

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

H

1

HOUSE BILL 1044

Short Title: Housing of Safekeepers.

(Public)

Sponsors: Representatives Flaherty; and Justus.

Referred to: Judiciary III.

April 22, 1991

A BILL TO BE ENTITLED

1 AN ACT TO ALLOW THE HOUSING OF SAFEKEEPERS IN THE SAME
2 INPATIENT MEDICAL AND MENTAL HEALTH FACILITIES WITH
3 CONVICTED PRISONERS.
4

5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 162-39 reads as rewritten:

7 "**§ 162-39. Transfer of prisoners when necessary for safety and security;**
8 **application of section to municipalities.**

9 Whenever necessary for the safety of a prisoner held in any county jail or to avoid a
10 breach of the peace in any county or whenever prisoners are arrested in such numbers
11 that county jail facilities are insufficient and inadequate for the housing of such
12 prisoners, the resident judge of the superior court or any judge holding superior court in
13 the district or any district court judge may order the prisoner transferred to a fit and
14 secure jail in some other county, or to a unit of the State prison system designated by the
15 Secretary of Correction or his authorized representative, where the prisoner shall be
16 held for such length of time as the judge may direct. The sheriff of the county from
17 which the prisoner is removed shall be responsible for conveying the prisoner to the jail
18 or prison unit where he is to be held, and for returning him to the common jail of the
19 county from which he was transferred. The return shall be made at the expiration of the
20 time designated in the court order directing the transfer unless the judge, by appropriate
21 order, shall direct otherwise. The sheriff or keeper of the jail of the county designated
22 in the court order, or the officer in charge of the prison unit designated by the Secretary
23 of Correction, shall receive and release custody of the prisoner in accordance with the
24 terms of the court order. If a prisoner is transferred to a unit of the State prison system,

1 the county from which the prisoner is transferred shall pay the Department of
2 Correction for maintaining the prisoner for the time designated by the court at the per
3 day, per inmate rate at which the Department of Correction pays a local jail for
4 maintaining a prisoner, provided, however, that a county is not required to reimburse the
5 State for maintaining a prisoner who was a resident of another state or county at the
6 time he committed the crime for which he is imprisoned. If the prisoner is transferred to
7 a jail in some other county, the county from which the prisoner is transferred shall pay
8 to the county receiving the prisoner in its jail the actual cost of maintaining the prisoner
9 for the time designated by the court. Counties are hereby authorized to enter into
10 contractual agreements with other counties to provide jail facilities to which prisoners
11 may be transferred as deemed necessary under this section.

12 Whenever prisoners are arrested in such numbers that county jail facilities are
13 insufficient and inadequate for the safekeeping of such prisoners, the resident judge of
14 the superior court or any superior or district court judge holding court in the district may
15 order the prisoners transferred to a unit of the State Department of Correction
16 designated by the Secretary of Correction or his authorized representative, where the
17 prisoners may be held for such length of time as the judge may direct, such detention to
18 be in cell separate from that used for imprisonment of persons already convicted of
19 ~~crimes.~~ crimes, except when admission to an inpatient prison medical or mental health
20 unit is required to provide services deemed necessary by a prison health care clinician.
21 The sheriff of the county from which the prisoners are removed shall be responsible for
22 conveying the prisoners to the prison unit or units where they are to be held, and for
23 returning them to the common jail of the county from which they were transferred.
24 However, if due to the number of prisoners to be conveyed the sheriff is unable to
25 provide adequate transportation, he may request the assistance of the Department of
26 Correction, and the Department of Correction is hereby authorized and directed to
27 cooperate with the sheriff and provide whatever assistance is available, both in vehicles
28 and manpower, to accomplish the conveying of the prisoners to and from the county to
29 the designated prison unit or units. The officer in charge of the prison unit designated
30 by the Secretary of Correction or his authorized representative shall receive and release
31 the custody of the prisoners in accordance with the terms of the court order. The county
32 from which the prisoners are transferred shall pay to the Department of Correction the
33 actual cost of transporting the prisoners and the cost of maintaining the prisoners at the
34 per day, per inmate rate at which the Department of Correction pays a local jail for
35 maintaining a prisoner, provided, however, that a county is not required to reimburse the
36 State for transporting or maintaining a prisoner who was a resident of another state or
37 county at the time he was arrested. However, if the county commissioners shall certify
38 to the Governor that the county is unable to pay the bill submitted by the State
39 Department of Correction to the county for the services rendered, either in whole or in
40 part, the Governor may recommend to the Council of State that the State of North
41 Carolina assume and pay, in whole or in part, the obligation of the county to the
42 Department of Correction, and upon approval of the Council of State the amount so
43 approved shall be paid from Contingency and Emergency Fund to the Department of
44 Correction.

1 When, due to an emergency, it is not feasible to obtain from a judge of the superior
2 or district court a prior order of transfer, the sheriff of the county and the Department of
3 Correction may exercise the authority hereinafter conferred; provided, however, that the
4 sheriff shall, as soon as possible after the emergency, obtain an order from the judge
5 authorizing the prisoners to be held in the designated place of confinement for such
6 period as the judge may direct. All provisions of this section shall be applicable to
7 municipalities whenever prisoners are arrested in such numbers that the municipal jail
8 facilities and the county jail facilities are insufficient and inadequate for the safekeeping
9 of the prisoners. The chief of police is hereby authorized to exercise the authority
10 herein conferred upon the sheriff, and the municipality shall be liable for the cost of
11 transporting and maintaining the prisoners to the same extent as a county would be
12 unless action is taken by the Governor and Council of State as herein provided for
13 counties which are unable to pay such costs.

14 The number of county prisoners incarcerated in the State prison system pursuant to
15 safekeeping orders from the various counties may not exceed 200 at any given time
16 unless authorized by the Secretary of Correction. The Secretary may refuse to accept
17 any safekeeper and may return any safekeeper transferred under a safekeeping order
18 when this capacity limit is reached."

19 Sec. 2. This act is effective upon ratification.