

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 SENATE BILL 1671

By: Corn

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6 AS INTRODUCED

7 An Act relating to corrections; amending 57 O.S.
8 2001, Section 37, as amended by Section 3, Chapter
9 239, O.S.L. 2004 (57 O.S. Supp. 2007, Section 37),
10 which relates to facility reaching maximum capacity;
11 clarifying certain exception; modifying period of
12 responsibility for certain housing costs; amending 57
13 O.S. 2001, Section 38, as amended by Section 8,
14 Chapter 74, Extraordinary Session 2006 (57 O.S. Supp.
15 Section 38), which relates to jail reimbursement
16 rate; deleting language; increasing per diem rate;
17 defining terms; requiring the Department of
18 Corrections to pay certain medical care for certain
19 inmates; stating category of inmates authorized for
20 medical expenses; setting reimbursement rate for
21 network and non-network health care providers;
22 providing alternative fee schedules; requiring prior
23 authorization by Department of Corrections for
24 certain medical care; requiring certain notice to
Department of Corrections for certain emergency
medical care; authorizing rejection of certain
medical claims for certain cause; making sheriff
responsible for certain health care expenses; stating
categories of expenses under sheriff responsibility;
requiring the Department of Corrections to pay
certain pharmacy expenses for certain inmates;
stating pharmacy fee schedule; providing sheriff to
pay certain medication expenses; providing certain
exception; directing certain health care be provided
through host facilities for certain inmates;
encouraging use of local community mental health
centers; authorizing certain reimbursement for
certain services; directing Department to provide
transportation and security for certain inmates and
certain appointments; exempting the Department of
Corrections and the sheriff from responsibility for

1 any health care expense while inmate is on escape
2 status; excluding certain circumstances from health
3 care responsibility by the Department of Corrections;
4 providing for codification; providing an effective
5 date; and declaring an emergency.

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

7 SECTION 1. AMENDATORY 57 O.S. 2001, Section 37, as
8 amended by Section 3, Chapter 239, O.S.L. 2004 (57 O.S. Supp. 2007,
9 Section 37), is amended to read as follows:

10 Section 37. A. If all correctional facilities reach maximum
11 capacity and the Department of Corrections is required to contract
12 for bed space to house state inmates, then the Pardon and Parole
13 Board shall consider all nonviolent offenders for parole who are
14 within six (6) months of their scheduled release from a penal
15 facility.

16 B. No inmate may be received by a penal facility from a county
17 jail without first scheduling a transfer with the Department. The
18 sheriff or court clerk shall transmit by facsimile, electronic mail,
19 or actual delivery a certified copy of the judgment and sentence
20 certifying that the inmate is sentenced to the Department of
21 Corrections. The receipt of the certified copy of the judgment and
22 sentence shall be certification that the sentencing court has
23 entered a judgment and sentence and all other necessary commitment
24 documents. The Department of Corrections is authorized to determine

1 the appropriate method of delivery from each county based on
2 electronic or other capabilities. Once the judgment and sentence is
3 received by the Department of Corrections, the Department shall
4 contact the sheriff when bed space is available to schedule the
5 transfer and reception of the inmate into the Department, except as
6 provided in subsection C of this section.

7 C. When a county jail has reached its capacity of inmates as
8 defined in Section 192 of Title 74 of the Oklahoma Statutes, then
9 the county sheriff shall notify the Director of the Oklahoma
10 Department of Corrections, or the Director's designated
11 representative, by facsimile, electronic mail, or actual delivery,
12 that the county jail has reached or exceeded its capacity to hold
13 inmates. The notification shall include copies of any judgment and
14 sentences not previously delivered as required by subsection B of
15 this section. Then within seventy-two (72) hours following such
16 notification, the county sheriff shall transport the designated
17 excess inmate or inmates to a penal facility designated by the
18 Department. The sheriff shall notify the Department of the
19 transport of the inmate prior to the reception of the inmate. The
20 Department shall schedule the reception date and receive the inmate
21 within seventy-two (72) hours of notification that the county jail
22 is at capacity, unless other arrangements can be made with the
23 sheriff.

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1 D. Once the judgment and sentence is transmitted to the
2 Department of Corrections, the Department ~~will~~ shall be responsible
3 for the cost of housing the inmate in the county jail from the date
4 ~~the Department receives the transmittal~~ sentencing court pronounces
5 the judgment and sentence until the date of transfer of the inmate
6 from the county jail. The cost of housing shall be the per diem
7 rate specified in Section 38 of this title. In the event the inmate
8 has other criminal charges pending in another Oklahoma jurisdiction,
9 the Department shall be responsible for the housing costs while the
10 inmate remains in the county jail awaiting transfer to another
11 jurisdiction. Once the inmate is transferred to another
12 jurisdiction, the Department is not responsible for the housing cost
13 of the inmate until such time that another judgment and sentence is
14 received from another Oklahoma jurisdiction. The sheriff shall be
15 reimbursed by the Department for the cost of housing the inmate in
16 one of two ways:

17 1. The sheriff is authorized to submit invoices for the cost of
18 housing the inmate on a monthly basis; or

19 2. The sheriff may submit one invoice for the total amount due
20 for the inmate after the Department has received the inmate.

21 SECTION 2. AMENDATORY 57 O.S. 2001, Section 8, as
22 amended by Section 74, Chapter 74, Extraordinary Session 2006 (57
23 O.S. Supp. 2007, Section 38), is amended to read as follows:

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1 Section 38. ~~Until January 1, 2007, the Department of~~
2 ~~Corrections shall reimburse any county, which is required to retain~~
3 ~~an inmate pursuant to paragraph 2 of Section 37 of this title, in an~~
4 ~~amount not to exceed Twenty four Dollars (\$24.00) per day for each~~
5 ~~inmate during such period of retention. The proceeds of this~~
6 ~~reimbursement shall be used to defray expenses of equipping and~~
7 ~~maintaining the jail and payment of personnel. The Department of~~
8 ~~Corrections shall reimburse the county for the emergency medical~~
9 ~~care for physical injury or illness of the inmate retained under~~
10 ~~this act if the injury or illness is directly related to the~~
11 ~~incarceration and the county is required by law to provide such care~~
12 ~~for inmates in the jail. The Department shall not pay fees for~~
13 ~~medical care in excess of the rates established for Medicaid~~
14 ~~providers. The state shall not be liable for medical charges in~~
15 ~~excess of the Medicaid scheduled rate. The Director may accept any~~
16 ~~inmate required to have extended medical care upon application of~~
17 ~~the county. Effective January 1, 2007~~ Effective July 1, 2008, the
18 Department of Corrections shall reimburse any county, which is
19 required to retain an inmate pursuant to paragraph 2 of Section 37
20 of this title, in an amount not to exceed ~~Twenty seven Dollars~~
21 ~~(\$27.00)~~ Thirty Dollars (\$30.00) per day for each inmate during such
22 period of retention. The proceeds of this reimbursement shall be
23 used to defray expenses of equipping and maintaining the jail and
24 payment of personnel. The Department of Corrections shall reimburse

1 the county for the emergency medical care for physical injury or
2 illness of the inmate retained under this act if the injury or
3 illness is directly related to the incarceration and the county is
4 required by law to provide such care for inmates in the jail. The
5 Department shall not pay fees for medical care in excess of the
6 rates established for Medicaid providers. The state shall not be
7 liable for medical charges in excess of the Medicaid scheduled rate.
8 The Director may accept any inmate required to have extended medical
9 care upon application of the county.

10 SECTION 3. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 38.3 of Title 57, unless there
12 is created a duplication in numbering, reads as follows:

13 A. As used in this section:

14 1. "Emergency care" means the medical or surgical care
15 necessary to treat the sudden onset of a potentially life or limb
16 threatening condition or symptom;

17 2. "Dental emergency" means an acute problem in the mouth
18 exhibiting symptoms of pain, swelling, bleeding or elevation of
19 temperature; and

20 3. "Mental health emergency" means a person exhibiting behavior
21 due to mental illness that poses an immediate threat to himself or
22 herself or others and renders the person incapable of caring for
23 self.

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1 B. Except as otherwise provided or specifically limited by
2 another provision of law, the Department of Corrections shall
3 reimburse health care providers for medical care and treatment for:

4 1. Inmates sentenced for a felony offense who are retained in a
5 county jail after a certified copy of the judgment and sentence has
6 been transmitted to the Department pursuant to the provisions of
7 Section 980 of Title 22 of the Oklahoma Statutes or as required by
8 Section 37 of Title 57 of the Oklahoma Statutes;

9 2. Inmates sentenced for a felony offense pursuant to the
10 Oklahoma Community Sentencing Act and retained in a county jail as
11 authorized in subsection C of Section 988.12 of Title 22 of the
12 Oklahoma Statutes; and

13 3. Inmates sentenced for a felony offense and retained in a
14 county jail pursuant to night and weekend incarceration as
15 authorized by Section 991a-2 of Title 22 of the Oklahoma Statutes.
16 Health care providers that are in the network established by the
17 Department of Corrections in conjunction with the State and
18 Education Employees Group Insurance Board shall be reimbursed for
19 inmate services according to the fee schedule established for that
20 network; provided, that reimbursement will be no less than the fee
21 structure effective January 1, 2007, or the current fee schedule,
22 whichever is greater. Health care providers that are out-of-network
23 shall be reimbursed for inmate services according to the Oklahoma
24 Medicaid Fee Schedule; provided, that reimbursement shall be no less

1 than the fee structure in effect January 1, 2007, or the current fee
2 schedule, whichever is greater. Prior to obtaining nonemergency
3 care outside the county jail facility, authorization must be
4 received from the Department of Corrections. The Department of
5 Corrections shall be notified within twenty-four (24) hours of any
6 emergency care, dental emergency or mental health emergency care
7 obtained outside the county jail facility. The Department is hereby
8 authorized to reject claims if proper notification has not been
9 timely provided.

10 C. The sheriff shall be responsible for providing and paying
11 the expense of:

12 1. Any medical, dental and mental health care screening when an
13 inmate is admitted to jail;

14 2. Routine sick calls within the county jail; and

15 3. Access to on-site physician services as is routinely
16 provided for all inmates in the custody of the sheriff and as
17 provided by Section 52 of Title 57 of the Oklahoma Statutes.

18 D. The Department of Corrections shall pay the pharmacy
19 provider for medications provided to inmates specified in subsection
20 B of this section. If the pharmacy provider is a Medicaid provider,
21 the pharmacy provider must bill the Department at Medicaid rates.

22 The county jail shall be responsible for paying any medications
23 provided to inmates that are not listed on the Department formulary,

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1 unless the county jail receives a written exception from the
2 Department.

3 E. Dental and mental health care shall be provided through the
4 designated host facility of the Department of Corrections for
5 inmates specified in subsection B of this section. Each county jail
6 is encouraged to work with local community mental health centers to
7 provide necessary medications and emergency services and to
8 reimburse such services pursuant to the fee schedules authorized in
9 this section.

10 F. For inmates specified in subsection B of this section, the
11 Department of Corrections shall be responsible for transportation
12 and security of inmates to, from and during, the health care
13 appointments outside the jail facility, including any designated
14 host facilities of the Department.

15 G. Neither the Department of Corrections nor the sheriff shall
16 be responsible for the expense of health care while an inmates is on
17 escape status or for any injury incurred while on escape status.

18 H. Notwithstanding any other provision of law, the Department
19 of Corrections shall not be responsible for payment of health care
20 of inmates housed in the county jail under any of the following
21 circumstances:

22 1. Prior to the transmittal of a certified copy of the judgment
23 and sentence pursuant to the provisions of Section 980 of Title 22

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1 of the Oklahoma Statutes, or Section 37 of Title 57 of the Oklahoma
2 Statutes;

3 2. When an inmate is detained in a county jail pursuant to a
4 writ of habeas corpus;

5 3. When an inmate is detained in a county jail for additional
6 cases pending after a certified copy of the judgment and sentence
7 has been transmitted to the Department;

8 4. When an inmate is detained in a county jail and such
9 inmate's status is on hold for another jurisdiction; or

10 5. When an inmate is detained in a county jail under a sentence
11 of county jail imprisonment for an offense.

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

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

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