

As Reported by the House Criminal Justice Committee

124th General Assembly

Regular Session

2001-2002

Sub. H. B. No. 170

REPRESENTATIVES Schuring, Flowers, Schaffer, Willamowski, Seitz,
Husted, Ogg, Cirelli, Webster, Barrett, Roman, Reidelbach

A B I L L

To amend sections 3924.53 and 5120.56 and to enact
sections 5120.57 and 5120.58 of the Revised Code
relative to health care services provided to
offenders who are in the custody or under the
supervision of the Department of Rehabilitation and
Correction.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 3924.53 and 5120.56 be amended and
sections 5120.57 and 5120.58 of the Revised Code be enacted to
read as follows:

Sec. 3924.53. (A) As used in this section:

(1) "Beneficiary" and "benefits contract" have the same
meanings as in section 3901.38 of the Revised Code.

(2) "Confinement" means any period of time during which a
person is in the custody or under the supervision of the
department of rehabilitation and correction or is confined in a
local jail, workhouse, or other correctional facility of the type
described in section 307.93, 341.14, 341.19, 341.23, 753.02,
753.04, 753.16, 2301.56, or 2947.19 of the Revised Code.

(3) "Law enforcement officer" has the same meaning as in

section 2901.01 of the Revised Code.

(B) Except as provided in division (C) of this section, no benefits contract shall limit or exclude coverage for the reason that the beneficiary 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.

(C) 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.

Sec. 5120.56. (A) As used in ~~this section~~ sections 5120.56 to 5120.58 of the Revised Code:

(1) "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.

(2) "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 as described in division (D) of this section.

(3) "Detention facility" means any place used for the confinement of a person charged with or convicted of any crime.

(4) "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 any of the following:

(a) A term of imprisonment, a prison term, or another type of 50
confinement in a detention facility; 51

(b) Participation in another correctional program in lieu of 52
incarceration. 53

(B) The department of rehabilitation and correction may 54
recover from an offender who is in its custody or under its 55
supervision any cost debt described in division (D) of this 56
section. To satisfy a cost debt described in that division that 57
relates to an offender, the department may apply directly assets 58
that are in the department's possession and that are being held 59
for that offender without further proceedings in aid of execution, 60
and, if assets belonging to or subject to the direction of that 61
offender are in the possession of a third party, the department 62
may request the attorney general to initiate proceedings to 63
collect the assets from the third party to satisfy the cost debt. 64

(C) Except as otherwise provided in division (E) or (G) of 65
this section, all of the following assets of an offender shall be 66
subject to attachment, collection, or application toward the cost 67
debts described in division (D) of this section that are to be 68
recovered under division (B) of this section: 69

(1) Subject to division (E) of this section, any pay the 70
offender receives from the state; 71

(2) Subject to division (E) of this section, any funds the 72
offender receives from persons on an approved visitor list; 73

(3) Any liquid assets belonging to the offender and in the 74
custody of the department ~~of rehabilitation and correction;~~ 75

(4) Any assets the offender acquires or any other income the 76
offender earns subsequent to the offender's commitment. 77

(D) Costs of incarceration or supervision that may be 78
assessed against and collected from an offender under division (B) 79

of this section as a debt to the state shall 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 the
department of ~~rehabilitation and correction~~:

(1) 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;

(2) Assessment for damage to or destruction of property in a
detention facility subsequent to commitment;

(3) 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;

(4) The cost of housing and feeding the offender in a
detention facility;

(5) The cost of supervision of the offender;

(6) The cost of any ancillary services provided to the
offender;

(7) The cost of any medical care provided to the offender.

(E) The cost of housing and feeding an offender in a state
correctional institution shall not be 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, one
hundred dollars. If the combined assets in that account exceed one
hundred dollars, the cost of housing and feeding the offender may
be collected from the amount in excess of one hundred dollars.

(F)(1) The department of ~~rehabilitation and correction~~ shall
adopt rules pursuant to section 111.15 of the Revised Code to
implement the requirements of this section.

(2) The rules adopted under division (F)(1) of this section shall include, but are not limited to, rules that establish or contain all of the following:

(a) A process for ascertaining the items of cost to be assessed against an offender;

(b) Subject to division (F)(3) of this section, a process by which the offender shall have the opportunity to respond to the assessment of costs under division (B) of this section and to contest any item of cost in the department's calculation or as it applies to the offender;

(c) A requirement that the offender be notified, in writing, of a final decision to collect or apply the offender's assets under division (B) of this section and that the notification be provided after the offender has had an opportunity to contest the application or collection;

(d) 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.

(3) The rules adopted under division (F)(1) of this section 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.

(G) The department ~~of rehabilitation and correction~~ shall not collect cost debts or apply offender assets toward a cost debt under division (B) of this section 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.

(H) If an offender acquires assets after the offender is 141
convicted of or pleads guilty to an offense and if the transferor 142
knows of the offender's status as an offender, the transferor 143
shall notify the department ~~of rehabilitation and correction~~ in 144
advance of the transfer. 145

(I) There is hereby created in the state treasury the 146
offender financial responsibility fund. All moneys collected by or 147
on behalf of the department under this section, and all moneys 148
currently in the department's custody that are applied to satisfy 149
an allowable cost debt under this section, shall be deposited into 150
the fund. The department ~~of rehabilitation and correction~~ may 151
expend moneys in the fund for goods and services of the same type 152
as those for which offenders are assessed pursuant to this 153
section. 154

Sec. 5120.57. (A) For each offender who is in the custody or 155
under the supervision of the department of rehabilitation and 156
correction, the department may make a determination as to whether 157
the offender is covered under a health insurance or health care 158
policy, contract, or plan and, if the offender has such coverage, 159
what terms and conditions are imposed by it for the filing and 160
payment of claims. 161

(B) If, pursuant to division (A) of this section, it is 162
determined that the offender is covered under a policy, contract, 163
or plan and, while that coverage is in force, the department 164
renders or arranges for the rendering of health care services to 165
the person in accordance with the terms and conditions of the 166
policy, contract, or plan, then the department or provider of the 167
health care services, as appropriate under the terms and 168
conditions of the policy, contract, or plan, may promptly submit a 169
claim for payment for the health care services to the appropriate 170
third-party payer and may designate, or make any other arrangement 171

necessary to ensure, that payment of any amount due on the claim 172
be made to the department or the provider, as the case may be. If 173
the policy, contract, or plan is a defined provider plan or a plan 174
with a closed panel of providers, the department may arrange for 175
the defined provider or closed panel under the plan to render 176
health care services to the offender at a site approved by the 177
department. The department shall have the right of subrogation 178
against the appropriate third-party payer, defined provider, or 179
closed panel for any costs for health care services provided to 180
the offender. 181

(C) Any payment made to the department pursuant to division 182
(B) of this section shall be deposited into the offender financial 183
responsibility fund created in section 5120.56 of the Revised 184
Code. 185

Sec. 5120.58. The department of rehabilitation and correction 186
shall adopt rules under section 111.15 of the Revised Code to do 187
both of the following: 188

(A) Establish a schedule of health care benefits that are 189
available to offenders who are in the custody or under the 190
supervision of the department; 191

(B) Establish a program to encourage the utilization of 192
preventive health care services by offenders. 193

Section 2. That existing sections 3924.53 and 5120.56 of the 194
Revised Code are hereby repealed. 195

Section 3. (A) The Department of Rehabilitation and 196
Correction shall examine the feasibility and desirability of 197
purchasing insurance coverage to protect against unpredictable or 198
catastrophic losses that may be incurred by the state in the 199
provision of health care services to offenders who are in the 200

As Reported by the House Criminal Justice Committee

custody or under the supervision of the Department. No later than 201
six months after the effective date of this act, the Department 202
shall report its findings and any recommendations to the Speaker 203
of the House of Representatives, the President of the Senate, and 204
the chairs of the standing committees of the House of 205
Representatives and the Senate that have primary jurisdiction over 206
issues related to the Department. 207

(B) The Department of Rehabilitation and Correction shall 208
develop specifications for a utilization review program under 209
which the clinical necessity, appropriateness, efficacy, or 210
efficiency of any outside health care service recommended for an 211
offender may be evaluated by an external utilization review 212
organization. The Department shall request proposals for the 213
provision of services of that nature. The request for proposals 214
shall adequately describe the specifications developed by the 215
Department. Within six months after the effective date of this 216
section, the Department shall report the responses to the request 217
for proposals to the Speaker of the House of Representatives, the 218
President of the Senate, and the chairs of the standing committees 219
of the House of Representatives and the Senate that have primary 220
jurisdiction over issues related to the Department. The Department 221
is not required to enter into a contract for the provision of that 222
nature unless money has been appropriated to the Department 223
adequate to fund the provision of services of that nature. 224

225