

HOUSE BILL REPORT

HB 1274

As Reported By House Committee On:
Criminal Justice & Corrections

Title: An act relating to jails.

Brief Description: Changing provisions relating to jails.

Sponsors: Representatives Cairnes, O'Brien, Ballasiotes, Lovick, Koster and Haigh.

Brief History:

Committee Activity:

Criminal Justice & Corrections: 2/2/99, 2/24/99 [DPS].

Brief Summary of Substitute Bill

- Authorizes municipalities and counties to require any person who is booked in a county or municipal jail to pay a \$10 booking fee.
- Authorizes municipalities and counties to require an inmate to pay for his entire cost of incarceration.
- Funds received from defendants for the cost of incarceration must be used for jail operation purposes.
- Authorizes the administrator of a jail to acquire any necessary emergency medical or dental treatment for juveniles detained in jail.
- Creates a local option whereby jails may convert a nonviolent/nonsex offender's jail time to an available county supervised alternative placement.
- Deletes the requirement that juveniles under the age of 18 are to be confined in a jail cell segregated from adult offenders.

HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Ballasiotes, Republican Co-Chair; O'Brien, Democratic Co-Chair; Cairnes, Republican Vice Chair; Lovick, Democratic Vice Chair; B. Chandler; Constantine; Kagi and Koster.

Staff: Yvonne Walker (786-7841).

Background:

Reimbursement for Cost of Incarceration. Municipalities and counties may establish inmate fines and require reimbursement for the cost of incarceration from inmates with the means to pay. These fines can range up to a maximum of \$50 per day for offenders convicted of a misdemeanor or gross misdemeanor and sentenced to a local jail. All funds received by inmates for the cost of incarceration in a county or city jail must be remitted for criminal justice purposes to the county or city that is responsible for the offender's jail costs.

Article I Section 17 of the Washington State Constitution prohibits imprisoning a person for failing to pay a debt, except in cases of absconding debtors.

County Supervised Community Option. Alternatives to total confinement are available for offenders with sentences of one year or less. These alternatives include the following sentence conditions that the court may order as substitutes for total confinement: (1) one day of partial confinement may be substituted for one day of total confinement; (2) in addition, for offenders convicted of nonviolent offenses only, eight hours of community service may be substituted for one day of total confinement, with a maximum conversion limit of 240 hours or 30 days. Community service hours must be completed within the period of community supervision or a time period specified by the court, which shall not exceed 24 months, pursuant to a schedule determined by the department.

Separation of Adult and Juvenile Offenders. Any juvenile offender under the age of 18 years old, who has been convicted in criminal court, must be housed in a jail cell that does not contain adult offenders.

Summary of Substitute Bill:

Reimbursement for Cost of Incarceration. Municipalities and counties may require any person who is booked in a county or municipal jail and not released upon completion of the booking process, to pay a \$10 booking fee to the sheriff's department or police chief's department where the jail is located. The person may pay the booking fee from any money he currently has in his possession. If the person does not have any money in his current possession then the sheriff must notify the court for assessment of the fee. The court must order the booking fee to be paid as part of the defendant's sentence or

disposition imposed. If the defendant is acquitted, not charged, or if the charges are dismissed, then the sheriff or police chief must return the booking fee to the defendant at the last known address in the booking records.

In addition, municipalities and counties may require a nonindigent inmate to pay for his entire cost of incarceration including any pretrial expenses the municipality or city may have occurred as a result of the offender being held in confinement prior to his sentencing. The "cost of incarceration" may include the actual cost of providing a prisoner with shelter, food, clothing, transportation, supervision, health care, and other services and supplies as may be necessary for the maintenance and support of the offender while in custody. The reimbursement may be payable from any money the prisoner has currently on him or any money deposited with the jail on the prisoner's behalf.

Before a jail or detention administrator may request reimbursement from a prisoner, the financial status of the prisoner must be determined. If, after the financial status is determined, the prisoner refuses to cooperate with the financial status investigation, the jail or detention administrator may issue a written demand for the prisoner to pay the reimbursement costs associated with his incarceration. The prisoner must pay the amount due when the written demand is issued or arrange to repay the reimbursement costs on a monthly basis, however, if he does not satisfy the demand for reimbursement then the matter will be turned over to the prosecuting attorney or city attorney for the filing of a civil action suit on behalf of the county or municipality. If a prisoner fails to make payments within 10 days after it is due, the county prosecutor or city attorney may file a civil suit for the amount of reimbursement, costs incurred in conducting any investigation of the financial status of the prisoner, and any attorneys' fees and costs.

Any civil suit filed for incarceration reimbursement must be filed in the name of the county or city in which the jail or detention facility is located. In addition, it must indicate: (1) the date and place of sentencing, including the name of the court that imposed the sentence, (2) the length of time served by the prisoner and if the prisoner has been released, the date of release, and (3) the amount of reimbursement that the prisoner owes to the city or county.

The treasurer of the city or county in which a prisoner is or was confined must determine the amount of reimbursement that the prisoner owes. The treasurer may render a sworn statement indicating the amount of reimbursement that the prisoner owes and submit the statement in support of a civil action. The statement is prima facie evidence of the amount due.

A court in a civil action may award a money judgment in favor of the governing unit in whose name the action was brought.

Also, to prevent the disposition of the prisoner's property by the prisoner, or the prisoner's spouse, the attorney may file a motion for a temporary restraining order. Prior child support or alimony, restitution, and court-ordered legal financial obligations have priority over the any incarceration reimbursement payment. A county or municipality may also seek to have a prisoner's wages garnished in order to satisfy his legal financial obligations.

The governing unit may reduce or deny a credit on the prisoner's term of imprisonment for any prisoner who willfully refuses to cooperate.

All reimbursements received by a county or municipality must be credited to the jail's operating budget with the exception of deductions made from an offender's earnings in a jail industries program. Those deductions must be deposited to help pay for the county's or city's jail industries programs.

If an offender is held in incarceration in another neighboring county or city jail, then that county or city shall receive the reimbursement for any incarceration costs they incurred with that offender. Those reimbursement costs may be paid directly by the offender or by the county or municipality that placed that offender in their care. If the county or city where the crime occurred paid the incarceration costs then it may seek reimbursement from the offender themselves.

In addition, the administrator of a jail may acquire any necessary treatment for medical and dental conditions requiring prompt attention for juveniles detained in jail. The treatment may include treatment provided at medical or dental facilities outside the county jail and treatment provided within the county jail for the period of time the youth is in the custody of the county jail. Juveniles must not be transported for treatment outside the county jail if treatment services are available within the county jail. Medical and dental care and treatment may be provided without parental consent when prompt attention is required and the administrator of the county jail has been unable to secure parental or guardian permission after several reasonable attempts. Treatment is prohibited for juveniles whose parents or guardians inform the administrator of the jail of objections to medical treatment prior to when the treatment is actually provided.

County Supervised Community Option. A local option is created for community custody (or a county supervised community option) whereby jails may convert a nonviolent/nonsex offender's jail time to an available county supervised alternative placement.

Separation of Adult and Juvenile Offenders. Juvenile offenders under the age of 18 years old, who have been convicted in criminal court, may be housed in a jail cell that contains adult offenders.

Substitute Bill Compared to Original Bill:

A provision was deleted that required the jail or detention administrator to request a prisoner to complete and sign a form, under penalty of perjury, that contains his age, sex, marital status, the number and ages of any children or dependents, and the type and value of any real estate, personal property, investments, pensions, annuities, bank accounts, cash, or other property of value owned or possessed by the prisoner. This was originally done to help determine the financial status of an offender. The financial status of an offender will still have to be determined, however, the form requiring an offender to recall his or her "specific property ownership" is no longer required.

A provision was deleted that authorized a prisoner to perform community service to satisfy his or her incarceration reimbursement cost. Each hour of community work performed by the prisoner was to reduce the amount owed by \$8.

All incarceration reimbursements received by a county or municipality is authorized to be "credited to the jail's operating budget" instead of "deposited into the county's or municipality's general fund."

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: (Original bill) Currently, judges can impose a \$50 fee on offenders for their time spent incarcerated in jail, however, most courts do not impose this fine. As a result, the authority to impose an incarceration fee should be given to the city and county jail administrators.

Many jail inmates have been known to say that they do not mind being jailed because it "gives me three meals a day and a cot to sleep on. I can do the time standing on my head." By allowing counties and cities to charge incarceration and booking fees, the fines are immediate and predictable. This bill will require that jailed offenders are held accountable. It gives localities a means to collect money for costs that they incur and it helps defray the high cost of crime.

In addition, the portion of the bill that allows for medical care gives jail administrators the same authorization as court administrators when it comes to determining whether an offender should receive emergency medical assistance.

Lastly, jail administrators would like to repeal the section of the state statute that mandates that local jails segregate juvenile offenders from adult offenders by "sight and sound." In many counties the jails are so small that they have no other choice but to

keep the juvenile in neighboring cells. Still other jails just have a few cells, each with a roll of bunk beds and, as a result, all offenders (young and old) have to share the same large cell.

Testimony Against: None.

Testified: (In support) Mike Shaw, Washington State Association of Counties; Dale Brandland, Whatcom County Sheriff; and Mark French, Pierce County Sheriff.

(In support with concerns) Kathy Gerke, Washington Association of Cities.