



Aida S. Montano

*Bill Analysis*  
*Legislative Service Commission*

## **H.B. 453**

127th General Assembly  
(As Introduced)

**Reps. Bacon, Setzer, J. McGregor, Evans, Yuko, Flowers, Wagner, Fessler,  
Sears, Gardner, Collier**

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### **BILL SUMMARY**

- With respect to medical care provided by a health care provider not employed by or under contract with a municipal corporation to a person imprisoned in an institution under the control of, or in the custody of a law enforcement officer of, the municipal corporation, provides that the municipal corporation is not liable for medical care that is not medically necessary and that the municipal corporation's liability for medically necessary medical care is limited to an amount equivalent to the amount Medicaid would pay for the same kind of necessary medical care.
- With respect to medical care provided by a health care provider not employed by or under contract with a municipal corporation to a person imprisoned on a township's behalf in an institution under the control of the municipal corporation, provides that the township is not liable for medical care that is not medically necessary and that the township's liability for medically necessary medical care is limited to an amount equivalent to the amount Medicaid would pay for the same kind of necessary medical care.
- Provides that medical care is medically necessary only if it is nonelective and a person authorized to practice medicine and surgery or osteopathic medicine and surgery determines that it cannot be postponed until after a person is released from imprisonment or custody without endangering the person's life or health.

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## CONTENT AND OPERATION

### *Liability for medical care of person imprisoned in municipal corporation's institution or in the custody of law enforcement officer*

The bill provides that with respect to medical care that a health care provider not employed by, or under contract with, a municipal corporation provides to a person who is imprisoned in an institution under the control of, or who is in the custody of a law enforcement officer of, the municipal corporation, both of the following apply (R.C. 753.022):

(1) The municipal corporation is not liable for medical care that is *not* medically necessary.

(2) The municipal corporation's liability to pay or reimburse for medical care that is *medically necessary* is limited to an amount equivalent to the amount Medicaid would pay for the care provided if Medicaid covers the same kind of necessary medical care.

Medical care is *medically necessary* only if it is nonelective and a person authorized under R.C. Chapter 4731. to practice medicine and surgery or osteopathic medicine and surgery determines that it cannot be postponed until after a person is released from imprisonment or custody without endangering the person's life or health. (R.C. 753.022.) (See **COMMENT.**)

### *Liability for medical care of person imprisoned in municipal corporation's institution on township's behalf*

The bill provides that with respect to medical care that a health care provider not employed by, or under contract with, a municipal corporation provides to a person who, on a township's behalf, is imprisoned in an institution under the control of a municipal corporation, both of the following apply (R.C. 505.59):

(1) The township is not liable for medical care that is *not* medically necessary.

(2) The township's liability to pay or reimburse for medical care that is *medically necessary* is limited to an amount equivalent to the amount Medicaid would pay for the care provided if Medicaid covers the same kind of necessary medical care.

Medical care is *medically necessary* only if it is nonelective and a person authorized under R.C. Chapter 4731. to practice medicine and surgery or

osteopathic medicine and surgery determines that it cannot be postponed until after a person is released from imprisonment without endangering the person's life or health. (R.C. 505.59.)

### **Background**

R.C. 341.192(B) (not in the bill) provides that if a physician employed by or under contract to a county or the Department of Rehabilitation and Correction (DRC) to provide medical services to persons confined in the county jail or state correctional institution determines that a person who is confined in the county jail or a state correctional institution or who is in the custody of a law enforcement officer prior to the person's confinement in the county jail or a state correctional institution requires "necessary care" that the physician cannot provide, the necessary care must be provided by a "medical provider." The county or DRC must pay a "medical provider" for necessary care an amount not exceeding the authorized reimbursement rate for the same service established by the Department of Job and Family Services under the medical assistance program. "Necessary care" means medical care of a nonelective nature that cannot be postponed until after the period of confinement of a person who is confined in a county jail or a state correctional institution or is in the custody of a law enforcement officer without endangering the life or health of the person. "Medical provider" means a physician, hospital, laboratory, pharmacy, or other health care provider that is not employed by or under contract to a county or DRC to provide medical services to persons confined in the county jail or a state correctional institution. (R.C. 341.192(A).)

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### **COMMENT**

R.C. 753.02(A) (not in the bill) requires the legislative authority of a municipal corporation to provide by ordinance for sustaining all persons sentenced to or confined in a prison or station house at the expense of the municipal corporation. R.C. 753.02(B) provides in relevant part that, pursuant to R.C. 2929.37 (policy requiring prisoner to pay costs of confinement), the legislative authority of the municipal corporation may require a person who was convicted of an offense and who is confined in such a prison or station house to reimburse the municipal corporation for its expenses incurred by reason of the person's confinement. Under R.C. 753.02(C), the legislative authority of the municipal corporation may establish a policy that complies with R.C. 2929.38 and that requires any person who is not indigent and who is confined in a prison or station house to pay a reception fee, *a fee for any medical treatment or service requested by and provided to that person*, or the fee for a random drug test assessed under R.C. 753.33(E). Similar provisions as in R.C. 753.02(B) and (C), above, apply in

regard to persons confined in a workhouse (R.C. 753.04(B) and (C) and R.C. 753.16(C) and (D) – not in the bill).

R.C. 2929.38(A) (not in the bill) authorizes a board of commissioners of a county, in an agreement with the sheriff, a legislative authority of a municipal corporation, a corrections commission, a facility governing board, or any other public or private entity that operates a local detention facility described in R.C. 2929.37(A), *to 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 prisoner, and to pay the fee for a random drug test assessed under R.C. 341.26(E) and 753.33(E). The fee for the medical treatment or service cannot exceed the actual cost of the treatment or service provided. No prisoner confined in the local detention facility may be denied any necessary medical care because of inability to pay the fees.*

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## HISTORY

ACTION	DATE
Introduced	01-29-08

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