

HOUSE BILL NO. 230

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A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THAT CERTAIN COSTS PAID BY AN ARRESTING AGENCY OR THE DEPARTMENT OF CORRECTIONS TO THE OPERATOR OF A DETENTION CENTER BE BASED ON ACTUAL COSTS; PROVIDING REQUIREMENTS FOR ACCOUNTING OF COST CALCULATIONS; PROVIDING DEFINITIONS; AMENDING SECTIONS 7-32-2241, 7-32-2242, AND 53-30-106, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 7-32-2241, MCA, is amended to read:

"7-32-2241. Definitions. As used in this part, the following definitions apply:

(1) "Actual costs" means the actual and allocable direct and indirect costs of holding a person in confinement net of any program credits. The term includes but is not limited to:

(a) regular and overtime salaries of all full-time or part-time personnel who work at a detention center;

(b) personnel benefits, including but not limited to health insurance, state and federal payroll taxes, retirement plan costs, workers' compensation, and other employer-paid benefits;

(c) direct operating costs;

(d) consultants and contracted services;

(e) equipment depreciation;

(f) building depreciation; and

(g) indirect costs not to exceed 6% unless verified by a certified cost rate analysis.

~~(1)~~(2) "Detention center" means a facility established and maintained by an appropriate entity for the purpose of confining arrested persons or persons sentenced to the detention center.

~~(2)~~(3) "Detention center administrator" means the sheriff, chief of police, administrator, superintendent, director, or other individual serving as the chief executive officer of a detention center.

~~(3)~~(4) "Detention center staff" means custodial personnel whose duties include ongoing supervision of the inmates in a detention center.

1 ~~(4)~~(5) "Inmate" means a person who is confined in a detention center.

2 ~~(5)~~(6) "Local government" means a city, town, county, or consolidated city-county government.

3 ~~(6)~~(7) "Multijurisdictional detention center" means a detention center established and maintained by two
4 or more local governments for the confinement of persons arrested or sentenced to confinement or a local
5 government detention center contracting to confine persons arrested or sentenced in other local governments.

6 ~~(7)~~(8) "Private detention center" means a detention center owned by private industry and leased to or
7 operated under a contract with a local government.

8 (9) (a) "Program credits" means revenue reimbursements or fees paid to support the operation of a
9 detention facility. The term includes but is not limited to federal school lunch reimbursements, insurance rebates,
10 and commissions earned from inmates' use of long-distance telephone services.

11 (b) The term does not include payments received by the operator of a detention center from other
12 jurisdictions for inmate lodging costs."

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14 **Section 2.** Section 7-32-2242, MCA, is amended to read:

15 **"7-32-2242. Use of detention center -- payment of costs.** (1) Local government, state, and federal
16 law enforcement and correctional agencies may use any detention center for the confinement of arrested persons
17 and the punishment of offenders, under conditions imposed by law and with the consent of the governing body
18 responsible for the detention center.

19 (2) (a) ~~If~~ Except as provided in 7-32-2245 or subsection (2)(b) of this section, if a person is confined in
20 a detention center by an arresting agency not responsible for the operation of the detention center, the costs of
21 holding the person in confinement must be paid by the arresting agency at a rate that is ~~agreed upon by the~~
22 ~~arresting agency and the detention center and that covers the reasonable costs~~ based on the actual costs of
23 confinement, excluding capital construction costs, unless otherwise agreed to by the arresting agency and the
24 operator of the detention center ~~except as provided in 7-32-2245 or subsection (2)(b) of this section.~~

25 (b) If a city or town commits a person to the detention center of the county in which the city or town is
26 located for a reason other than detention pending trial for or detention for service of a sentence for violating an
27 ordinance of that city or town, the costs must be paid by the county, except as provided in 7-32-2245. If the
28 department of corrections is the arresting agency and the inmate is a probation violator, the costs must be paid
29 by the county in which the district court that retains jurisdiction over the inmate is located, except as provided in
30 7-32-2245.

1 (c) Payments must be made to the government unit responsible for the detention center or to the
 2 administrator operating a private detention center under an agreement provided for in 7-32-2201, upon
 3 presentation of a claim to the arresting agency.

4 (d) All cost calculations must be accounted for:

5 (i) in accordance with generally accepted accounting principles;

6 (ii) net of any applicable credits; and

7 (iii) based on the number of fixed beds as of July 1 of each year.

8 (e) Actual costs of a detention center may be audited in accordance with Title 2, chapter 7, part 5, at the
 9 expense of the requesting agency.

10 (3) If a person is a fugitive from justice from an out-of-state jurisdiction, the costs, including medical
 11 expenses, of holding the person in a detention center pending extradition must be paid by the out-of-state
 12 jurisdiction."

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14 **Section 3.** Section 53-30-106, MCA, is amended to read:

15 **"53-30-106. Excessive inmate population -- confinement of inmates in other institutions.** (1) If the
 16 inmate population of a correctional institution or system exceeds the emergency capacity for 30 consecutive days,
 17 the director of the department of corrections may declare that the emergency capacity has been exceeded and
 18 temporarily stop admissions to the institution or system. The director shall notify each sheriff and district court
 19 that new inmates will not be accepted by the department for admission into the institution or system until the
 20 inmate population is reduced to 95% or less of the emergency capacity. Persons committed to the department
 21 and persons sought to be admitted remain in the department's legal custody but must be kept in a detention
 22 center in the jurisdiction holding them. In the event the jurisdiction holding the inmate is at maximum capacity,
 23 the inmate may be placed in an available detention center in another jurisdiction. The department shall reimburse
 24 that jurisdiction for the cost of detention for the period beyond the normal time of delivery to a correctional
 25 institution administered by the department. Reimbursement must be ~~at a rate mutually agreeable to~~ based on the
 26 actual costs of confinement, unless otherwise agreed to by the department and the jurisdiction holding the person.
 27 The rate must cover the reasonable costs of the holding jurisdiction. Expenses for medication, medical services,
 28 or hospitalization for persons confined in a detention center under this section must be paid by the department.

29 (2) The department may enter into contracts with the federal government, other states, or the
 30 commissioners of counties that have suitable detention centers for confining inmates committed to a correctional

1 institution or system administered by the department, either because a correctional institution or system has
2 exceeded its emergency capacity or because the department has no institution that is adequate for certain
3 inmates.

4 (3) Within budgetary limits, the department may also enter into contracts with public or private
5 corporations for the confinement of selected inmates if suitable programs have been established.

6 (4) As used in subsection (1), "actual costs" has the meaning provided in 7-32-2241.

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8 NEW SECTION. **Section 4. Effective date.** [This act] is effective July 1, 2017.

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