

No. 1344

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1985



ENROLLED

Com. Sub. for
HOUSE BILL No. 1344

(By ~~Mr.~~ Del. Faircloth + Del. Shankholtz)



Passed April 13, 1985

In Effect 90 Days From Passage

ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 1344
(By DELEGATE FAIRCLOTH and DELEGATE SHANHOLTZ)

[Passed April 13, 1985; in effect ninety days from passage.]

AN ACT to amend and reenact section two, article eight, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating generally to the sheriff as keeper of the jail; appointment of jailer; care of jail; authorizing the jailer to inquire as regards and obtain assignments of the right to reimbursement for medical benefits; authorizing county commissions and municipalities to seek reimbursement from prisoners, said prisoners insurers, agencies providing such prisoners medical benefits, and persons liable by law for the costs of medical care received in county jails; authorizing county commissions and municipalities to seek reimbursement for certain clothing from such prisoners; limiting reimbursement for certain injuries or illnesses; limiting reimbursement in cases of undue hardship; authorizing suit after one year; requiring funds to be deposited in the general fund.

Be it enacted by the Legislature of West Virginia:

That section two, article eight, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 8. JAIL AND JAILER.

§7-8-2. Sheriff to be keeper of jail; appointment of jailer; care of

jail; authorizing county commissions and municipalities to seek reimbursement of medical care and certain clothing provided by county jails.

1 (a) The sheriff of every county shall be the keeper of the
2 jail thereof, but he may, with the assent of the county
3 commission, appoint a jailer of the said county, and may take
4 from him a bond with security conditioned for the faithful
5 performance of his duties. The jailer may be a deputy sheriff
6 and shall take an oath of office like other officers. He shall
7 keep the jail in a clean, sanitary and healthful condition. When
8 any prisoner is sick the jailer shall see that he has adequate
9 medical and dental attention and nursing, and so far as
10 possible keep him separate from other prisoners. Any such
11 medical and nursing care as the jailer may be required to
12 furnish shall be paid for by the county commission. A failure
13 on the part of the jailer to perform any of the duties herein
14 required with respect to any prisoner in his jail shall be a
15 contempt of any court of record under whose commitment
16 such prisoner is confined, and shall be punished as other
17 contempts of such court. The jailer or his agents are authorized
18 to inquire of every prisoner at any time whether he has medical
19 insurance or is covered by a public medical benefit, to further
20 inquire of the prisoner sufficient information to enable the
21 county commission to seek reimbursement of health care costs
22 as provided by this section and to take an assignment of the
23 right to reimbursement from said third parties.

24 (b) The county commission is hereby authorized to seek
25 reimbursement from every person who receives medical,
26 dental, hospital or eye care or any type of nursing care while
27 incarcerated in the jail at the rate at which the care is generally
28 available in the community for those persons not incarcerated,
29 from their private health care insurers, if any, to the extent
30 of the coverage in effect, from any public agency then
31 providing medical benefits to the person incarcerated to the
32 extent that said public agency would have reimbursed the cost
33 of the care rendered if the person receiving the care was not
34 then incarcerated so long as said reimbursement is not
35 inconsistent with the lawful provisions of the agency's benefit
36 program, or from persons who are liable pursuant to section
37 twenty-two, article three, chapter forty-eight of this code:
38 *Provided*, That no reimbursement for care shall be required

39 when any medical, dental, hospital or eye care or any type of
40 nursing care has been rendered for injuries or illnesses
41 sustained as a result of an act by another prisoner, injuries
42 or illnesses sustained where an act or omission by the jailer
43 or any deputy sheriff has been a contributing factor, or injuries
44 or illnesses resulting from fire or other catastrophic hazard,
45 all without fault on the part of the prisoner: *Provided,*
46 *however,* That no reimbursement for the care received from
47 the person receiving the care or from the person made liable
48 for the care by section twenty-two, article three, chapter forty-
49 eight of this code shall be sought unless that person is able
50 to pay without undue hardship considering the financial
51 resources of the person, the ability to pay of the person and
52 the nature of the burden that reimbursement will impose:
53 *Provided further,* That the determination of undue hardship
54 by the commission does not preclude the commission from
55 subsequently ordering reimbursement should the person's
56 financial circumstances change: *And provided further,* That
57 whenever the county commission seeks reimbursement from a
58 municipality for medical, dental, hospital, eye or nursing care
59 authorized by this subsection then the municipality shall also
60 be hereby authorized to seek reimbursement as provided for
61 in this subsection for counties under the same conditions.

62 (c) The county commission is hereby authorized to seek
63 reimbursement from every prisoner for the costs of any shoes
64 and clothing furnished by the jailer and retained by the
65 prisoner after his release from incarceration: *Provided,* That
66 no reimbursement for the goods authorized by this subsection
67 shall be sought unless the former prisoner is able to pay
68 without undue hardship, considering the financial resources of
69 the person, said persons ability to pay and the nature of the
70 burden that reimbursement will impose: *Provided, however,*
71 That the determination of undue hardship by the county
72 commission does not preclude the county commission from
73 subsequently ordering repayment should the financial
74 circumstances of such person change: *Provided further,* That
75 whenever the county commission seeks reimbursement from a
76 municipality for the goods then the municipality shall also be
77 hereby authorized to seek reimbursement for the goods
78 authorized by this subsection as provided for in this subsection
79 for counties under the same conditions.

80 (d) Subject to any statutes of limitation, if reimbursement
81 pursuant to this section was sought at or within a reasonable
82 time after the release from incarceration of the person
83 receiving the goods or care and if the reimbursement
84 authorized by this section has not been received within one
85 year the county commission or municipality, as the case may
86 be, may prosecute a civil action against any liable person and
87 against any insurer or agency the assignment of whose
88 obligation to pay for care was obtained by the jailer. Any
89 funds paid to or collected by the county commission or
90 municipality pursuant to the provisions of this section shall
91 be deposited to its general fund.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Darrell E. Holme
.....
Chairman Senate Committee

Flores Feller
.....
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Todd C. Smith
.....
Clerk of the Senate

Donald L. Stepp
.....
Clerk of the House of Delegates

Sam Tomlinson
.....
President of the Senate

Joseph P. Allright
.....
Speaker of the House of Delegates

The within *approved* this the *1st*
day day of, 1985.

Richard S. French Jr.
.....
Governor



PRESENTED TO THE

GOVERNOR

Date

4/19/85

7:25 p.m.

RECEIVED

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OFFICE OF THE ATTORNEY GENERAL
SECRETARY OF STATE