

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

S

1

SENATE BILL 1105*

Short Title: Safekeeper Changes.

(Public)

Sponsors: Senators Marvin; and Royall.

Referred to: Veteran & Military Affairs, Law Enforcement & Senior Citizens.

June 2, 1992

A BILL TO BE ENTITLED

1 AN ACT TO DECREASE STATE EXPENDITURES FOR SAFEKEEPERS BY
2 CLARIFYING THE LAW REGARDING THE MEDICAL COSTS OF
3 SAFEKEEPERS AND BY CHANGING THE LAW REGARDING THE
4 TRANSFER OF SAFEKEEPERS TO THE DEPARTMENT OF CORRECTION.
5

6 The General Assembly of North Carolina enacts:

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

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

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

1 terms of the court order. If a prisoner is transferred to a unit of the State prison system,
2 the county from which the prisoner is transferred shall pay the Department of
3 Correction for maintaining the prisoner for the time designated by the court at the per
4 day, per inmate rate at which the Department of Correction pays a local jail for
5 maintaining a ~~prisoner, prisoner~~. The county shall also pay the Department of
6 Correction for the costs of extraordinary medical care incurred while the prisoner was in
7 the custody of the Department of Correction, defined as follows:

- 8 (1) Medical expenses incurred as a result of providing health care to a
9 prisoner as an inpatient (hospitalized);
- 10 (2) Other medical expenses when the total cost exceeds thirty-five dollars
11 (\$35.00) per occurrence or illness as a result of providing health care
12 to a prisoner as an outpatient (nonhospitalized); and
- 13 (3) Cost of replacement of eyeglasses and dental prosthetic devices if
14 those eyeglasses or devices are broken while the prisoner is
15 incarcerated, provided the prisoner was using the eyeglasses or devices
16 at the time of his commitment and then only if prior written consent of
17 the Department is obtained by the local facility.

18 ~~provided, however, that~~ ~~However~~, a county is not required to reimburse the State for
19 maintaining a prisoner who was a resident of another state or county at the time he
20 committed the crime for which he is imprisoned. If the prisoner is transferred to a jail in
21 some other county, the county from which the prisoner is transferred shall pay to the
22 county receiving the prisoner in its jail the actual cost of maintaining the prisoner for the
23 time designated by the court. Counties are hereby authorized to enter into contractual
24 agreements with other counties to provide jail facilities to which prisoners may be
25 transferred as deemed necessary under this section.

26 Whenever prisoners are arrested in such numbers that county jail facilities are
27 insufficient and inadequate for the safekeeping of such prisoners, the resident judge of
28 the superior court or any superior or district court judge holding court in the district may
29 order the prisoners transferred to a unit of the State Department of Correction
30 designated by the Secretary of Correction or his authorized representative, where the
31 prisoners may be held for such length of time as the judge may direct, such detention to
32 be in cell separate from that used for imprisonment of persons already convicted of
33 crimes, except when admission to an inpatient prison medical or mental health unit is
34 required to provide services deemed necessary by a prison health care clinician. The
35 sheriff of the county from which the prisoners are removed shall be responsible for
36 conveying the prisoners to the prison unit or units where they are to be held, and for
37 returning them to the common jail of the county from which they were transferred.
38 However, if due to the number of prisoners to be conveyed the sheriff is unable to
39 provide adequate transportation, he may request the assistance of the Department of
40 Correction, and the Department of Correction is hereby authorized and directed to
41 cooperate with the sheriff and provide whatever assistance is available, both in vehicles
42 and manpower, to accomplish the conveying of the prisoners to and from the county to
43 the designated prison unit or units. The officer in charge of the prison unit designated
44 by the Secretary of Correction or his authorized representative shall receive and release

1 the custody of the prisoners in accordance with the terms of the court order. The county
2 from which the prisoners are transferred shall pay to the Department of Correction the
3 actual cost of transporting the prisoners and the cost of maintaining the prisoners at the
4 per day, per inmate rate at which the Department of Correction pays a local jail for
5 maintaining a prisoner, provided, however, that a county is not required to reimburse the
6 State for transporting or maintaining a prisoner who was a resident of another state or
7 county at the time he was arrested. However, if the county commissioners shall certify
8 to the Governor that the county is unable to pay the bill submitted by the State
9 Department of Correction to the county for the services rendered, either in whole or in
10 part, the Governor may recommend to the Council of State that the State of North
11 Carolina assume and pay, in whole or in part, the obligation of the county to the
12 Department of Correction, and upon approval of the Council of State the amount so
13 approved shall be paid from Contingency and Emergency Fund to the Department of
14 Correction.

15 When, due to an emergency, it is not feasible to obtain from a judge of the superior
16 or district court a prior order of transfer, the sheriff of the county and the Department of
17 Correction may exercise the authority hereinafter conferred; provided, however, that the
18 sheriff shall, as soon as possible after the emergency, obtain an order from the judge
19 authorizing the prisoners to be held in the designated place of confinement for such
20 period as the judge may direct. All provisions of this section shall be applicable to
21 municipalities whenever prisoners are arrested in such numbers that the municipal jail
22 facilities and the county jail facilities are insufficient and inadequate for the safekeeping
23 of the prisoners. The chief of police is hereby authorized to exercise the authority
24 herein conferred upon the sheriff, and the municipality shall be liable for the cost of
25 transporting and maintaining the prisoners to the same extent as a county would be
26 unless action is taken by the Governor and Council of State as herein provided for
27 counties which are unable to pay such costs.

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

33 Sec. 2. G.S. 162-39, as amended by Section 1 of this act, reads as rewritten:

34 "**§ 162-39. Transfer of prisoners when necessary for safety and security;**
35 **application of section to municipalities.**

36 (a) Whenever necessary for the safety of a prisoner held in any county jail or to
37 avoid a breach of the peace in any county or whenever prisoners are arrested in such
38 numbers that county jail facilities are insufficient and inadequate for the housing of such
39 prisoners, the resident judge of the superior court or any judge holding superior court in
40 the district or any district court judge may order the prisoner transferred to a fit and
41 secure jail in some other county, ~~or to a unit of the State prison system designated by the~~
42 ~~Secretary of Correction or his authorized representative, county~~ where the prisoner shall be
43 held for such length of time as the judge may direct.

1 (b) Whenever necessary to avoid a security risk in any county jail, or whenever
2 prisoners are arrested in such numbers that county jail facilities are insufficient and
3 inadequate for the housing of such prisoners, the resident judge of the superior court or
4 any judge holding superior court in the district or any district court judge may order the
5 prisoner transferred to a unit of the State prison system designated by the Secretary of
6 Correction or his authorized representative. For purposes of this subsection, a prisoner
7 poses a security risk if the prisoner:

8 (1) Poses a serious escape risk;

9 (2) Exhibits violently aggressive behavior that cannot be contained and
10 warrants a higher level of supervision;

11 (3) Needs to be protected from other inmates, and the county jail facility
12 cannot provide such protection;

13 (4) Is a female or a person 18 years of age or younger, and the county jail
14 facility does not have adequate housing for such prisoners;

15 (5) Is in custody at a time when a fire or other catastrophic event has
16 caused the county jail facility to cease or curtail operations; or

17 (6) Otherwise poses an imminent danger to the staff of the county jail
18 facility or to other prisoners in the facility.

19 (c) The sheriff of the county from which the prisoner is removed shall be
20 responsible for conveying the prisoner to the jail or prison unit where he is to be held,
21 and for returning him to the common jail of the county from which he was transferred.
22 The return shall be made at the expiration of the time designated in the court order
23 directing the transfer unless the judge, by appropriate order, shall direct otherwise. The
24 sheriff or keeper of the jail of the county designated in the court order, or the officer in
25 charge of the prison unit designated by the Secretary of Correction, shall receive and
26 release custody of the prisoner in accordance with the terms of the court order. If a
27 prisoner is transferred to a unit of the State prison system, the county from which the
28 prisoner is transferred shall pay the Department of Correction for maintaining the
29 prisoner for the time designated by the court at the per day, per inmate rate at which the
30 Department of Correction pays a local jail for maintaining a prisoner. The county shall
31 also pay the Department of Correction for the costs of extraordinary medical care
32 incurred while the prisoner was in the custody of the Department of Correction, defined
33 as follows:

34 (1) Medical expenses incurred as a result of providing health care to a
35 prisoner as an inpatient (hospitalized);

36 (2) Other medical expenses when the total cost exceeds thirty-five dollars
37 (\$35.00) per occurrence or illness as a result of providing health care
38 to a prisoner as an outpatient (nonhospitalized); and

39 (3) Cost of replacement of eyeglasses and dental prosthetic devices if
40 those eyeglasses or devices are broken while the prisoner is
41 incarcerated, provided the prisoner was using the eyeglasses or devices
42 at the time of his commitment and then only if prior written consent of
43 the Department is obtained by the local facility.

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

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

42 When, due to an emergency, it is not feasible to obtain from a judge of the superior
43 or district court a prior order of transfer, the sheriff of the county and the Department of
44 Correction may exercise the authority hereinafter conferred; provided, however, that the

1 sheriff shall, as soon as possible after the emergency, obtain an order from the judge
2 authorizing the prisoners to be held in the designated place of confinement for such
3 period as the judge may direct. All provisions of this ~~section~~ subsection shall be
4 applicable to municipalities whenever prisoners are arrested in such numbers that the
5 municipal jail facilities and the county jail facilities are insufficient and inadequate for
6 the safekeeping of the prisoners. The chief of police is hereby authorized to exercise the
7 authority herein conferred upon the sheriff, and the municipality shall be liable for the
8 cost of transporting and maintaining the prisoners to the same extent as a county would
9 be unless action is taken by the Governor and Council of State as herein provided for
10 counties which are unable to pay such costs.

11 (d) Whenever a prisoner held in a county jail requires medical or mental health
12 treatment that the county decides can best be provided by the Department of Correction,
13 the resident judge of the superior court or any judge holding superior court in the district
14 or any district court judge may order the prisoner transferred to a unit of the State prison
15 system designated by the Secretary of Correction or his authorized representative. The
16 sheriff of the county from which the prisoner is removed shall be responsible for
17 conveying the prisoner to the prison unit where he is to be held, and for returning him to
18 the jail of the county from which he was transferred. The prisoner shall be returned
19 when the attending medical or mental health professional determines that the prisoner
20 may be returned safely. The officer in charge of the prison unit designated by the
21 Secretary of Correction shall receive custody of the prisoner in accordance with the
22 terms of the order and shall release custody of the prisoner in accordance with the
23 instructions of the attending medical or mental health professional. The county from
24 which the prisoner is transferred shall pay the Department of Correction for maintaining
25 the prisoner for the period of treatment at the per day, per inmate rate at which the
26 Department of Correction pays a local jail for maintaining a prisoner, and for
27 extraordinary medical expenses as set forth in subsection (c) of this section.

28 (e) The number of county prisoners incarcerated in the State prison system
29 pursuant to safekeeping orders from the various counties pursuant to subsection (b) of
30 this section or for medical or mental health treatment pursuant to subsection (d) of this
31 section may not exceed 200 at any given time unless authorized by the Secretary of
32 Correction. The Secretary may refuse to accept any safekeeper and may return any
33 safekeeper transferred under a safekeeping order when this capacity limit is reached."

34 Sec. 3. Counties owing reimbursement to the Department of Correction for
35 the costs of extraordinary medical care pursuant to Section 1 of this act shall pay at least
36 twenty-five percent (25%) of the amount billed for fiscal years 1990-91 and 1991-92 by
37 June 30, 1992, and shall pay at least twenty-five percent (25%) of the amount billed for
38 fiscal years 1990-91 and 1991-92 by June 30 of each of the following three fiscal years
39 until such reimbursement is paid in full.

40 Sec. 4. Section 1 of this act is effective on and after July 1, 1990. The
41 remainder of this act becomes effective June 30, 1992.