

ENROLLED SENATE
BILL NO. 811

By: Laster and Laughlin of the
Senate

and

Sullivan, Kern and Tibbs
of the House

An Act relating to county jails; amending 19 O.S. 2001, Section 746, which relates to liability for medical costs for persons in county jail; clarifying liability for preexisting conditions; recognizing duty to provide opportunity for medical care; requiring certain payment of certain expenses from person; directing reimbursement of certain expenses paid by jail under certain circumstance; construing liability for certain expense; amending Section 4, Chapter 319, O.S.L. 2003 (19 O.S. Supp. 2007, Section 746.1) and Section 5, Chapter 319, O.S.L. 2003, as amended by Section 1, Chapter 468, O.S.L. 2005 (20 O.S. Supp. 2007, Section 1313.7), which relate to the Medical Expense Liability Revolving Fund and remission of certain fees; modifying references; changing the method of paying claims; providing quarterly payments based on pro rata share of available funds; construing payment provisions; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 19 O.S. 2001, Section 746, is amended to read as follows:

Section 746. A. When a defendant person is in the custody of a county jail, the custodial county shall only be liable for the cost of medical care for conditions that are not preexisting prior to arrest and that arise due to acts or omissions of the county. ~~Preexisting conditions are defined as those illnesses beginning or injuries sustained before a person is in the peaceable custody of the county's officers~~ A preexisting condition is a condition for which the person received medical treatment or advice, or a condition which was diagnosed in the six (6) months preceding the custody of the person by the law enforcement agency. An accidental injury sustained during the six (6) months preceding the custody of that person by the law enforcement agency will also be considered a preexisting condition.

B. An inmate receiving in pretrial detention or the custody of a county jail shall be provided with the opportunity to receive necessary medical care for a preexisting condition ~~or a condition not caused by the acts or omissions of the county~~ and the inmate shall be liable for payment of the cost of such medical care, including, but not limited to, medication, medical treatment, and transportation costs, for or relating to the condition requiring treatment.

C. ~~The court shall order~~ medical provider or hospital shall seek payment for all medical care provided for preexisting conditions directly from the offender. In the event there is a dispute between the jail and the medical provider or hospital concerning the existence or extent of a preexisting condition or the liability to pay medical expenses relating to such condition, and the sheriff pays the expense pending a final determination of liability for such medical expense, the court shall order the offender to reimburse the sheriff for all medical care and treatment for preexisting conditions and injuries except for amounts collected pursuant to Section 531 of this title. Nothing in this section shall require a jail to pay disputed medical expenses or expenses for any preexisting condition.

SECTION 2. AMENDATORY Section 4, Chapter 319, O.S.L. 2003 (19 O.S. Supp. 2007, Section 746.1), is amended to read as follows:

Section 746.1 There is hereby created in the State Treasury a revolving fund for the State and Education Employees Group Insurance Board to be designated the "Medical Expense Liability Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received from fees assessed pursuant to Section 5 1313.7 of ~~this act~~ Title 20 of the Oklahoma Statutes. All monies accruing to the credit of the fund shall be appropriated and may be budgeted and expended by the State and Education Employees Group Insurance Board for qualified medical expenses for inmates or persons in the custody of a county or city jail pursuant to the criteria set forth in Section 5 1313.7 of ~~this act~~ Title 20 of the Oklahoma Statutes. A portion of the Medical Expense Liability Revolving Fund shall be used for the costs the Board incurred in administering such monies.

Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 3. AMENDATORY Section 5, Chapter 319, O.S.L. 2003, as amended by Section 1, Chapter 468, O.S.L. 2005 (20 O.S. Supp. 2007, Section 1313.7), is amended to read as follows:

Section 1313.7 A. In addition to the fees imposed by Sections 1313.2 and 1313.3 of this title, any person convicted of any offense, excluding municipal ordinances, traffic offenses and parking and standing violations, but including violations of Section 11-902 of Title 47 of the Oklahoma Statutes, punishable by a fine of Ten Dollars (\$10.00) or more or by incarceration or any person forfeiting bond when charged with such offense, shall be ordered by the court to pay a medical expense liability fee in the amount of Ten Dollars (\$10.00) for each offense to the Medical Expense Liability Revolving Fund provided for in Section 746.1 of Title 19 of the Oklahoma Statutes. The fee shall be in addition to and not in substitution for any and all fines and penalties otherwise provided for by law for such offense.

B. The county court clerk shall cause to be deposited the amount of Ten Dollars (\$10.00) as collected, for every conviction as described in this subsection. The county court clerk shall remit the monies in the fund on a monthly basis to the Medical Expense Liability Revolving Fund.

The monies from the Medical Expense Liability Revolving Fund shall be used when all of the following criteria are met:

1. The county has not filed a claim against the fund in the previous twelve (12) months;
2. A county jail in this state is determined to be liable for the medical expense or expenses of a state inmate or person in custody on state charges as provided by law. The minimum expense amount that shall qualify for consideration is Eight Thousand Dollars (\$8,000.00) per ailment or injury;
3. The county clerk of the county makes a written claim to the State and Education Employees Group Insurance Board regarding a county medical expense. In addition to the written claim, all of the medical records and bills shall be submitted that relate to the medical expense under consideration; and
4. It is determined that the state inmate or person in custody on state charges lacks the ability and resources to cover the medical expense or expenses.

C. The Medical Expense Liability Revolving Fund shall not pay any expenses in excess of One Hundred Thousand Dollars (\$100,000.00) per state inmate or person in custody on state charges. The State and Education Employees Group Insurance Board shall pay valid requests for reimbursements in the order in which they are received quarterly based upon a pro rata share of available funds being distributed between all valid claims received within the preceding quarter. In the event there are insufficient funds available to pay any outstanding requests, the Board shall pay such requests only after sufficient funds have accumulated. Nothing in this subsection shall be construed to require payment in full of any or all valid claims or the holding of any or all valid claims until sufficient funds have accumulated to pay the claims in full.

D. If the state inmate or person in custody on state charges receives any type of compensation or award from a collateral source as a result of the ailment or injury which is paid by the Medical Expense Liability Revolving Fund, the state shall be subrogated to

the rights of a claimant to receive or recover from a collateral source to the extent that medical expenses were awarded.

SECTION 4. This act shall become effective July 1, 2008.

SECTION 5. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 28th day of April, 2008.

Presiding Officer of the Senate

Passed the House of Representatives the 5th day of May, 2008.

Presiding Officer of the House
of Representatives