenance charges. The bill sets forth the procedures for filing
16 and discharging these liens, including a provision that grants county
17 and municipal governing bodies the authority to agree to compromises
18 for the settlement of any inmate's or detainee's lien. Finally, the bill
19 provides that these inmate liens have priority over all other unrecorded
20 encumbrances.

21 There currently is no statutory authorization for counties and
22 municipalities to charge inmates and detainees for the costs associated
23 with their incarceration in a county correction facility or detention in
24 a municipal detention center. However, with the enactment of
25 P.L.1995, c.254 (C.30:7E-1 et seq.), inmates in State and county
26 correctional facilities became liable for the costs of their medical and
27 dental treatments. The provisions of this bill are patterned after that
28 statute.

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