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(As Reported by S. Judiciary on Criminal Justice)

**Reps. Schuring, Flowers, Schaffer, Willamowski, Seitz, Husted, Ogg, Cirelli, Webster, Barrett, Roman, Reidelbach, Niehaus, Lendrum, Carmichael, Hollister, Schmidt, Otterman, Cates, Schneider, Manning, Hartnett, Latell, Britton, Rhine, Buehrer, Carey, Grendell, Perry, Salerno, Widowfield**

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**BILL SUMMARY**

**Health care services for offenders in custody of DRC**

- Expands the cost debts subject to recovery from an offender in the custody or under the supervision of the Department of Rehabilitation and Correction (DRC) to specifically include the cost of any medical care provided to the offender while in the Department's custody or under its supervision.
- Expands a provision that, in certain circumstances, prohibits a benefits contract from limiting or excluding coverage for the reason that the beneficiary is under "confinement" to specifically include as confinement any period of time during which a person is in DRC's custody.
- For each offender in DRC's custody or under DRC's supervision, authorizes DRC to make a determination as to whether the offender is covered under an individual or group sickness and accident insurance policy or an individual or group health insuring corporation policy, contract, or agreement (hereafter, "health care coverage") and, if the offender has that coverage, requires DRC to familiarize itself with the terms and conditions to receive benefits under the policy, contract, or agreement.

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*\* This analysis was prepared before the report of the Senate Judiciary on Criminal Justice Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.*

- If the offender has health care coverage, permits DRC or the provider of health care services to an offender to submit a claim for payment for the health care services to the appropriate third-party payer whenever DRC renders or arranges for the rendering of health care services to the offender.
- Specifies that: if the policy holder is the offender, the offender must be required to assign payment of benefits directly to the provider or DRC; if the policy holder is not the offender, the policy holder must be asked to voluntarily provide policy information and assign payments directly to the provider or DRC, as appropriate; and the policy holder and third-party payer must make all arrangements necessary to ensure that payment of any amount due on the claim is made to the provider or DRC as specified in the assignment.
- Requires any payment made to DRC under any of these provisions to be deposited into the existing Offender Financial Responsibility Fund.
- Specifies that, if DRC pays a provider for health care services rendered to an offender and payment subsequently is made for the same services by a third-party payer, the duplicate payment must be refunded to DRC by the provider and must be deposited into the existing Offender Financial Responsibility Fund.
- Specifies that, if an offender has health care coverage, DRC must determine, after considering security, public safety, and transportation issues, whether or not to render or arrange for health care services in accordance with the coverage, and permits DRC, based on those concerns, to arrange for health care services for the offender at a health care facility or by a provider not covered under the coverage and pay the costs of the services for the offender.
- If DRC pays for health care services for an offender, gives it the right to seek reimbursement from a third-party payer for the services if it subsequently is determined that the offender had health care coverage.
- Provides that, if DRC determines that an offender has or potentially has health care coverage and the offender receives health care services: DRC is responsible for any cost-sharing, co-payments, or deductibles required under the policy, contract, or agreement; if the insurer or potential insurer denies the claim for payment, DRC remains liable for payment to the

provider of services; and if an insurer covers a service but pays less than the amount negotiated and established by contract, DRC is liable for reimbursing the difference to the provider.

- Requires DRC to examine the feasibility and desirability of purchasing insurance coverage to protect against unpredictable or catastrophic losses that may be incurred by the state in the provision of health care services to offenders who are in DRC's custody or under its supervision and, within six months after the bill's effective date, to report its findings and recommendations to specified members of the General Assembly.
- Requires DRC to develop specifications for a utilization review program under which the clinical necessity, appropriateness, efficacy, or efficiency of any outside health care service recommended for an offender may be evaluated by an external utilization review organization, to request proposals for the provision of services of that nature, and, within six months after the bill's effective date, to report the responses to the request to specified members of the General Assembly.
- Specifies that DRC is not required to enter a contract for the provision of services of the nature described in the preceding paragraph unless money has been appropriated to DRC adequate to fund the provision of services of that nature.
- Requires DRC to adopt rules to establish a schedule of health care services available to offenders in its custody or under its supervision and to establish a program to encourage the utilization of preventive health care services by offenders.

**Reimbursement of costs of an offender's confinement in a local detention facility, ordered by court as part of sentence**

- Permits a court imposing sentence upon an offender for a felony, in all circumstances, to impose a financial sanction of reimbursement by the offender of all or part of the costs of confinement under a prison term or community residential sanction imposed upon the offender, provided that the reimbursement ordered cannot exceed the total amount of reimbursement the offender is able to pay and cannot exceed the actual cost of the confinement.

- Specifically permits a court imposing sentence upon an offender for a misdemeanor to sentence the offender to a sanction that requires the offender to reimburse the government for all or part of the costs of confinement in a local detention facility, including, but not limited to, a *per diem* fee for room and board, the costs of medical and dental treatment, and the costs of repairing property damaged by the offender while confined, provided that the reimbursement ordered cannot exceed the total amount of reimbursement the offender is able to pay and cannot exceed the actual cost of the confinement, and provides procedures for determining the amount of the reimbursement and for collecting the amount to be reimbursed.

**Reimbursement of costs of an offender's confinement in a local detention facility, in other circumstances**

- Consolidates a number of parallel existing provisions regarding reimbursement of the costs of confinement by a person confined in a local detention facility, when the reimbursement is required pursuant to a specified "standard procedure" by the governmental entity that operates the facility, pursuant to a "policy" used "in lieu of" the standard procedure, or pursuant to a medical fee reimbursement mechanism.
- Modifies the list of costs that may be required to be repaid pursuant to a repayment policy under the "standard procedure," including adding a specific reference to the costs of repairing property damaged by the prisoner while confined and removing a reference to overtime costs law enforcement personnel incurred relative to the prisoner's trial.
- Provides that, each prisoner covered by a repayment policy under the "standard procedure" must receive at the end of the prisoner's confinement an itemized bill of the expenses to be reimbursed, provides methods of payment of the bill and specified periods of time within which the prisoner must pay or dispute the bill, provides procedures including a hearing for determining a dispute regarding the bill, provides procedures for the collection of a bill that is not paid and not disputed within specified periods of time that include the issuance by the appropriate clerk of court of a certificate of judgment against the prisoner for the balance of the expenses remaining unpaid, and requires that the offender's sentence include provisions describing the collection procedures.

- Repeals the existing provisions regarding a repayment "policy" used "in lieu of" the standard procedure.
- Generally permits the costs of confinement recovered pursuant to a repayment policy under the "standard procedure" or pursuant to the medical fee reimbursement mechanism to include a one-time reception fee for the costs of processing the prisoner into the local detention facility at the time of the prisoner's initial entry into the facility under the confinement in question.

**Daily fine credit given to an offender jailed for failure to pay a fine**

- Increases from \$30 to \$50 the daily fine credit that is given to an offender who is committed to a jail or workhouse or otherwise held in custody in satisfaction of a fine imposed upon the offender under a sentence for a criminal offense.

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## CONTENT AND OPERATION

### Health care services for offenders in custody of DRC

#### DRC recovery of cost debts for health care

**Existing law.** The Department of Rehabilitation and Correction (hereafter DRC) may recover from an "offender" (see "**Definitions regarding DRC services,**" below, for words in quotes) who is in its custody or under its supervision certain "cost debts" described in the law (see **COMMENT 1**). To satisfy such a cost debt that relates to an offender, DRC may apply directly assets that are in DRC's possession and that are being held for that offender without further proceedings in aid of execution. If assets belonging to or subject to the direction of that offender are in the possession of a third party, DRC may request the Attorney General to initiate proceedings to collect the assets from the third party to satisfy the cost debt. (R.C. 5120.56(B).)

Generally, all of the following assets of an offender are subject to attachment, collection, or application toward the cost debts (R.C. 5120.56(C)): (1) any pay the offender receives from the state, (2) any funds the offender receives from persons on an approved visitor list, (3) any liquid assets belonging to the offender and in DRC's custody, and (4) any assets the offender acquires or any other income the offender earns subsequent to the offender's commitment.

All moneys collected by or on behalf of DRC for allowable cost debts, and all moneys currently in DRC's custody that are applied to satisfy an allowable cost debt, must be deposited into the Offender Financial Responsibility Fund. DRC may expend moneys in the fund for goods and services of the same type as those for which offenders are assessed under these provisions. (R.C. 5120.56(I).)

Other related provisions are summarized in **COMMENT 2**.

**Operation of the bill.** The bill expands the cost debts subject to recovery to specifically include, in addition to the costs set forth in **COMMENT 1** that are specified under existing law, the cost of any medical care provided to the offender that accrues while the offender is in the custody or under the supervision of DRC (R.C. 5120.56(D)(7)).

## **Offenders with health insurance**

**Benefits contracts.** An existing provision in the Health Insurance Laws prohibits a "benefits contract" from limiting or excluding coverage for the reason that the "beneficiary" (see "**Definitions regarding DRC services,**" below), is under "confinement" or is otherwise under the custody of a law enforcement officer, and a governmental entity is wholly or primarily responsible for rendering or arranging for the rendering of health care services for the beneficiary. But, a benefits contract may limit or exclude coverage for health care services rendered to such a beneficiary if the injury or sickness for which the services were rendered resulted from an action or omission for which the governmental entity operating the correctional facility, or the governmental entity with which the law enforcement officer is affiliated, is liable. As used in this provision, "confinement" means any period of time during which a person is confined in specified local jails, workhouses, or other correctional facilities. (R.C. 3924.53(A)(2), (B), and (C).)

The bill expands the definition of "confinement" for the purposes of this provision to also mean any period of time during which a person is in the custody or under the supervision of DRC (R.C. 3924.53(A)(2)).

**Claim for payment for the health care services provided to offender.** The bill enacts provisions regarding insurance payment for health care services provided to an offender in DRC's custody or under its supervision. Under the bill, for each offender who is in the custody or under the supervision of DRC, DRC may make a determination as to whether the offender is covered under an individual or group sickness and accident insurance policy or an individual or group health insuring corporation policy, contract, or agreement. If the offender has coverage of that type, DRC must familiarize itself with the terms and conditions to receive benefits under the policy, contract, or agreement.

If DRC determines that the offender is covered under any such policy, contract, or agreement and, while that coverage is in force, DRC renders or arranges for the rendering of health care services to the person in accordance with the terms and conditions of the policy, contract, or agreement, DRC or the provider of the health care services, as appropriate under the terms and conditions of the policy, contract, or agreement, may submit a claim for payment for the health care services to the appropriate third-party payer. If the policy holder is the offender, the offender must be required to assign payment of benefits directly to the provider or DRC, as appropriate. If the policy holder is not the offender, the policy holder must be asked to voluntarily provide policy information and assign payments directly to the provider or DRC, as appropriate. DRC must provide the third-party payer with a copy of the assignment of benefits by the policy holder. The policy holder and the third-party payer must make all arrangements necessary to ensure that payment of any amount due on the claim is made to the provider or

DRC as specified in the assignment. Any payment made to DRC pursuant to this provision must be deposited into the existing Offender Financial Responsibility Fund. DRC remains ultimately responsible for payment of all health care services provided to an offender in DRC's custody or under its supervision, but is the payer of last resort. If DRC pays a provider for health care services rendered to an offender and payment subsequently is made for the same services by a third-party payer, the duplicate payment must be refunded to DRC by the provider and must be deposited into the existing Offender Financial Responsibility Fund.

If DRC determines that the offender is covered under any such policy, contract, or agreement, DRC must make a determination, after considering security, public safety, and transportation issues, whether or not to render or arrange for the rendering of health care services in accordance with the terms and conditions of the policy, contract, or agreement. DRC, based on security, public safety, or transportation concerns, or any combination of those concerns, may arrange for the rendering of health care services for the offender at a health care facility, by a provider, or at a health care facility and by a provider not covered by the policy, contract, or agreement and pay the costs of the health care services for the offender.

If DRC renders or arranges for the rendering of health care services to an offender and pays for the services, DRC reserves the right to seek reimbursement from a third-party payer for the services if it subsequently is determined that the offender was covered under an individual or group sickness and accident insurance policy or an individual or group health insuring corporation policy, contract, or agreement. DRC must submit a claim for reimbursement of the type described in this paragraph within the time frames applicable to claims submitted by a policy holder in accordance with the terms and conditions of the policy, contract, or agreement.

If, at the time DRC arranges for health care services for an offender and a provider renders those services, DRC determines as described above that the offender is covered, or potentially is covered, under an individual or group sickness and accident insurance policy or an individual or group health insuring corporation policy, contract, or agreement, then all of the following apply: (1) DRC is responsible for any cost-sharing, co-payments, or deductibles required under the policy, contract, or agreement, (2) if the insurer or potential insurer denies the claim for payment, DRC remains liable for payment to the provider of services, and (3) if an insurer covers a service, but the amount the insurer pays to the provider is less than the amount negotiated and established by contract then in effect between DRC and the provider, DRC is liable for reimbursing the difference to the provider.

The bill specifies that nothing in these provisions requires a third-party payer to reimburse any provider or DRC for health care services not covered under the terms or conditions of an individual or group sickness and accident insurance policy, an individual or group health insuring corporation policy, contract, or agreement, or any other policy, contract, or agreement. (R.C. 5120.57.)

**DRC to examine the feasibility and desirability of purchasing insurance coverage**

The bill requires DRC to examine the feasibility and desirability of purchasing insurance coverage to protect against unpredictable or catastrophic losses that may be incurred by the state in the provision of health care services to offenders who are in DRC's custody or under its supervision. No later than six months after the bill's effective date, DRC must report its findings and any recommendations to the Speaker of the House of Representatives, the President of the Senate, and the chairs of the standing committees of the House of Representatives and the Senate that have primary jurisdiction over issues related to DRC. (Section 3(A).)

**DRC to request proposals for a utilization review program**

The bill requires DRC to develop specifications for a utilization review program under which the clinical necessity, appropriateness, efficacy, or efficiency of any outside health care service recommended for an offender may be evaluated by an external utilization review organization. DRC must request proposals for the provision of services of that nature. The request for proposals (RFPs) must adequately describe the specifications. Within six months after the bill's effective date, DRC must report the responses to the RFPs to the Speaker of the House of Representatives, the President of the Senate, and the chairs of the standing committees of the House of Representatives and the Senate that have primary jurisdiction of issues related to DRC. DRC is not required to enter into a contract for the provision of services of that nature unless money has been appropriated to DRC adequate to fund the provision of those services. (Section 3(B).)

**Rules regarding health care for offenders**

The bill requires DRC to adopt rules under R.C. 111.15 to do both of the following (R.C. 5120.58):

(1) Establish a schedule of health care benefits that are available to offenders who are in the custody or under the supervision of DRC;

(2) Establish a program to encourage the utilization of preventive health care services by offenders.

**Definitions regarding DRC services**

As used in the bill regarding the DRC health care service provisions:

**Ancillary services.** "Ancillary services" means services provided to an offender as necessary for the particular circumstances of the offender's personal supervision, including, but not limited to, specialized counseling, testing, or other services not included in the calculation of residential or supervision costs (R.C. 5120.56(A)(1)--unchanged by the bill).

**Beneficiary.** "Beneficiary" means any policyholder, subscriber, member, employee, or other person who is eligible for benefits under a benefits contract (R.C. 3924.53(A)(1) by reference to 3901.38(A)(1), not in the bill).

**Benefits contract.** "Benefits contract" means a sickness and accident insurance policy providing hospital, surgical, or medical expense coverage, or a health insuring corporation contract or other policy or agreement under which a third-party payer agrees to reimburse for covered health care or dental services rendered to beneficiaries, up to the limits and exclusions contained in the benefits contract (R.C. 3924.53(A)(1) by reference to 3901.38(A)(2), not in the bill).

**Confinement.** "Confinement" means any period of time during which a person is in the custody or under the supervision of DRC or is confined in specified local jails, workhouses, or other correctional facilities (R.C. 3924.53(A)(2), as amended by the bill as described above in "**Benefits contracts**").

**Cost debt.** "Cost debt" means a cost of incarceration or supervision that may be assessed against and collected from an offender as a debt to the state (R.C. 5120.56(A)(2)--unchanged by the bill).

**Detention facility.** "Detention facility" means any place used for the confinement of a person charged with or convicted of any crime (R.C. 5120.56(A)(3)--unchanged by the bill).

**Offender.** "Offender" means any inmate, parolee, probationer, releasee, or other person who has been convicted of or pleaded guilty to any felony or misdemeanor and is sentenced to a term of imprisonment, a prison term, or another type of confinement in a detention facility or to participation in another correctional program in lieu of incarceration (R.C. 5120.56(A)(4)--unchanged by the bill).

**Reimbursement of costs of an offender's confinement in a local detention facility, ordered by court as part of sentence**

**Felony offenders--existing law**

Under the existing Felony Sentencing Law, a court imposing sentence upon an offender for a felony may sentence the offender to any financial sanction or combination of financial sanctions authorized under the Felony Sentencing Law. Among the authorized financial sanctions, subject to the provision described in the next paragraph, the court is permitted to impose a financial sanction of reimbursement by the offender of any or all of the costs of sanctions incurred by the government, including all or part of the costs of implementing any community control sanction, or all or part of the costs of confinement under a prison term or community residential sanction imposed under R.C. 2929.14 or 2929.16, provided that the amount of reimbursement ordered cannot exceed the total amount of reimbursement the offender is able to pay as determined at a hearing and cannot exceed the actual cost of the confinement.

However, if the offender is sentenced to a sanction of confinement under a prison term or community residential sanction imposed under R.C. 2929.14 or 2929.16 that is to be served in a facility operated by a board of county commissioners, a legislative authority of a municipal corporation, or another local governmental entity, one of the following applies: (1) if the board, legislative authority, or other local governmental entity requires prisoners convicted of an offense other than a minor misdemeanor to reimburse the county, municipal corporation, or other entity for its expenses incurred by reason of the prisoner's confinement, the court must impose a financial sanction under the provision described in the preceding paragraph that requires the offender to reimburse the county, municipal corporation, or other entity for the cost of the confinement, and the court may impose any other financial sanction authorized by law, (2) if the board, legislative authority, or other local governmental entity has adopted a resolution or ordinance specifying that prisoners convicted of felonies are not required to reimburse the county, municipal corporation, or other local governmental entity for its expenses incurred by reason of the prisoner's confinement, the court cannot impose a financial sanction under the provision described in the preceding paragraph that requires the offender to reimburse the county, municipal corporation, or other entity for the cost of the confinement, but the court may impose any other financial sanction under this section, or (3) if neither clause (1) nor (2) applies, the court may impose, but is not required to impose, any financial sanction under the Felony Sentencing Law, apparently including a financial sanction under the provision described in the preceding paragraph that requires the offender to reimburse the county, municipal corporation, or other entity for the cost of the confinement. (R.C. 2929.18(A).)

The existing Felony Sentencing Law contains procedures for the collection of any financial sanction imposed as part of the sentence of a felony offender (R.C. 2929.18(C) to (G)).

**Felony offenders--operation of the bill**

The bill eliminates all linkage between a sentencing court ordering a convicted felon to reimburse the costs of the offender's confinement in a "local detention facility" (see "**Definitions regarding local detention facility reimbursement**," below) and the board, legislative authority, or other local governmental entity that operates a local detention facility requiring prisoners in the facility to reimburse the costs of the prisoner's confinement. Under the bill, a court imposing sentence upon an offender for a felony *always* is permitted to impose a financial sanction of reimbursement by the offender of any or all of the costs of sanctions incurred by the government, including all or part of the costs of implementing any community control sanction, or all or part of the costs of confinement under a prison term or community residential sanction imposed under R.C. 2929.14 or 2929.16, provided that the amount of reimbursement ordered cannot exceed the total amount of reimbursement the offender is able to pay as determined at a hearing and cannot exceed the actual cost of the confinement.

The bill specifies that, if a felony offender is sentenced to a sanction of confinement under a prison term or community residential sanction imposed under R.C. 2929.14 or 2929.16 that is to be served in a facility operated by a board of county commissioners, a legislative authority of a municipal corporation, or another local governmental entity, if the board, legislative authority, or other local governmental entity requires prisoners convicted of an offense other than a minor misdemeanor to reimburse the county, municipal corporation, or other entity for its expenses incurred by reason of the prisoner's confinement, *and if the court does not impose a financial sanction under the provision described in the preceding paragraph*, confinement costs may be assessed pursuant to the provisions described below in "**Standard procedure for reimbursing costs of confinement, by requirement of legislative authority**" and, in addition, the offender may be required to pay the fees specified below in "**Costs for medical treatment or service or random drug test, etc.**" (R.C. 2929.18(A).)

The bill does not change the existing procedures in the Felony Sentencing Law for the collection of any financial sanction imposed as part of the sentence of a felony offender (R.C. 2929.18(C) to (G)).

**Misdemeanor offenders--existing law**

The existing Misdemeanor Sentencing Law does not grant a court imposing sentence upon an offender for a misdemeanor specific authority to include, as part

of the offender's sentence, a sanction that requires the offender to reimburse any governmental entity for the costs the entity experiences as a result of the offender's confinement in a facility operated by the entity (R.C. 2929.21 and 2929.22). But under existing law, if, pursuant to the provisions described below in **'Standard procedure for reimbursing costs of confinement, by requirement of legislative authority,'** a court in a jurisdiction in which the appropriate authority or board requires an offender to reimburse the costs of confinement sentences an offender for a misdemeanor to a term of imprisonment in the facility that is subject to the requirement, then, after that offender's release from imprisonment, the court must hold a hearing to determine the amount of the reimbursement, whether the offender has the ability to pay, and the amount the offender is able to pay (see **"Court involvement in standard procedure for reimbursement,"** below).

### **Misdemeanor offenders--operation of the bill**

The bill enacts provisions that specifically permit a court imposing sentence upon an offender for a misdemeanor to include, as part of the offender's sentence, a sanction that requires the offender to reimburse any governmental entity for the costs the entity experiences as a result of the offender's confinement in a "local detention facility" operated by the entity. Under the bill, in addition to or in lieu of any fine or other sanction imposed under the Misdemeanor Sentencing Law, the court imposing sentence upon an offender for a misdemeanor may sentence the offender to a sanction that requires the offender to reimburse the government for all or part of the costs of confinement in a local detention facility under a term of imprisonment imposed under the Misdemeanor Sentencing Law, including, but not limited to, a *per diem* fee for room and board, the costs of medical and dental treatment, and the costs of repairing property damaged by the offender while confined. The court must include the reimbursement sanction in the offender's sentence.

The amount of reimbursement so ordered cannot exceed the total amount of reimbursement the offender is able to pay and cannot exceed the actual cost of the confinement. The court may collect any amount of reimbursement the offender is required to pay. If the court does not order reimbursement, confinement costs may be assessed pursuant to the provisions described below in **'Standard procedure for reimbursing costs of confinement, by requirement of legislative authority,'** and, in addition, the offender may be required to pay the fees specified below in **"Costs for medical treatment or service or random drug test, etc."**

If the court determines that a hearing is necessary, it may hold a hearing to determine whether the offender is able to pay a reimbursement sanction or is likely in the future to be able to pay it. If the court determines the offender is indigent and unable to pay the reimbursement sanction, the court must consider imposing and may impose a period of community service under the existing law governing

probation for misdemeanor offenders (R.C. 2951.02) in lieu of imposing a reimbursement sanction. If the court does not determine that the offender is indigent, the court may impose a period of community service under that existing law in lieu of or in addition to imposing a reimbursement sanction. If a person fails to pay a reimbursement sanction, the court may order community service in lieu of the reimbursement sanction.

The offender must pay reimbursements under a reimbursement sanction to pay the costs incurred by a county in operating a facility used to confine offenders pursuant to a term of imprisonment imposed for a misdemeanor to the county treasurer. The county treasurer must deposit the reimbursements in the general fund of the county. The county must use the amounts deposited in the fund to pay the costs incurred by the county in operating a facility used to confine offenders pursuant to a term of imprisonment imposed for a misdemeanor.

The offender must pay reimbursements under a reimbursement sanction to pay the costs incurred by a municipal corporation in operating a facility used to confine offenders pursuant to a term of imprisonment imposed for a misdemeanor to the municipal treasurer. The municipal treasurer must deposit the reimbursements in the general fund of the municipal corporation. The municipal corporation must use the amounts deposited in the fund to pay the costs incurred by the municipal corporation in operating a facility used to confine offenders pursuant to a term of imprisonment imposed for a misdemeanor.

A reimbursement sanction imposed upon a misdemeanor offender confined in a local detention facility as described above is a judgment in favor of the entity operating the local detention facility. The offender subject to the reimbursement sanction is the judgment debtor. Once the reimbursement sanction is imposed as a judgment, the subdivision may bring an action to obtain execution of the judgment through any available procedure or obtain an order for the assignment of wages of the judgment debtor. The civil remedies described in this paragraph supplement, but do not preclude, enforcement of the criminal sentence.

Each court imposing a reimbursement sanction upon a misdemeanor offender as described above may designate the clerk of court or another person to collect the reimbursement sanction. The clerk, or another person authorized by law or the court to collect the reimbursement sanction may do any of the following (1) enter into contracts with one or more public agencies or private vendors for the collection of amounts due under the sanction (before entering into a contract for the collection of amounts due from an offender pursuant to a reimbursement sanction, a court must comply with R.C. 307.86 to 307.92), (2) permit payment of all or any portion of the sanction in installments, by financial transaction device if the court is a county court or a municipal court operated by a county, by credit card or debit card or by another electronic transfer if the court is a municipal court

not operated by a county, or by any other reasonable method, in any time, and on any terms that court considers just, except that the maximum time permitted for payment cannot exceed five years (if the court is a county court or a municipal court operated by a county, the acceptance of payments by any financial transaction device shall be governed by the policy adopted by the board of county commissioners of the county pursuant to R.C. 301.28. If the court is a municipal court not operated by a county, the clerk may pay any fee associated with processing an electronic transfer out of public money or may charge the fee to the offender), or (3) to defray administrative costs, charge a reasonable fee to an offender who elects a payment plan rather than a lump sum payment of a reimbursement sanction.

No reimbursement sanction imposed upon a misdemeanor offender as described above precludes a victim from bringing a civil action against the offender. Reimbursement imposed as a sanction upon a misdemeanor offender as described above must be paid to the general fund of the political subdivision that incurred the expenses of the offender's confinement. (R.C. 2929.21(F)(2) and 2929.36.)

### **Reimbursement of costs of an offender's confinement in a local detention facility, in other circumstances**

#### **Introduction**

Existing law contains a number of parallel provisions regarding reimbursement of the costs of confinement by a person confined in a local detention facility, when the reimbursement is required pursuant to a specified "standard procedure" by the governmental entity that operates the facility, pursuant to a "policy" used "in lieu of" the standard procedure, or pursuant to a medical fee reimbursement mechanism. The bill consolidates these parallel provisions and revises some aspects of the provisions. To avoid redundancy, for the purposes of describing existing law, only the section in the following portions of this analysis, only the section describing the reimbursement of costs of confining a person in a multicounty, municipal-county, or multicounty-municipal correctional center established under existing R.C. 307.93 is described. Analogous provisions exist for other local detention facilities.

#### **Standard procedure for reimbursing costs of confinement, by requirement of legislative authority**

**Existing law.** Under existing law, each board of county commissioners and the legislative authority of each municipal corporation that enters into a contract to establish a multicounty correctional center, municipal-county, or multicounty-municipal correctional center may require a person who was convicted of an

offense, who is under the charge of the sheriff of their county or of the officer or officers of the contracting municipal corporation or municipal corporations having charge of persons incarcerated in the municipal jail, workhouse, or other correctional facility, and who is confined in the multicounty, municipal-county, or multicounty-municipal correctional center, to reimburse the applicable county or municipal corporation for its expenses incurred by reason of the person's confinement in the center. The expenses of confinement include, but are not limited to, the expenses relating to the provision of food, clothing, shelter, medical care, personal hygiene products, and up to two hours of overtime costs the sheriff or municipal corporation incurred relating to the trial of the person. The amount of reimbursement may be the actual cost of the person's confinement plus the authorized trial overtime costs or a lesser amount determined by the board of county commissioners of the county or the legislative authority of the municipal corporation, provided that the lesser amount must be determined by a formula that is uniformly applied to persons incarcerated in the center. The amount of reimbursement must be determined by a court at a hearing held pursuant to the provisions described below under "**Court involvement in standard procedure for reimbursement.**" The amount or amounts paid in reimbursement by a person confined for a misdemeanor or the amount recovered from a person confined for a misdemeanor by executing upon the judgment obtained under "**Court involvement in standard procedure for reimbursement,**" below, must be paid into the treasury of the county or municipal corporation that incurred the expenses. If a person is confined for a felony and the court imposes a financial sanction that requires the person to reimburse the costs of confinement, the prosecuting attorney of the county or the director of law of the municipal corporation must bring an action to recover the expenses of the confinement in the Felony Sentencing Law described under "**Court involvement in standard procedure for reimbursement,**" below.

Each board of county commissioners and the legislative authority of each municipal corporation that enters into a contract as described in the preceding paragraph may adopt a resolution or ordinance specifying that a person who was convicted of a felony, who is under the charge of the sheriff of their county or of an officer of one of the contracting municipal corporations having charge of persons incarcerated in the municipal jail, workhouse, or other facility, and who is confined in the multicounty, municipal-county, or multicounty-municipal correctional center is not required to reimburse the applicable county or municipal corporation for its expenses incurred by reason of the person's confinement in the center. If the boards and legislative authorities adopt a resolution or ordinance of that nature, the boards and legislative authorities must provide a copy to the courts of common pleas of their counties, and the court that sentences a person convicted of a felony is prohibited from imposing a sanction that requires the person to reimburse the costs of the confinement. (R.C. 307.93(D); see also 341.14(B),

341.19(A), 341.23(C), 753.02(B), 753.04(B), 753.16(C), 2301.56(B), and 2947.19(B) regarding the other types of local detention facilities.)

***Operation of the bill.*** The bill consolidates these various provisions that cover the various types of "local detention facilities." Under the bill, a board of county commissioners, in an agreement with the sheriff, a legislative authority of a municipal corporation, a corrections commission, a judicial corrections board, or any other public or private entity that operates a local detention facility at which a prisoner who is convicted of an offense and confined in the facility under a sanction or term of imprisonment imposed pursuant to the Felony Sentencing Law or the Misdemeanor Sentencing Law may adopt a policy that requires the prisoner to pay all or part of the costs of confinement in that facility. If a board of county commissioners, legislative authority, corrections commission, judicial corrections board, or other entity adopts a policy for a facility pursuant to one of those sections, the person in charge of that facility must appoint a reimbursement coordinator to administer the facility's policy.

The costs of confinement may include, but are not limited to, the costs of repairing property damaged by the prisoner while confined, a per diem fee for room and board, medical and dental treatment costs, the fee for a random drug test, and a one-time reception fee for the costs of processing the prisoner into the facility at the time of the prisoner's initial entry into the facility under the confinement in question, minus any fees deducted pursuant to the provisions described below under "***Costs for medical treatment or service or random drug tests, etc.***" Any policy so adopted must be used when a court does not order reimbursement of confinement costs under the Felony Sentencing Law or the Misdemeanor Sentencing Law. The amount so assessed is prohibited from exceeding the total amount that the person is able to pay.

Under the bill, each prisoner covered by a repayment policy adopted as described above must receive at the end of the prisoner's confinement an itemized bill of the expenses to be reimbursed. The policy must allow periodic payments on a schedule to be implemented upon a prisoner's release. The bill also must state that payment must be made to the person identified in the bill as the reimbursement coordinator and include a notice that specifies that the prisoner has 30 days in which to dispute the bill by filing a written objection with the reimbursement coordinator and that if the prisoner does not dispute the bill in that manner within that period, the prisoner is required to pay the bill and a certificate of judgment may be obtained against the prisoner for the amount of the unpaid expenses. The prisoner must sign a copy of the bill, and the reimbursement coordinator must retain that copy. If the prisoner disputes an item on the bill within 30 days after receiving the bill, the reimbursement coordinator may either

concede the disputed item or proceed to a hearing as described in the next paragraph.

If the prisoner disputes an item on an itemized bill presented as described in the preceding paragraph and the reimbursement coordinator does not concede the item, the reimbursement coordinator must submit the bill to the court, and the court must hold a hearing on the disputed items in the bill. At the end of the hearing, the court must determine how much of the disputed expenses the prisoner must reimburse the legislative authority or managing authority and must issue a judgment in favor of the legislative authority or managing authority for any undisputed expenses and the amount of the disputed expenses for which the prisoner must reimburse the legislative authority or managing authority. The reimbursement coordinator cannot seek to enforce the judgment until at least 90 days after the court issues the judgment.

If a prisoner does not dispute the itemized bill presented to the prisoner as described above and does not pay the bill within 90 days, the reimbursement coordinator must send by mail a notice to the prisoner requesting payment of the expenses as stated in the bill. If the prisoner does not respond to the notice by paying the expenses in full within 30 days of the date the notice was mailed, the reimbursement coordinator must send by mail a second notice to the prisoner requesting payment of the expenses. If 180 days elapse from the date the reimbursement coordinator provides the bill and if the prisoner has not paid the full amount of the expenses pursuant to the bill and the notices, the reimbursement coordinator may notify the "clerk of the appropriate court" (see "**Definitions regarding local detention facility reimbursement,**" below) of those facts, and the clerk may issue a certificate of judgment against the prisoner for the balance of the expenses remaining unpaid.

The reimbursement coordinator may collect any amounts remaining unpaid on an itemized bill and any costs associated with the enforcement of the judgment and may enter into a contract with one or more public agencies or private vendors to collect any amounts remaining unpaid. For enforcing a judgment issued under these provisions, the reimbursement coordinator may assess an additional poundage fee of 2% of the amount remaining unpaid and may collect costs associated with the enforcement of the judgment.

Neither the reimbursement coordinator nor the legislative authority or managing authority may enforce any judgment obtained under these provisions by means of execution against the prisoner's "homestead" (see "**Definitions regarding local detention facility reimbursement,**" below). Any reimbursement received under these provisions must be credited to the general fund of the treasury of the political subdivision that incurred the expenses to be used for general fund



purposes. (R.C. 2929.37; also, R.C. 307.93(D); 341.14(B), 341.19(A), 341.23(C), 753.02(B), 753.04(B), 753.16(C), 2152.20(A)(4)(b), 2301.56(B), and 2947.19(B).)

Related to the provisions described above, the bill adds provisions to the Felony Sentencing Law and Misdemeanor Sentencing Law that specify that, if a court sentences a convicted felon to a sanction of confinement pursuant to R.C. 2929.14 or 2929.16 that is to be served in a "local detention facility" or a court sentences a convicted misdemeanant to a term of imprisonment pursuant to R.C. 2929.21 that is to be served in a "local detention facility" and if, in either case, the local detention facility is covered by a reimbursement policy adopted as described above, both of the following apply: (a) the court must specify, as part of the sentence, that if the offender is presented with an itemized bill under the provisions described above for payment of the costs of confinement, the offender must pay the bill in accordance with those provisions, and, if the offender does not dispute the bill and does not pay the bill by the times specified in those provisions, the clerk of the court may issue a certificate of judgment against the offender as described in those provisions, and (b) the sentence automatically includes any such certificate of judgment so issued (R.C. 2929.19(B)(7) and 2929.21(F)(2)).

#### **Court involvement in standard procedure for reimbursement**

**Existing law--felonies.** Under existing law, if the board, legislative authority, or other local governmental entity requires prisoners convicted of an offense other than a minor misdemeanor to reimburse the county, municipal corporation, or other entity for its expenses incurred by reason of the prisoner's confinement under the provisions described above in "**Standard procedure for reimbursing costs of confinement, by requirement of legislative authority,**" the court must impose a financial sanction that requires the offender to reimburse the county, municipal corporation, or other local governmental entity for the cost of the confinement. In addition, the court may impose any other authorized financial sanction. If the board, legislative authority, or other local governmental entity has adopted a resolution or ordinance specifying that prisoners convicted of felonies are not required to reimburse the county, municipal corporation, or other local governmental entity for its expenses incurred by reason of the prisoner's confinement, the court is prohibited from imposing a financial sanction that requires the offender to reimburse the county, municipal corporation, or other local governmental entity for the cost of the confinement, but the court may impose any other authorized financial sanction. If the board, legislative authority, or other local government entity has done neither of these things, the court may impose, but is not required to impose, any financial sanction, including one that requires the offender to reimburse the county, municipal corporation, or other local government entity for the cost of the confinement. (R.C. 2929.18(A)(5)(b).)

**Existing law--misdemeanors.** If a judge in any jurisdiction in which the appropriate authority or board requires an offender to reimburse the costs of confinement under the provisions described above in "**Standard procedure for reimbursing costs of confinement, by requirement of legislative authority,**" sentences an offender to a term of imprisonment in the facility that is subject to the requirement for a misdemeanor, then after that person's release from imprisonment, the judge or, if that judge no longer is sitting on that court, any judge from that court, also must hold a hearing to determine the amount of the reimbursement and whether the offender has the ability to pay the reimbursement and the amount the offender is able to pay. The offender must have an opportunity to be heard and may be represented by counsel at the hearing, at the offender's option. A record must be made of the hearing.

Before holding a hearing on reimbursement, the judge must investigate or cause to be investigated the offender's ability to pay the reimbursement and possible reimbursement schedules and methods. The amount of reimbursement must be determined at the hearing in light of the sentence of imprisonment given and according to the offender's ability to pay. But, the actual amount to be paid for reimbursable expenses other than medical expenses must be the actual cost of the confinement or a lesser amount determined pursuant to the provisions described above under "**Default standard procedure for reimbursing costs of confinement.**" The actual amount to be paid for medical expenses must not exceed 40% of those medical expenses. In determining the offender's ability to pay the reimbursement, all of the following must be considered:

- (1) The offender's financial resources, excluding the funds saved from wages derived from the offender's labor or employment during the period of incarceration;
- (2) Any obligation to support the offender's dependents;
- (3) Any obligation to make restitution to the victim of the offense of which the offender is convicted;
- (4) The offender's income, assets, liabilities, ability to borrow, household expenses, and any other factor that may affect the offender's financial ability to make reimbursement.

At the conclusion of the hearing held, the judge must determine the amount of the reimbursable expenses owed by the offender and the amount that the offender is able to pay. If the judge determines that the offender is able to pay any of the reimbursable expenses, the judge must issue a judgment against the offender in the amount of the reimbursable expenses that the offender is able to pay. In the judgment, the judge also must establish a payment schedule for the

reimbursement. The judgment must state that the reimbursement is to be made to the county, municipal corporation, or township for expenses incurred by it during any time that the offender served in a local jail or workhouse. Each payment on the payment schedule constitutes a separate judgment. The prosecuting attorney for a county, city director of law, village solicitor, or similar chief legal officer of a municipal corporation, as appropriate, may execute upon the judgment for failure to meet the payment schedule.

Under existing law, these provisions apply only to misdemeanor offenders confined in the facility. (R.C. 2929.223.)

**Operation of the bill.** The bill eliminates all linkage between a sentencing court ordering a convicted offender to reimburse the costs of the offender's confinement in a local detention facility and any requirement that the board, legislative authority, or other local governmental entity that operates a local detention facility requiring prisoners in the facility to reimburse the costs of the prisoner's confinement. Under the bill, if an offender convicted of a felony or misdemeanor is sentenced to a sanction of confinement in a local correctional facility, a court imposing sentence upon the offender *always* is permitted to impose a financial sanction of reimbursement by the offender of any or all of the costs of the confinement under the sanction of confinement (R.C. 2929.18 and 2929.36, and repeal of R.C. 2929.223; see "**Reimbursement of costs of an offender's confinement in a local detention facility, ordered by court as part of sentence,**" above.)

#### **Alternative procedure for reimbursing costs of confinement**

**Existing law.** In lieu of requiring offenders to reimburse the county for expenses incurred by reason of the person's confinement under the provisions described above under "**Standard procedure for reimbursing costs of confinement, by requirement of legislative authority,**" each board of county commissioners and the legislative authority of each municipal corporation that enters into a contract to establish a multicounty correctional center, municipal-county, or multicounty-municipal correctional center may jointly adopt a prisoner reimbursement policy for the center to be administered by the person appointed to be in charge of the center. The person in charge may appoint a reimbursement coordinator to administer the center's prisoner reimbursement policy. The prisoner reimbursement policy is a policy that requires a person confined to the center to reimburse the applicable political subdivisions for any expenses incurred by reason of the person's confinement in the center. The expenses may include, but are not limited to: (1) a *per diem* fee for room and board of not more than \$60 per day or the actual *per diem* cost, whichever is less, for the entire period of time the person is confined in the center, (2) actual charges for medical and dental treatment and the fee for a random drug test assessed under R.C. 321.26, and (3)

reimbursement for government property damaged by the person while confined in the center.

Rates charged are on a sliding scale determined by the corrections commission based on the ability of the person confined to the center to pay and on consideration of any legal obligation of the person to support a spouse, minor children, or other dependents and any moral obligation to support dependents to whom the person is providing or has in fact provided support.

The reimbursement coordinator or another person designated by the person in charge may investigate the financial status of the confined person and obtain information necessary to investigate that status. The coordinator may work with the confined person to create a repayment plan to be implemented upon the person's release. At the end of that person's incarceration, the person must be presented with a billing statement.

The reimbursement coordinator or another person designated by the person in charge of the center may collect, or the corrections commission may enter into a contract with one or more public agencies or private vendors to collect, any amounts remaining unpaid. Within 12 months after the date of the confined person's release, the prosecuting attorney, city director of law, or village solicitor of a participating political subdivision may file a civil action to seek reimbursement from that person for any billing amount that remains unpaid. The participating political subdivisions is prohibited from enforcing any judgment obtained by means of execution against the person's homestead. Any reimbursement received must be credited to the general fund of the political subdivision that bore the expense, to be used for general fund purposes. (R.C. 307.93(E); see also 341.06(A), 341.14(C), 341.19(B), 341.23(D), 753.02(C), 753.04(C), 2301.56(C), and 2947.19(C).)

**Operation of the bill.** The bill repeals the authority to adopt these alternative, "in lieu of" procedures (repeal of R.C. 307.93(E), 341.06(A), and 341.23(D); R.C. 341.14(C), 341.19(B), 753.02(C), 753.04(C), 2301.56(C), and 2947.19(C)).

**Costs for medical treatment or service or random drug test, etc.**

**Existing law.** Existing law provides that, notwithstanding any contrary provision, the corrections commission of a center may establish a policy that requires any person who is not indigent and who is confined in the multicounty, municipal-county, or multicounty-municipal correctional center to pay a reasonable fee for any medical treatment or service requested by and provided to that person or to pay a fee for a random drug test. The fee for the medical treatment or service may not exceed the actual cost of the treatment or service

provided. Existing law prohibits a person confined to the correctional center who is indigent from being required to pay those fees and from being denied any necessary medical care because of inability to pay those fees.

Upon provision of the requested medical treatment or service or assessment of a fee for a random drug test, payment of the required fee may be automatically deducted from a person's account record in the center's business office. If the person has no funds in the person's account, a deduction may be made at a later date during the person's confinement in the center if funds later become available in the person's account. If the person is released from the center and has an unpaid balance of these fees, the corrections commission may bill the person for payment of the remaining unpaid fees. Fees received for medical treatment or services must be paid into the commissary fund, if one has been created for the center, or if no such fund exists, into the treasuries of the political subdivisions that incurred the expenses of those treatments and services, in the same proportion as those expenses were borne by those political subdivisions.

If the person is required by any other provision of existing law to reimburse a county or municipal corporation for expenses incurred by reason of the person's confinement to the center, any fees paid by the person under the preceding provision must be deducted from the expenses required to be reimbursed under those other provisions. (R.C. 307.93(F); see also R.C. 341.06(B), 341.14(C), 341.19(B), 341.21(C), 341.23(E), 753.02(D), 753.04(D), 753.16(D), 2301.56(D), and 2947.19(D).)

**Operation of the bill.** The bill consolidates these various provisions that cover the various types of local detention facilities. Under the bill, a board of commissioners of a county, in an agreement with the sheriff, a legislative authority of a municipal corporation, a corrections commission, a judicial corrections board, or any other public or private entity that operates a local detention facility at which a sanction or term of imprisonment imposed pursuant to the Felony Sentencing Law or the Misdemeanor Sentencing Law, may establish a policy that requires any prisoner who is confined in the facility as a result of pleading guilty to or having been convicted of an offense to pay a one-time reception fee for the costs of processing the prisoner into the facility at the time of the prisoner's initial entry into the facility under the confinement in question, to pay a reasonable fee for any medical or dental treatment or service requested by and provided to that person, and to pay a fee for a random drug test. The fee for the medical treatment or service may not exceed the actual cost of the treatment or service provided, and no prisoner who is confined in the local detention facility may be denied any necessary medical care because of inability to pay the fees.

Upon assessment of a one-time reception fee as described above, the provision of the requested medical treatment or service, or the assessment of a fee



for a random drug test, payment of the required fee may be automatically deducted from the person's inmate account in the business office of the facility in which the person is confined. If there is no money in the account, a deduction may be made at a later date during the prisoner's confinement if the money becomes available in the account. If, after release, the prisoner has an unpaid balance of those fees, the sheriff, legislative authority of the municipal corporation, corrections commission, judicial corrections board, or other public or private entity that operates the residential facility may bill the prisoner for the payment of the unpaid fees. Fees received for medical or dental treatment or services must be paid to the commissary fund, if one exists for the facility, or if no commissary fund exists, to the general fund of the treasury of the political subdivision that incurred the expenses, in the same proportion as those expenses were borne by the political subdivision.

Any fee paid by a person under this provision must be deducted from any medical or dental costs that the person is ordered to reimburse under the Misdemeanor Sentencing Law or to repay under a prisoner reimbursement policy. (R.C. 2929.38; see also R.C. 307.93(E), 341.14(C), 341.19(B), 341.21(C), 341.23(D), 341.26(E), 753.02(C), 753.04(C), 753.16(D), 2301.56(C), and 2947.19(C), and repeal of R.C. 341.06(B).)

#### **Definitions regarding local detention facility reimbursement**

The bill defines a number of terms, for use in its provisions described above in "**Standard procedure for reimbursing costs of confinement, by requirement of legislative authority**" and "**Costs for medical treatment or service or random drug test, etc.**" Under the bill, as used in those provisions (R.C. 2929.35):

(1) "Chief legal officer" includes a prosecuting attorney, village solicitor, city director of law, and attorney for a district of joint city and county workhouse or county workhouse.

(2) "Clerk of the appropriate court" or "appropriate court clerk" means whichever of the following applies: (a) if the local detention facility in question is a multicounty correctional center, multicounty-municipal correctional center, district community-based correctional facility, or district workhouse, the clerk of the court of common pleas of the most populous county served by the local detention facility, (b) if the local detention facility in question is a city workhouse, the clerk of the municipal court for that city, or (c) if neither clause (1) nor (2) applies, the clerk of the court of common pleas of the county in which the local detention facility in question is located.

(3) "Homestead" has the same meaning as in existing R.C. 323.151(A).

(4) "Inmate account" has the same meaning as in existing R.C. 2969.21.

(5) "Local detention facility" means a multicounty correctional center, municipal-county correctional center, multicounty-municipal correctional center, community-based correctional facility, district community-based correctional facility, jail, county jail, municipal or county prison, station house, workhouse, city workhouse, county workhouse, joint city and county workhouse, or district workhouse.

**Daily fine credit given to an offender jailed for failure to pay a fine**

**Existing law**

Existing law provides that, if a fine is imposed as a sentence or a part of a sentence imposed upon a convicted criminal offender, the court or magistrate that imposed the fine may order that the offender be committed to the jail or workhouse until the fine is paid or secured to be paid, or the offender is otherwise legally discharged, if the court or magistrate determines at a hearing that the offender is able, at that time, to pay the fine but refuses to do so. The hearing must be conducted at the time of sentencing. At the hearing, the offender has the right to be represented by counsel and to testify and present evidence as to his or her ability to pay the fine. If a court or magistrate determines after considering the evidence presented by an offender, that the offender is able to pay a fine, the determination must be supported by findings of fact set forth in a judgment entry that indicate the offender's income, assets, and debts, as presented by the offender, and his or her ability to pay.

If the court or magistrate has found the offender able to pay a fine at a hearing conducted in compliance with the provisions described in the preceding paragraph, and the offender fails to pay the fine, a warrant may be issued for the arrest of the offender. Any offender held in custody pursuant to such an arrest is entitled to a hearing on the first regularly scheduled court day following the date of arrest in order to inform the court or magistrate of any change of circumstances that has occurred since the time of sentencing and that affects his or her ability to pay the fine. The offender may waive the right to the hearing on any change of circumstances. At the hearing to determine any change of circumstances, the offender has the right to testify and present evidence as to any portion of his or her income, assets, or debts that has changed in such a manner as to affect his or her ability to pay the fine. If a court or magistrate determines, after considering any evidence presented by the offender, that the offender remains able to pay the fine, that determination must be supported by a judgment entry that includes findings of fact upon which such a determination is based.

No person may be ordered to be committed to a jail or workhouse or otherwise be held in custody in satisfaction of a fine imposed as the whole or a part of a sentence except as described in the two preceding paragraphs. *Any person imprisoned as described in the two preceding paragraphs receives credit upon the fine at the rate of \$30 per day or fraction of a day. If the unpaid fine is less than \$30, the person is to be imprisoned one day.* No commitment pursuant to the provisions described in the two preceding paragraphs can exceed six months. (R.C. 2947.14.)

### **Operation of the bill**

The bill increases the credit that is given to an offender jailed for failure to pay a fine. Under the bill, any person imprisoned as described above under "**Existing law**" *receives credit upon the fine at the rate of \$50 per day or fraction of a day. If the unpaid fine is less than \$50, the person is to be imprisoned one day.* The bill does not otherwise change the existing provisions regarding jailing of an offender for failure to pay a fine. (R.C. 2947.14.)

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## **COMMENT**

1. Under existing law, costs of incarceration or supervision that may be assessed against and collected from an offender as a debt to the state include, but are not limited to, all of the following costs that accrue while the offender is in the custody or under the supervision of DRC (R.C. 5120.56(D)): (a) any user fee or copayment for services at a detention facility or housing facility, including, but not limited to, a fee or copayment for sick call visits, (b) assessment for damage to or destruction of property in a detention facility subsequent to commitment, (c) restitution to an offender or to a staff member of a state correctional institution for theft, loss, or damage to the personal property of the offender or staff member, (d) the cost of housing and feeding the offender in a detention facility, (e) the cost of supervision of the offender, or (f) the cost of any "ancillary services" provided to the offender.

2. Existing law prohibits the cost of housing and feeding an offender in a state correctional institution from being collected from a payment made to the offender for performing an activity at a state job or assignment that pays less than the minimum wage or from money the offender receives from visitors, unless the combined assets in the offender's institution personal account exceed, at any time, \$100. If the combined assets in that account exceed \$100, the cost of housing and feeding the offender may be collected from the amount in excess of \$100. Also, DRC is prohibited from collecting cost debts or apply offender assets toward a cost debt if, due to an ongoing, permanent injury, the collection or application

would unjustly limit the offender's ability to provide for the offender after incarceration. (R.C. 5120.56(E) and (G).)

DRC is required under existing law to adopt rules to implement cost debt recovery. The rules must include, but are not limited to, rules that establish or contain all of the following: (1) a process for ascertaining the items of cost to be assessed against an offender, (2) a process by which the offender generally has the opportunity to respond to the assessment of costs and to contest any item of cost in DRC's calculation or as it applies to the offender, (3) a requirement that the offender be notified, in writing, of a final decision to collect or apply the offender's assets and that the notification be provided after the offender has had an opportunity to contest the application or collection, and (4) criteria for evaluating an offender's ongoing, permanent injury and evaluating the ability of that type of offender to provide for the offender after incarceration. The rules may allow the collection of a cost debt as a flat fee or over time in installments. If the cost debt is to be collected over time in installments, the rules are not required to permit the offender an opportunity to contest the assessment of each installment. The rules may establish a standard fee to apply to all offenders who receive a particular service. (R.C. 5120.56(F).)

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## HISTORY

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