

CHAPTER 117

CORRECTIONS

SENATE BILL 93-196

BY SENATORS Bird, Traylor, Rizzuto, Bishop, Cassidy, Hopper, Johnson, Lacy, Mendez, Mutzebaugh, Norton, L. Powers, Tebedo, Trujillo, and Weissmann;
also REPRESENTATIVES Grampas, Owen, Romero, Allen, Anderson, Greenwood, Hagedorn, Kerns, Kreutz, Nichol, Pierson, Rupert, Shoemaker, Snyder, and Williams.

AN ACT

CONCERNING THE CONFINEMENT OF STATE PRISONERS IN LOCAL JAILS, AND, IN CONNECTION THEREWITH, CHANGING THE METHOD OF REIMBURSEMENT OF EXPENSES FOR THE CONFINEMENT OF STATE PRISONERS IN LOCAL JAILS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 17-1-102 (1), (1.3), and (7), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended to read:

17-1-102. Definitions. As used in this title, unless the context otherwise requires:

(1) ~~"Audited expense" means the average expense per day per prisoner incurred by each county or city and county in the confinement and maintenance of prisoners in a local jail for the audit period, as determined by the state auditor by annual audit conducted in accordance with the provisions of section 17-1-112.5; except that, if no prisoner was confined in such local jail during the audit period, "audited expense" means the average expense per day per prisoner incurred by each county or city and county in the confinement and maintenance of prisoners in all local jails for the audit period.~~

(1.3) ~~"Audit period" means the one-year period immediately prior to January 1 immediately prior to the fiscal year during which the expenses to be reimbursed were actually incurred.~~

(7) "Local jail" means a jail OR AN ADULT DETENTION CENTER of a county or city and county.

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

SECTION 2. 17-1-112(1) and (1.5), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended, and the said 17-1-112 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

17-1-112. Expenses - reimbursement by department. (1) Subject to appropriations, the department shall reimburse any county or city and county, ~~for the expenses incurred in confining and maintaining a state prisoner in a local jail in an amount equal to the sum of:~~

~~(a) The audited expense for such local jail multiplied by the number of days of confinement of such state prisoner in such local jail; except that reimbursement for the expenses of confining and maintaining any person who is sentenced to a term of imprisonment pursuant to section 16-11-308.5, C.R.S., FOR REIMBURSEMENTS MADE THROUGH THE END OF FISCAL YEAR 1992-93, IN AN AMOUNT OF FORTY DOLLARS PER DAY, AND FOR FISCAL YEARS THEREAFTER, IN ANY SUCH AMOUNT AS ESTABLISHED IN THE ANNUAL GENERAL APPROPRIATION BILL, TO MAINTAIN A PRISONER IN A LOCAL JAIL FOR THE EXPENSES AND COSTS INCURRED BY THAT COUNTY OR CITY AND COUNTY IN THE CONFINEMENT AND MAINTENANCE OF ANY PERSON WHO IS SENTENCED TO A TERM OF IMPRISONMENT IN A CORRECTIONAL FACILITY AND WHO IS CONFINED IN A LOCAL JAIL. SUCH REIMBURSEMENT shall be for each day following seventy-two hours after such sentence but prior to the transmittal of the qualified person to a correctional facility. and SUBJECT TO AVAILABLE APPROPRIATIONS, THE DEPARTMENT MAY CONTRACT WITH ANY COUNTY OR CITY AND COUNTY FOR THE EXPENSES INCURRED BY THAT COUNTY OR CITY AND COUNTY IN THE CONFINEMENT AND MAINTENANCE OF ANY PERSON WHO IS SENTENCED TO A TERM OF IMPRISONMENT PURSUANT TO SECTION 16-11-308.5, C.R.S.~~

~~(b) Any extraordinary costs incurred in confining and maintaining such state prisoner in such local jail.~~

(1.5) Notwithstanding the provisions of subsection (1) of this section, the department, subject to appropriations, may provide, by contract, to reimburse any city and county or county for the actual expenses incurred as a result of confining state prisoners in local jails. SAID EXPENSES MAY INCLUDE EXTRAORDINARY COSTS. In no event shall any agreement to reimburse any city and county or county affect or reduce any city and county's or county's duty to exercise reasonable care and use its best efforts to supervise and use reasonable precautions to assure the adequate care of any state prisoner.

(1.7) ON OR AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (1.7), EACH CITY AND COUNTY OR COUNTY SHALL SEND AN INVOICE TO THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF CORRECTIONS WITHIN THREE MONTHS OF WHEN THE EXPENSES AND COSTS FOR THE CONFINEMENT AND MAINTENANCE OF PRISONERS IN LOCAL JAILS ARE INCURRED; HOWEVER, EACH CITY AND COUNTY OR COUNTY IS ENCOURAGED TO SEND SUCH INVOICE ON A MONTHLY BASIS, WHEN POSSIBLE. FAILURE BY A CITY AND COUNTY OR COUNTY TO SEND AN INVOICE TO THE EXECUTIVE DIRECTOR WITHIN THREE MONTHS OF WHEN SUCH EXPENSES AND COSTS ARE INCURRED SHALL RESULT IN A FORFEITURE OF ANY REIMBURSEMENT BY THE STATE FOR SUCH EXPENSES AND COSTS.

SECTION 3. 17-1-112.5, Colorado Revised Statutes, 1986 Repl. Vol., as

amended, is repealed as follows:

17-1-112.5. Annual audit by state auditor. ~~(1) (a) Except as provided in paragraph (b) of this subsection (1), for the purposes of determining any audited expense, as defined in section 17-1-102 (1), the state auditor shall conduct an annual audit of the expenses incurred by each county or city and county in the confinement and maintenance of state prisoners in each local jail. The first such audit shall be completed no later than June 30, 1992, shall involve the examination of data for the one-year period immediately prior to January 1, 1992, and shall determine any audited expense for the fiscal year 1992. Each successive audit to determine any audited expense for each successive fiscal year shall be completed no later than June 30 immediately prior to such fiscal year and shall involve the examination of data for the one-year period immediately prior to January 1 immediately prior to such fiscal year.~~

~~(b) No audit of the expenses incurred in the confinement and maintenance of state prisoners in a local jail shall be conducted pursuant to paragraph (a) of this subsection (1) if the legislative audit committee, in consultation with the joint budget committee, determines that such audit is unnecessary for such local jail.~~

~~(2) To enable the state auditor to conduct the annual audit provided for in paragraph (a) of subsection (1) of this section, each county or city and county shall provide such data at such times as the state auditor, by policies and procedures, may require.~~

~~(3) The state auditor shall establish policies and procedures to assure that the determination of any audited expense is rational, not arbitrary or capricious, and based upon accounting practices and principles that are reasonable under the circumstances.~~

SECTION 4. 16-11-308.5 (1.5) and (2) (a), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended to read:

16-11-308.5. Authority to contract with a county or a city and county for placement of prisoners in custody of executive director. (1.5) For the purposes of this section, "local jail" means a jail OR AN ADULT DETENTION CENTER of a county or city and county.

(2) (a) The executive director of the department of corrections may enter into a contract with any county or city and county for the placement in a local jail of any person who is in the custody of the executive director. Subject to appropriations, the executive director may provide an incentive to any county or city and county to encourage such county or city and county to so contract. The incentive shall not exceed ten percent of the ~~audited expense of the local jail into which such persons shall be placed~~ DAILY RATE AS DETERMINED PURSUANT TO SECTION 17-1-112, C.R.S., multiplied by the number of days of confinement of any such person in such local jail.

SECTION 5. 17-26-103, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

17-26-103. Duties of keeper. The keepers of the several county jails AND ADULT

DETENTION CENTERS in this state shall receive and safely keep every person duly committed or placed pursuant to section 16-11-308.5, C.R.S., to such jail OR ADULT DETENTION CENTER for safekeeping, examination, or trial or duly sentenced to imprisonment in such jail OR ADULT DETENTION CENTER upon conviction for any contempt or misconduct or for any criminal offense, and they shall not without lawful authority let out of such jail, on bail or otherwise, any such person.

SECTION 6. 30-11-101 (1) (h), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

30-11-101. Powers of counties. (1) Each organized county within the state shall be a body corporate and politic, and as such shall be empowered for the following purposes:

(h) To enter into contracts with the executive director of the department of corrections pursuant to section 16-11-308.5, C.R.S., for the placement of persons under the custody of the executive director in county jails OR ADULT DETENTION CENTERS;

SECTION 7. Appropriation - adjustment to 1993 legislative appropriation. For the implementation of this act, the appropriation made in the annual general appropriation act for the fiscal year beginning July 1, 1993, to the legislative department state auditor's office, is decreased by ten thousand dollars (\$10,000).

SECTION 8. Effective date - applicability. This act shall take effect upon passage, and shall apply to prisoners confined on and after January 1, 1993.

SECTION 9. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 19, 1993