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As of: July 21, 2008 (8:52am)

LC7776

**** Bill No. ****

Introduced By *****

By Request of the *****

A Bill for an Act entitled: "An Act clarifying responsibility for costs of medical treatment of a person who is detained by a law enforcement officer, who requires immediate medical attention, and who is under arrest or would likely be placed under arrest except for the need for immediate medical attention; providing in certain situations for local government responsibility for medical and confinement costs incurred by a hospital and a physician for medical treatment of a person's condition or injury directly attributable to interaction with a law enforcement officer; and providing an immediate effective date and an applicability date."

Be it enacted by the Legislature of the State of Montana:

NEW SECTION. **Section 1. Detainee medical costs -- payment.**

(1) If a detainee requires medical treatment, the detainee is responsible for costs incurred by a hospital or a physician for the medical treatment. These medical costs include costs associated with:

(a) a detainee's illness or condition that began or injuries that were sustained before the detainee's interaction with a law enforcement officer;

(b) self-inflicted injuries;

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(c) injuries incurred during a detainee's interaction with a law enforcement officer if the injuries are not the result of negligent or intentionally tortious acts committed by the law enforcement officer;

(d) injuries incurred during the commission of a crime or while unlawfully resisting arrest or attempting to avoid arrest; and

(e) any other injuries or illnesses that are not the responsibility of another person.

(2) (a) If a detainee is found to be able to pay for the detainee's medical costs, as provided in subsection (1), the hospital and the physician that treats the detainee shall collect the cost of the treatment from the detainee or may pursue reimbursement from a third-party payor for the services provided.

(b) If the hospital or the physician is unable to collect from the detainee or third-party payor within 120 days from the date of the service, the county is responsible for reimbursing the hospital and the physician for services incurred by the hospital and the physician in the treatment of a detainee's condition or injury that is directly attributable to the detainee's interaction with a county law enforcement officer and for additional security costs for confinement of the detainee. Reimbursement under this subsection shall be at:

(i) the medicaid reimbursement rate or at a rate that is 70% of the provider's customary charges, whichever is greater; or

(ii) a negotiated rate.

(c) If the hospital or physician is reimbursed by the

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detainee or the third-party payor after the hospital or physician has been reimbursed by the county, the hospital and physician shall refund to the county the amount that the hospital or physician had been paid by the county for the services provided to the detainee.

(3) Inability to pay may not be a factor in providing necessary medical care for a detainee.

(4) This section does not restrict an detainee's right to use a third-party payor.

(5) As used in this section, the following definitions apply:

(a) "Detainee" means a person who is in the custody of a county law enforcement officer, who requires immediate medical attention, and who is under arrest or would likely be placed under arrest except for the need for immediate medical attention, whether or not the person has been arrested, charged with a crime, or booked into a detention facility or jail and whether or not a detention facility or jail has formally accepted custody of the person.

(b) "Hospital" means a critical access hospital as defined in 50-5-101 or a hospital as defined in 50-5-101.

(c) "Physician" means a physician as defined in 37-3-102.

NEW SECTION. **Section 2. Detainee medical costs -- payment.**

(1) If a detainee requires medical treatment, the detainee is responsible for costs incurred by a hospital or a physician for the medical treatment. These medical costs include costs

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associated with:

(a) a detainee's illness or condition that began or injuries that were sustained before the detainee's interaction with a law enforcement officer;

(b) self-inflicted injuries;

(c) injuries incurred during a detainee's interaction with a law enforcement officer if the injuries are not the result of negligent or intentionally tortious acts committed by the law enforcement officer;

(d) injuries incurred during the commission of a crime or while unlawfully resisting arrest or attempting to avoid arrest; and

(e) any other injuries or illnesses that are not the responsibility of another person.

(2) (a) If a detainee is found to be able to pay for the detainee's medical costs, as provided in subsection (1), the hospital and the physician that treats the detainee shall collect the cost of the treatment from the detainee or may pursue reimbursement from a third-party payor for the services provided.

(b) If the hospital or the physician is unable to collect from the detainee or third-party payor within 120 days from the date of the service, the city or town is responsible for reimbursing the hospital and the physician for services incurred by the hospital and the physician in the treatment of a detainee's condition or injury that is directly attributable to the detainee's interaction with a city or town law enforcement officer and for additional security costs for confinement of the

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detainee. Reimbursement under this subsection shall be at:

(i) the medicaid reimbursement rate or at a rate that is 70% of the provider's customary charges, whichever is greater; or

(ii) a negotiated rate.

(c) If the hospital or physician is reimbursed by the detainee or the third-party payor after the hospital or physician has been reimbursed by the city or town, the hospital and physician shall refund to the city or town the amount that the hospital or physician had been paid by the city or town for the services provided to the detainee.

(3) Inability to pay may not be a factor in providing necessary medical care for a detainee.

(4) This section does not restrict an detainee's right to use a third-party payor.

(5) As used in this section, the following definitions apply:

(a) "Detainee" means a person who is in the custody of a city or town law enforcement officer, who requires immediate medical attention, and who is under arrest or would likely be placed under arrest except for the need for immediate medical attention, whether or not the person has been arrested, charged with a crime, or booked into a detention facility or jail and whether or not a detention facility or jail has formally accepted custody of the person.

(b) "Hospital" means a critical access hospital as defined in 50-5-101 or a hospital as defined in 50-5-101.

(c) "Physician" means a physician as defined in 37-3-102.

NEW SECTION. **Section 3. Detainee medical costs -- budgeting and expenditure.** The governing body of a local government shall budget and expend funds for detainee medical care expenses that must be borne by the local government as provided for in [section 1 or 2].

NEW SECTION. **Section 4. {standard} Codification instruction.** (1) [Section 1] is intended to be codified as an integral part of Title 7, chapter 32, part 23, and the provisions of Title 7, chapter 32, part 23, apply to [section 1].

(2) [Section 2] is intended to be codified as an integral part of Title 7, chapter 32, part 43, and the provisions of Title 7, chapter 32, part 43, apply to [section 2].

(3) [Section 3] is intended to be codified as an integral part of Title 7, chapter 6, part 40, and the provisions of Title 7, chapter 6, part 40, apply to [section 3].

NEW SECTION. **Section 5. {standard} Effective date.** [This act] is effective on passage and approval.

NEW SECTION. **Section 6. Applicability.** [This act] applies to detainee medical care costs and confinement costs incurred on or after [the effective date of this act].

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{Name : Valencia Lane
Title : Staff Attorney
Agency : LSD

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Phone : 444-4025 }