

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2013

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SENATE BILL 321  
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Third Edition Engrossed 5/9/13  
House Committee Substitute Favorable 6/5/13  
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Proposed Conference Committee Substitute S321-PCCS35399-ST-1

Short Title: Inmate Costs/Ct.Appt./Notaries.

(Public)

Sponsors:

Referred to:

March 14, 2013

A BILL TO BE ENTITLED

AN ACT TO CAP REIMBURSEMENT BY COUNTIES, TO MAKE ADDITIONAL PROVISIONS RELATING TO PAYMENT FOR MEDICAL SERVICES PROVIDED TO INMATES IN COUNTY JAILS, TO ALLOW COUNTIES TO UTILIZE MEDICAID FOR ELIGIBLE PRISONERS, TO PROVIDE THAT VACANCIES IN THE OFFICE OF DISTRICT COURT JUDGE SHALL BE FILLED BY APPOINTMENT OF THE GOVERNOR, AND TO CREATE A PRIVATE RIGHT OF ACTION AGAINST NOTARIES WHO VIOLATE THE NOTARY PUBLIC ACT.

The General Assembly of North Carolina enacts:

**SECTION 1.** Article 10 of Chapter 153A of the General Statutes is amended by adding a new section to read:

**"§ 153A-225.2. Payment of medical care of prisoners.**

(a) Counties shall reimburse those providers and facilities providing requested or emergency medical care outside of the local confinement facility the lesser amount of either a rate of seventy percent (70%) of the provider's then-current prevailing charge or two times the then-current Medicaid rate for any given service. Each county shall have the right to audit any provider from whom the county has received a bill for services under this section but only to the extent necessary to determine the actual prevailing charge to ensure compliance with this section.

(b) Nothing in this section shall preclude a county from contracting with a provider for services at rates that provide greater documentable cost avoidance for the county than do the rates contained in subsection (a) of this subsection or at rates that are less favorable to the county but that will ensure the continued access to care.

(c) The county shall make reasonable efforts to equitably distribute prisoners among all hospitals or other appropriate health care facilities located within the same county and shall do so based upon the licensed acute care bed capacity at each of the hospitals located within the



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1 same county. Counties with more than one hospital or other appropriate health care facility  
2 shall provide semiannual reports conspicuously posted on the county's Web site that detail  
3 compliance with this section, including information on the distribution of prisoner health care  
4 services among different hospitals and health care facilities.

5 (d) For the purposes of this section, "requested or emergency medical care" shall  
6 include all medically necessary and appropriate care provided to an individual from the time  
7 that individual presents to the provider or facility in the custody of county law enforcement  
8 officers until the time that the individual is safely transferred back to the care of county law  
9 enforcement officers or medically discharged to another community setting, as appropriate."

10 **SECTION 2.** G.S. 153A-225(a) reads as rewritten:

11 "(a) Each unit that operates a local confinement facility shall develop a plan for  
12 providing medical care for prisoners in the facility. The ~~plan~~ plan:

- 13 (1) Shall be designed to protect the health and welfare of the prisoners and to  
14 avoid the spread of contagious disease;
- 15 (2) Shall provide for medical supervision of prisoners and emergency medical  
16 care for prisoners to the extent necessary for their health and welfare;
- 17 (3) Shall provide for the detection, examination and treatment of prisoners who  
18 are infected with tuberculosis or venereal ~~diseases~~ diseases; and
- 19 (4) May utilize Medicaid coverage for inpatient hospitalization or for any other  
20 Medicaid services allowable for eligible prisoners, provided that the plan  
21 includes a reimbursement process which pays to the State the State portion  
22 of the costs, including the costs of the services provided and any  
23 administrative costs directly related to the services to be reimbursed, to the  
24 State's Medicaid program.

25 The unit shall develop the plan in consultation with appropriate local officials and  
26 organizations, including the sheriff, the county physician, the local or district health director,  
27 and the local medical society. The plan must be approved by the local or district health director  
28 after consultation with the area mental health, developmental disabilities, and substance abuse  
29 authority, if it is adequate to protect the health and welfare of the prisoners. Upon a  
30 determination that the plan is adequate to protect the health and welfare of the prisoners, the  
31 plan must be adopted by the governing body.

32 As a part of its plan, each unit may establish fees of not more than twenty dollars (\$20.00)  
33 per incident for the provision of nonemergency medical care to prisoners. In establishing fees  
34 pursuant to this section, each unit shall establish a procedure for waiving fees for indigent  
35 prisoners."

36 **SECTION 3.** In preparation for the effective date of Section 2 of this act, the  
37 Department of Health and Human Services, Division of Medical Assistance, shall work with  
38 the North Carolina Association of County Commissioners to prepare for G.S. 153A-225(a)(4),  
39 as enacted by Section 2 of this act. The Department of Health and Human Services, Division of  
40 Medical Assistance, shall use a uniform method, developed by the North Carolina Association  
41 of County Commissioners, which will allow all counties to interface with the Division of  
42 Medical Assistance to implement this act. The Department of Public Safety shall provide  
43 technical assistance as needed.

44 **SECTION 4.** G.S. 7A-142 reads as rewritten:

45 **"§ 7A-142. Vacancies in office.**

46 A vacancy in the office of district judge shall be filled for the unexpired term by  
47 appointment of the ~~Governor~~ Governor. The bar of the judicial district, as defined in  
48 G.S. 84-19, shall nominate five persons who are residents of the judicial district who are duly  
49 authorized to practice law in the district for consideration by the Governor. The nominees shall  
50 be selected by vote of only those bar members who reside in the district. In the event fewer  
51 than five persons are nominated, upon providing the nominations to the Governor, the bar shall

1 ~~certify that there were insufficient nominations in the district to comply with this section. Prior~~  
2 ~~to filling the vacancy, the Governor shall give due consideration to the nominations provided~~  
3 ~~by the bar of the judicial district, from nominations submitted by the bar of the judicial district~~  
4 ~~as defined in G.S. 84-19, except that in judicial District 9, when vacancies occur in District~~  
5 ~~Court District 9 or 9B, only those members who reside in the district court district shall~~  
6 ~~participate in the selection of the nominees. When vacancies occur in District Court District 18,~~  
7 ~~all members who reside in the district court district shall participate in the selection of the~~  
8 ~~nominees. If the district court district is comprised of counties in more than one judicial district,~~  
9 ~~the nominees shall be submitted jointly by the bars of those judicial districts, but only those~~  
10 ~~members who reside in the district court district shall participate in the selection of the~~  
11 ~~nominees. If the district court judge was elected as the nominee of a political party, then the~~  
12 ~~district bar shall submit to the Governor the names of three persons who are residents of the~~  
13 ~~district court district who are duly authorized to practice law in the district and who are~~  
14 ~~members of the same political party as the vacating judge; provided that if there are not three~~  
15 ~~persons who are available, the bar shall submit the names of two persons who meet the~~  
16 ~~qualifications of this sentence. If the district court judge was not elected as the nominee of a~~  
17 ~~political party, then the district bar shall submit to the Governor the names of three persons~~  
18 ~~who are residents of the district court district and who are duly authorized to practice law in the~~  
19 ~~district; provided that if there are not three persons who are available, the bar shall submit the~~  
20 ~~names of two persons who meet the qualifications of this sentence. Within 60 days after the~~  
21 ~~district bar submits nominations for a vacancy, the Governor shall appoint to fill the vacancy. If~~  
22 ~~the Governor fails to appoint a district bar nominee within 60 days, then the district bar~~  
23 ~~nominee who received the highest number of votes from the district bar shall fill the vacancy. If~~  
24 ~~the district bar fails to submit nominations within 30 days from the date the vacancy occurs, the~~  
25 ~~Governor may appoint to fill the vacancy without waiting for nominations."~~

26 **SECTION 5.** G.S. 10B-60(g) reads as rewritten:

27 "(g) For purposes of enforcing this Chapter and Article 34 of Chapter 66 of the General  
28 Statutes, the following provisions are applicable:

29 (1) ~~the law~~ Law enforcement agents of the Department of the Secretary of State  
30 have statewide jurisdiction and have all of the powers and authority of law  
31 enforcement officers. The agents have the authority to assist local law  
32 enforcement agencies in their investigations and to initiate and carry out, on  
33 their own or in coordination with local law enforcement agencies,  
34 investigations of violations.

35 (2) Any party to a transaction requiring a notarial certificate for verification and  
36 any attorney licensed in this State who is involved in such a transaction in  
37 any capacity, whether or not the attorney is representing one of the parties to  
38 the transaction, may execute an affidavit and file it with the Secretary of  
39 State, setting forth the actions which the affiant alleges constitute violations.  
40 Upon receipt of the affidavit, law enforcement agents of the Department  
41 shall initiate and carry out, on their own or in coordination with local law  
42 enforcement agencies, investigations of violations."

43 **SECTION 6.** Sections 1 and 3 of this act become effective September 1, 2013.  
44 Section 2 of this act becomes effective July 1, 2014. Section 5 of this act is effective when it  
45 becomes law and applies to notarial acts and omissions occurring on or after that date. The  
46 remainder of this act is effective when it becomes law.