

CHAPTER 8**(SB 47)**

AN ACT relating to state prisoners.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 441.045 is amended to read as follows:

- (1) The county governing body shall prescribe rules for the government, security, safety, and cleanliness of the jail and the comfort and treatment of prisoners, provided such rules are consistent with state law. The county judge/executive may inspect the jail at any reasonable time.
- (2) Willful violation of the rules promulgated pursuant to subsection (1) of this section shall be deemed a violation.
- (3) Except as provided in subsections (4) and (5) of this section, the cost of providing necessary medical, dental, and psychological care for indigent prisoners in the jail shall be paid from the jail budget.
- (4) The cost of providing necessary medical, dental, or psychological care for prisoners of the United States government shall be paid as provided by contract between the United States government and the county or as may otherwise be provided by federal law.
- (5) The cost of providing necessary medical, dental, or psychological care, beyond routine care and diagnostic services, for prisoners held pursuant to a contractual agreement with the state shall be paid as provided by contract between the state and county. The costs of necessary medical, dental, or psychological care, beyond routine care and diagnostic services, of prisoners held in the jail for which the county receives a per diem payment shall be paid by the state.
- (6) The cost of providing necessary medical, dental, or psychological care for prisoners held pursuant to a contractual agreement with another county or a city shall be paid as provided by contract between the county or city and county.
- (7) When the cost of necessary medical, dental, or psychological care for a prisoner exceeds two thousand dollars (\$2,000), as calculated by using the maximum allowable costs to similar persons or facilities for the same or similar services under the Kentucky Medical Assistance Program, the state shall reimburse the county for that portion of the costs that exceeds two thousand dollars (\$2,000). The reimbursement shall be subject to the following terms and conditions:
 - (a) The care is necessary as defined in subsection (10) of this section;
 - (b) The prisoner is indigent as defined in subsection (8) of this section, or is uninsured; and
 - (c) No state reimbursement to the county for care provided by physicians, hospitals, laboratories, or other health care providers shall exceed the maximum payments allowed to similar persons or facilities for the same or similar services under the Kentucky Medical Assistance Program, except as provided in subsection (11) of this section.
- (8)
 - (a) The determination of whether a prisoner is indigent shall be made pursuant to KRS 31.120. The prisoner shall not be considered indigent, in the case of prisoner medical care, if:
 1. The prisoner has funds on his inmate account to cover all or a portion of his medical expenses;
 2. The prisoner's medical expenses are covered on a medical insurance policy; or
 3. The prisoner has the private resources to pay for the use of the medical facilities.
 - (b) Prisoners who are later determined not to have been indigent, or who at a time following treatment are no longer indigent, shall be required to repay the costs of payments made pursuant to this section to the unit of government which made the payment.
- (9) The terms and conditions relating to any determination of nonindigency and demands for repayment shall be under the same terms and conditions as are provided under KRS Chapters 31 and 431 relating to similar circumstances in the program for defense of indigents by the public advocate.

- (10) For the purposes of this section, "necessary care" means care of a nonelective nature that cannot be postponed until after the period of confinement without hazard to the life or health of the prisoner. The physician attending the prisoner shall certify, under oath, that the care was necessary.
- (11) Any money appropriated for a given fiscal year to fund the state's obligation under subsection (7) of this section which remains unspent at the end of the year shall not lapse but shall be made available to satisfy, to the maximum extent possible, that portion of each catastrophic claim made during said year above the threshold amount for which the county did not receive state assistance pursuant to subsection (7) of this section. In the event there is an insufficient surplus to satisfy said balance of all such catastrophic claims which are made during that year, the state shall pay to those qualified counties, on a per claim basis, an amount equal to each claim's percentage of the total surplus. Should the surplus be sufficient to satisfy all such catastrophic claims, the amount remaining, if any, shall not lapse but shall be carried forward to the next fiscal year to be made available for future catastrophic claims.
- (12) Notwithstanding other provisions of this section to the contrary, a jail may impose a reasonable fee for the use of jail medical facilities by a prisoner who has the ability to pay for the medical care. These funds may be deducted from the prisoner's inmate account. A prisoner shall not be denied medical treatment because he has insufficient funds on his inmate account. This subsection shall not preclude other recovery of funds as provided in this section.
- (13) (a) *Notwithstanding any other provision of this section to the contrary, a jail may impose a reasonable fee for the use of jail medical facilities by a state prisoner who has been placed in a local jail pursuant to a contract with the Department of Corrections under KRS 532.100 or other statute, and who has the ability to pay for medical care.*
- (b) *Funds may be deducted from the state prisoner's inmate account at the jail.*
- (c) *A state prisoner shall not be denied medical treatment because he or she has insufficient funds in his or her inmate account.*
- (d) *This subsection shall not preclude other recovery of funds as provided in this section.*
- (e) *This subsection does not authorize recovery of funds from a prisoner for medical care which has been paid or reimbursed by the state pursuant to this section.*

➔Section 2. KRS 197.020 is amended to read as follows:

- (1) The Department of Corrections shall:
- (a) Promulgate administrative regulations for the government and discipline of the penitentiary, for the government and official conduct of all officials connected with the penitentiary, and for the government of the prisoners in their department and conduct;
- (b) Promulgate administrative regulations for the character of food and diet of the prisoners; the preservation of the health of the prisoners; the daily cleansing of the penitentiary; the cleanliness of the persons of the prisoners; the general sanitary government of the penitentiary and prisoners; the character of the labor; the quantity of food and clothing; and the length of time during which the prisoners shall be employed daily;
- (c) Promulgate administrative regulations, as the department deems necessary, for the disposition of abandoned, lost, or confiscated property of prisoners; and
- (d) Cause the administrative regulations promulgated by the department, together with the law allowing commutation of time to prisoners for good conduct, to be printed and posted in conspicuous places in the cell houses and workshops.
- (2) The department may impose a reasonable fee for the use of medical facilities by a prisoner who has the ability to pay for the medical and dental care. These funds may be deducted from the prisoner's inmate account. A prisoner shall not be denied medical or dental treatment because he has insufficient funds in his inmate account.
- (3) The department may promulgate administrative regulations in accordance with KRS Chapter 13A to implement a program that provides for reimbursement of telehealth consultations.

- (4) *Fees for the use of medical facilities by a state prisoner who is confined in a county jail pursuant to KRS 532.100 or other statute shall be governed by Section 1 of this Act.*

Signed by Governor March 4, 2010.