

**REPORT OF THE
VIRGINIA STATE CRIME COMMISSION**

**Offender
Reimbursement
to Local Jails**

**TO THE GOVERNOR AND
THE GENERAL ASSEMBLY OF VIRGINIA**



HOUSE DOCUMENT NO. 30

**COMMONWEALTH OF VIRGINIA
RICHMOND
1992**

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**Crime Commission Subcommittee Studying
Offender Reimbursement to Local Jails (HJR 419)**

Crime Commission Members

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Delegate Robert B. Ball, Sr.
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COMMONWEALTH of VIRGINIA

VIRGINIA STATE CRIME COMMISSION

General Assembly Building

IN RESPONSE TO
THIS LETTER TELEPHONE
(804) 225-4534

F. L. RUSSELL
EXECUTIVE DIRECTOR

MEMBERS:
FROM THE SENATE OF VIRGINIA
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HOWARD P. ANDERSON
ELMO G. CROSS, JR.

FROM THE HOUSE OF DELEGATES:
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GEORGE F. RICKETTS, SR.

ATTORNEY GENERAL'S OFFICE
H. LANE KNEEDLER

December 10, 1991

**TO: The Honorable L. Douglas Wilder, Governor of Virginia,
and Members of the General Assembly:**

House Joint Resolution 419, agreed to by the 1991 General Assembly, directed the Virginia State Crime Commission to "study the feasibility of offender reimbursement to local jails and detention facilities" and to "submit a report to the Governor and the 1992 session of the General Assembly."

In fulfilling this directive, a study was undertaken by the Virginia State Crime Commission. I have the honor of submitting herewith the study report on Offender Reimbursement to Local Jails.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Elmon T. Gray".

Elmon T. Gray
Chairman

TABLE OF CONTENTS

I.	Authority For Study	1
II.	Members Appointed To Serve	1
III.	Executive Summary	2
IV.	Study Design	3
V.	Background	3
VI.	Study Issues	4
VII.	Discussion of Survey Results	4
	Survey of Other State Laws	5
VIII.	Findings and Conclusions	7

Appendices

- Appendix A: House Joint Resolution 419
- Appendix B: Questionnaire - Jail Reimbursement
- Appendix C: Offender Program and Service Fees Charged
by Responding States
- Appendix D: Media Accounts of Jail Cost Reimbursement
- Appendix E: Representative "Cost-of-Keep" and Medical
Reimbursement Statutes
- Appendix F: Existing Virginia "Reimbursement" Statutes
- Appendix G: Draft Reimbursement Statute

Study of Offender Reimbursement to Local Jails

I. Authority for Study

During the 1991 Session of the Virginia legislature, Delegate Richard L. Fisher sponsored House Joint Resolution No. 419 (HJR 419), requesting and authorizing the Virginia State Crime Commission to "study the feasibility of offender reimbursement to local jails and detention facilities beyond the scope of prisoner wage deductions as set forth in Title 53.1 because "local correctional costs have skyrocketed" and "offender reimbursement to local jails would offer localities a way to recoup their correctional costs." (See, Appendix A.)

Sec. 9-125 of the Code of Virginia establishes and directs the Virginia State Crime Commission "to study, report, and make recommendations on all areas of public safety and protection." Sec. 9-127 of the Code of Virginia provides that "the Commission shall have the duty and power to make such studies and gather information in order to accomplish its purpose, as set forth in Sec. 9-125, and to formulate its recommendations to the Governor and the General Assembly." Sec. 9-134 of the Code of Virginia authorizes the Commission to "conduct private and public hearings, and to designate a member of the Commission to preside over such hearings." The Virginia State Crime Commission, in fulfilling its legislative mandate, undertook the study of laws governing local jails as requested and authorized by HJR 419.

II. Members Appointed to Serve

At the April 16, 1991, meeting of the Crime Commission, Chairman, Elmon T. Gray, Senator from Sussex, selected Delegate V. Thomas Forehand, Jr., to serve as Chairman of the Correctional Issues Subcommittee, the subcommittee assigned to study offender reimbursement to local jails and detention facilities. The following members of the Crime Commission were selected to serve on the subcommittee:

Delegate V. Thomas Forehand, Jr., Chesapeake

Senator Howard P. Anderson, Halifax

Delegate Robert B. Ball, Sr., Henrico

Senator Elmo G. Cross, Jr., Hanover

Mr. Robert F. Horan, Jr., Fairfax

Reverend George F. Ricketts, Sr., Richmond

Delegate Clifton A. Woodrum, Roanoke

III. Executive Summary

The report of the Corrections Subcommittee study of offender reimbursement to local jails was received by the full Crime Commission at its meeting of December 10, 1991. After careful consideration of the Subcommittee's findings, recommendations and proposed legislation, the Commission deferred the subject for further study.

The study, authorized by House Joint Resolution 419 (1991), sponsored by Delegate Richard L. Fisher, sought to determine the feasibility of and the parameters for a program which would require inmates of local jails to bear some or all of the cost of their incarceration.

The major issue of feasibility was decided by the Subcommittee on the strength of testimony from a Lieutenant in the Kent County Michigan jail system. Kent County has had significant success in the collection of both medical costs and ordinary cost of care. Additionally, many other states were found, based upon a nationwide survey, to have ongoing cost reimbursement programs in their jails and prisons. Upon learning of the major financial impact of medical costs on local jails, the Subcommittee expanded the scope of the study to include those costs.

Having made the preliminary determination that the idea of offender reimbursement had merit, the Subcommittee then investigated the establishment of parameters for such a program. Based upon a survey sent to every jail in Virginia, the subcommittee arrived a figure of \$35.00 as a representative maximum daily cost of care. Medical cost reimbursement would be based upon the actual cost or upon the daily average cost of medical care per inmate. Additionally, the Subcommittee decided to expand the application of the reimbursement requirement to include Department of Corrections inmates in order that there be no issue of unequal treatment of inmates committed to Corrections but serving time in jail.

The program was finally designed by the Subcommittee as a "pilot project" with a proposed expiration date of July 1, 1995. Jailers (or Department of Corrections warden) would assess a cost of care or medical cost, or both, on the basis of average or actual cost to the facility. Jailers would, further, assess the ability of an inmate to reimburse the facility and require payment of all or part of his costs based upon his perceived ability to pay. The debt could be enforced via civil judgment; however, the court would have the discretion to negate all or part of the debt based upon the defendant's (in)ability to pay.

The full Crime Commission recommended that the issue be studied further because it was not clear that the jailer should be solely designated to determine that a prisoner is able to pay for his stay in jail.

IV. Study Design

In accordance with the implicit directives of HJR 419 (1991), the subcommittee conferred with representatives of Virginia's local jails and regional jails and detention facilities as well as the Board of Corrections. The Subcommittee also conferred with representatives from other states in which such programs are already in existence. The Commission carefully reviewed, with the full advice of those persons listed above, components of existing Virginia's reimbursement programs (e.g., jail work release and electronic incarceration) and the programs of other states. The Subcommittee polled Virginia's sheriffs and jail superintendents to determine if fees are currently being charged for work release and for housing federal prisoners and prisoners from other jurisdictions and the amount of such fees. Upon completion of assembly of and analysis of information from all sources, the Subcommittee made findings and recommendations, as necessary and appropriate, to the full Commission. Meetings of, and reports to, the Subcommittee were scheduled as follows:

Initial Report/Meeting.....June 13, 1991
Interim Report/Meeting.....August 29, 1991
Final Report/Meeting.....October 22, 1991

The Subcommittee presented its findings and recommendations to the full Commission on December 10, 1991.

V. Background

As cited in HJR 419 (See, Appendix A.), the Virginia Legislature has provided already, in Title 53.1 of the Code, for assessment of fees against jail inmates in certain instances. However, as local jail costs increase, so does the impetus for a way to reduce the costs or recoup them. Twenty-six states currently assess jail inmates "program fees" (See, Section VI of this report.) to defray the costs of their incarceration tied to inmate programs. Whereas, Virginia provides for reimbursement of certain costs, fines and fees by work-release inmates and those inmates sentenced to non-consecutive days in jail, and for reimbursement of costs of electronic home incarceration, these are not major sources of "income" to local jails. The Commission, therefore, studied the feasibility of the expansion of the jail cost recovery regime to include recovery from any and all inmates.

VI. Study Issues

The singular issue presented in the study resolution was to determine whether offender reimbursement to local jails (on a broader scale than now employed) is feasible. The subsidiary issues presented were:

A. Whether the cost reimbursement regime should include recovery of (all or a portion of) the actual costs of housing a prisoner ("cost-of-keep" reimbursement);

B. Whether the cost reimbursement regime should include recovery of (all or a portion of) medical costs expended by the jail on behalf of an inmate;

C. If medical cost reimbursement is recommended, whether government medical assistance programs may be billed to pay for medical costs incurred by an inmate.

D. What criteria should be used to determine the advisability of requiring a certain inmate to reimburse costs, e.g., whether the inmate has medical coverage, ability to pay, a job, etc.;

E. If "cost-of-keep" reimbursement is recommended, what amount (or sliding scale amounts) should be charged;

F. Whether reimbursement would be required of both pre- and post-conviction inmates;

G. What additional administration would be required to manage a reimbursement program and would the effort outweigh the costs of running the program; and

H. If "cost-of-keep" payments were required, would such sums be returned only to the jail or to other entities which incurred expenses as well, e.g., public defender, victim (restitution), etc.

VII. Discussion of Survey Results

A. Survey of Virginia Sheriffs and Jail Administrators

The Commission staff, in accordance with the direction given it, contacted all of the Commonwealth's local and regional jails, all of Virginia's jail farms, the Department of Corrections and the Virginia Sheriff's Association, soliciting input from each regarding the daily cost of housing and providing medical treatment for jail inmates, and the advisability of seeking reimbursement for those costs. Each sheriff and jail administrator was sent a survey on April 17, 1991, requesting input (See, Appendix B.)

The staff also discussed the issues with John Jones, Executive Director of the Virginia Sheriff's Association, and with representatives of the Department of Corrections of Virginia and other states and with the sponsor of the study measure, Delegate Richard L. Fisher.

Response to the survey was good; 91 anonymous jail surveys were returned. The survey showed the following, in summary:

- The median daily cost of housing an inmate in a Virginia jail is between \$35 and \$40, including salaries. (See, Fig. A.);
- The median daily cost of housing an inmate in a Virginia jail is approximately \$10, not including salaries. (See, Fig. A.);
- The average daily cost of providing medical care for a Virginia jail inmate is \$2.03.
- For Virginia's jails which actually house federal inmates the average daily charge is \$34.19.
- For Virginia's jails which actually house inmates from another locality/jurisdiction, the average charge is \$23.72 per day.
- The average daily reimbursement required of Virginia work-release inmates is \$8.63.

B. Survey of Other State Laws

Of the 49 surveyed, 37 states responded to the request for information on their existing "reimbursement" statutes. [See, Appendix C for a detailed summary of those data. The summary does not include reimbursement programs predicated on program fees, e.g., fees paid for mandatory drug testing of probationers.]

Of those states responding, seven have laws requiring some sort of reimbursement for "cost-of-keep" regardless of whether the inmate has a source of outside income, e.g., work release. Most states require reimbursement based upon ability to pay. Some states set a maximum dollar figure ranging from \$10/day to \$50/day, some require payment of the actual cost of incarceration and some require a "reasonable" payment. Almost without exception, the maximum is required only when the inmate's estate and/or income evidences the ability to pay the full statutory amount. "Ability to pay" is determined variously by the courts (at sentencing or after full additional hearing), the local prosecutor, the "department of corrections," or the jailer.

Even though the Commission's letter of request asked for information on the success of the various programs, very little information was received. Most states responding to the request for comments responded that information was unavailable. The meager commentary received typically assailed the

difficulty and expense associated with collecting the money. [Florida's program instituted in the early 1980's (and since rescinded) actually spent \$85,000 to collect \$7,636. The law was found to be unconstitutional and the money was returned.] Based upon glowing media accounts, on the other hand, Michigan's reimbursement program appeared to be having some success. (See, Appendix D.)

Nine states responded that they require some sort of reimbursement for medical costs from either their jail or prison inmates or both. The bases for collection of those costs are almost as varied as the number of responses. More than one state requires reimbursement based simply upon ability to pay and some charge medical expenses for both pretrial and sentenced inmates. However, there are various other requirements, for example:

- Jail may seek reimbursement. (Florida)
- Jail may recover up to 100% of nonelective costs. (Kentucky)
- State may recover costs incurred outside facility. (Maryland)
- Jail pays for only non-preexisting conditions. (Oklahoma)
- Jail inmate must pay for care from his own doctor. (Oregon)
- Court may impose a medical costs fine. (Proposed, Florida)

To further ascertain the apparent success of the Michigan reimbursement program, the Commission staff contacted the sponsor of the original reimbursement legislation, Michigan Senator William Van Regenmorter. (Senator Van Regenmorter was a Representative when the bill was offered in 1984.) The Senator recommended the Commission gather more information on the program from a county in Michigan where it had had particular success - Kent County, Michigan - the county surrounding the City of Grand Rapids. Lt. John Short of the Kent County Sheriff's Office was invited to and did attend the August 29, 1991, Corrections Issues Subcommittee meeting to address the Subcommittee on the subject of the success of the program in Kent County.

Lt. Short's testimony before the Subcommittee suggested that such a program can be managed inexpensively and that the returns can be significant, especially in the area of recovery of medical costs, if certain prudent guidelines are followed. He suggested that short term inmates are the only ones who can be legitimately expected to reimburse the jail. He suggested that, if possible, a third party be held responsible for medical costs. (Kent County's medical cost recovery outweighs recovery for cost of care because there often exists an insurer to pay medical costs.) The Subcommittee concluded that further investigation into the establishment of a pilot program for Virginia was advisable.

VIII. Subcommittee Findings and Conclusions

Findings:

A. Any correctional facility seeking to recover costs of incarceration should attempt to recover ordinary cost of care.

Although many jail (and prison) inmates may have limited or no means for reimbursement of their costs of care, short term inmates with jobs awaiting them upon their release and those with significant estates may have the ability to pay.

B. Any correctional facility seeking to recover costs of incarceration should attempt to recover medical costs.

Even though not the focus of the original study resolution, medical costs were discovered to be a significant cost in the maintenance of an inmate. Additionally, the successful cost recovery program (in Kent County, Michigan) reviewed by the Commission recovered most of its truly recoverable costs from short term inmates who had medical insurance.

C. Each inmate should be notified of his obligation to reimburse the facility in full for his costs of incarceration and should be required to pay that amount of the costs deemed recoverable by the officer in charge of the facility.

The officer in charge of a correctional facility should have the option to collect all costs of incarceration owed by an inmate; however, he should also have the freedom to determine and decide that all or part of a particular debt is uncollectible based upon criteria applicable to his facility and collection policies. Such decision should be solely the officer's; a judicial order could be enforced by contempt and result in the return of a nonpaying offender to jail. The officer's choice to seek reimbursement could, however, be enforced via a civil judgment.

D. An inmate should not be obligated to pay incarceration costs incurred while in a correctional facility unless sentenced to serve the time spent in the facility.

An inmate who is not convicted of the charges against him should not be obligated to pay for costs incurred on his behalf while he awaited trial. Any inmate who is sentenced to "time served," however, should be obligated for pre-trial costs of incarceration.

E. The type and expense of administration of a program to recover costs of incarceration would necessarily vary from institution to institution and cannot be clearly predicted.

The cost and management method of a collection program would differ from institution to institution based upon the size of the facility, nature of inmate population, and available resources. It would be

irresponsible to suggest that such a program would, as a rule in the Commonwealth, be either "cost-effective" or not. Again, such decision should be left to the officer in charge of the facility.

F. The chief officer of the facility should decide, considering all other obligations of the inmate, if the facility should pursue collection of all or part of the costs of incarceration.

In the case of work release participation by a jail inmate pursuant to Va. Code §53.1-131, the court having jurisdiction over the offender may assign the offender to work release. The court may also order payment of the offender's wages to the director of the program to defray the cost of the program, to pay fines, costs and restitution, to pay for travel expenses and to pay for the support and maintenance of his dependents. (§53.1-131 is set forth at Appendix F.) Likewise, in the case of a person sentenced to non-consecutive days in jail pursuant to Va. Code §53.1-131.1, the court may order the offender to pay "a reasonable amount. . . to defray [his] cost of keep." (§53.1-131.1 is set forth at Appendix F.) The decision to require payment in both cases rests, therefore, entirely with the court.

In the case of home/electronic incarceration of a jail inmate pursuant to Va. Code §53.1-131.2, the court having jurisdiction over the offense may assign the offender (or accused) to such a program. The option of collecting the cost of the monitoring equipment, however, is left to the director of the program. (See Appendix F for the text of §53.1-131.2.) The option of collection of cost of incarceration should, likewise, rest with the facility administrator. Otherwise, an offender could be found in contempt for failure to pay his costs of incarceration and be incongruously returned to jail (to incur further costs of incarceration).

G. Use of Medicaid funds for payment of an inmates medical costs is prohibited by federal law (42 U.S.C. §1396d) and regulation (42 CFR §435.1009).

Federal law defines medical services for the purposes of the Medicaid plan to exclude those "services for any individual who is an inmate of a public institution (except as a patient in a medical institution)." 42 U.S.C. §1396d. The Code of Federal Regulations defines "inmate of a public institution" as "a person who is living in a public institution. An individual is not considered an inmate if—

(a) He is in a public educational or vocational training institution for purposes of securing education or vocational training; or

(b) He is in a public institution for a temporary period pending other arrangements appropriate to his needs."

Conclusions of the Subcommittee and the Crime Commission:

Subcommittee Conclusions:

The Corrections Issues Subcommittee concluded that the concept of recovering costs of incarceration, including costs of medical care, from a jail inmate is a viable one but should be investigated more thoroughly via a pilot project in which jails (and the Department of Corrections) might, at their choice, participate. Even though the original focus of the study was limited to jails, the subcommittee chose to expand the scope of the pilot project to include the Department of Corrections so that state-responsible inmates serving time in jails would receive equal treatment. As envisioned, the pilot project would permit any correctional facility to participate at the choice of the chief officer of the facility. The Subcommittee further recommended that legislation be drafted to describe and enable the pilot project. (See, Appendix G for original draft legislation.)

Crime Commission Conclusions:

The full Crime Commission voted to study the issue further based on the lack of clear indication that the program would be beneficial to the Commonwealth and based upon the lack of ability to clearly define who should make the ultimate decision of which inmates should be charged for cost of care or medical attention.

APPENDIX A

Reimbursement Study Resolution - HJR 419

1991 SESSION

LD9127463

HOUSE JOINT RESOLUTION NO. 419

Offered January 22, 1991

Directing the Virginia State Crime Commission to study offender reimbursement to local jails.

Patrons—Fisher, Plum, Byrne, Callahan, Woods, Hamilton, Rollins, Martin, Cunningham, R.K., Fill, Hargrove, Parrish, Andrews, Purkey, Wilkins, Miller, Guest, Stosch, Allen and Dillard; Senator: Benedetti

Referred to the Committee on Rules

WHEREAS, local correctional costs have skyrocketed in recent years and budget shortfalls and reduction in aid to localities have placed an increased burden on local jails and detention facilities; and

WHEREAS, there is public support for the notion that in appropriate circumstances offenders should contribute to the cost of their incarceration; and

WHEREAS, offender reimbursement to local jails would offer localities a way to recoup their correctional costs; and

WHEREAS, more than thirty states have offender reimbursement statutes in some form; now, therefore, be it

RESOLVED, by the House of Delegates, the Senate concurring, That the Virginia State Crime Commission be directed to study the feasibility of offender reimbursement to local jails and detention facilities beyond the scope of prisoner wage deductions as set forth in Title 53.1.

All agencies of the Commonwealths shall provide assistance upon request in the manner deemed appropriate by the Commission.

The Commission shall complete its work in time to submit its findings and recommendations to the Governor and the 1992 Session of the General Assembly as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents.

The costs of this study are estimated to be \$5500 and such amount shall be allocated to the Virginia State Crime Commission from the general appropriation to the General Assembly for the conduct of this study.

Implementation of this resolution is subject to subsequent approval and certification by the Joint Rules Committee. The Committee may withhold expenditures or delay the period for the conduct of the study.

APPENDIX B

Questionnaire - Jail Cost Reimbursement

The Virginia State Crime Commission has been asked, pursuant to HJR 419 (1991), to study the advisability of requiring jail inmates to pay some of the costs of their own incarceration. The Commission will therefore need information on the actual per-inmate costs of jail incarceration in Virginia. Please help us by answering the following questions and providing the most accurate information you can.

1. What is the average daily cost, including capital costs, of housing an inmate in lockup in your jail?

\$_____per inmate per day

2. What is the average daily cost, not including capital costs, of housing an inmate in lockup in your jail?

\$_____per inmate per day

3. What is the average daily cost, including capital costs, of housing an inmate in general population in your jail?

\$_____per inmate per day

4. What is the average daily cost, not including capital costs, of housing an inmate in general population in your jail?

\$_____per inmate per day

5. What is the average annual cost of medical care per inmate in your jail?

\$_____per inmate per year

6. What is the most prevalent medical problem occurring among your inmates which requires medical attention and which results in costs to your jail?

7. What is the medical problem which occurs among your inmates which results in the most medical costs to your jail?

8. What percentage of the inmates in your jail is classified as indigent?

----- %

We understand that you may not have access to some of the information we have requested. We merely ask that you answer to the best of your ability. If you have further comments on the subject of jail inmate reimbursement, please feel free to include them. Please return this to the Crime Commission in the enclosed self-addressed envelope as soon as possible but before May 1, 1991. Thank you for your help on this important issue. Robie Ingram, Staff Attorney, (804) 225-4534

APPENDIX C

Offender Program and Service Fees Charged by Responding States

<u>STATE</u>	<u>REIMBURSEMENT</u>	<u>BY</u>	<u>RATE</u>	<u>AUTHORITY</u>
Alaska	None			
Arizona	Room and board for work furlough participation	Prison Inmate	One-third of income	Statute
Connecticut	For work release	Appropriate Inmates	100%; any excess after all expense, tax, restitution is inmate's	Statute
Delaware	None			
Florida	1. Medical care, treatment, hospitalization, transportation	County and Municipal Detention Center Inmates	Apparently 100% (detention center "may seek reimbursement")	Statute
	2. "Incarceration per diem and medical costs fine"	Any Felon or Misdemeanant	Per diem — \$30/day; medical costs — actual expense	None (failed legislation) ¹
Hawaii	Prison Industries only	Prison inmates	N/A	Statute
Idaho	For work release participation	Work Release Inmates	Unknown	Unknown
Illinois	None; see additional note ²			
Indiana	"Home detention fee" and "probation user's fee"	Unknown	Unknown	Statute
Iowa	Room, board for work release	Work release inmates or any inmates whose schedule of incar-	Up to 100% depending upon income and obligation	Statute

¹ Florida has continued its study of jail reimbursement of medical costs for an additional year because of non-standard information maintenance at the county level and inability to assemble accurate cost accounting. Florida lost money trying to collect such costs with its first program in 1981.

² The Illinois legislature was prompted to investigate the issue, however, based on our inquiry.

<u>STATE</u>	<u>REIMBURSEMENT</u>	<u>BY</u>	<u>RATE</u>	<u>AUTHORITY</u>
Iowa Cont.		ceration accomo- dates his outside employment		
Kansas	Work Release Fee	Work Release Inmates	Reasonable amount	Statute
Kentucky	Medical costs (nonelective)	Non-indigent Jail Inmates	100%	Statute
Maryland	1. For work release	Jail Inmates	Unknown	Statute
	2. "Costs of confinement"	"Weekend Prisoners" in Local Detention Centers	Unknown	Statute
	3. Medical costs incurred outside facility	Prison Inmates	Unknown; (Comment by respondent: very little is recovered; most inmates are indigent)	Statute
	4. Medical care	"Local Detention Center Prisoners" (most have short sentences)	Unknown	Statute
Massachusetts	None			
Michigan	1. "Cost of maintaining prisoner"	Jail Inmate	No more than \$30/day based upon financial status of prisoner	Statute
	2. "Cost of care of prisoner"	Prison Inmates	No more than 10% of estimated cost determined after full hearing	Statute
	3. "Expenses incurred in providing medical supplies and medical care and treatment"	In order: a. Prisoners in city jails, b. Prisoner's insurer, c. Other Source	None set forth	Statute
Mississippi	Cost of keep in "Restitution Centers"	Restitution Center Inmates	N/A	Statute
Missouri	"Cost of Care"	Prison Inmate	No more than 10% of actual cost of care based upon financial status of prisoner	Statute

STATE	REIMBURSEMENT	BY	RATE	AUTHORITY
Montana	1. "Cost of incarceration"	Jail Inmates	Based upon ability to pay, determined at sentencing	Statute
	2. "Medical services or hospitalization"	Jail Inmates	Based upon ability to pay, determined by the county attorney	Statute
Nebraska	For work or education release	Appropriate Inmate	\$10/day	Statute
Nevada	1. Cost of care	Weekend Inmates	up to \$25/day	Statute
	2. Cost of Care	Jail Inmates earning income	Reasonable Amount	Statute
New Hampshire	None; bill considered in 1983 failed			
New Jersey	Cost of incarceration maintenance and clothing	Prison Inmates	Based upon per capita rate of	None (pending legislation)
New Mexico	None; legislation proposed this past session failed			
New York	Costs for work release participation	Prison and Jail Inmates	Program Dependent	Statute
North Dakota	Room and board for work release participation	Prison Inmates	"Necessary expenses"	Statute
Ohio	Cost of food, clothing and shelter	Local or Regional Detention Center Inmates	Based on ability to pay (determined at court hearing)	Statute
Oklahoma	1. "Food, care and maintenance"	Nonviolent, Weekend or Overnight Jail Inmates	Equivalent to maximum amount paid to jail by county for daily care	Statute
	2. "Costs and expenses of maintenance"	Jailed Inmates receiving a "deferred sentence" (includes pretrial detention)	No more than \$50/day	None (failed 1990 legislation)
	3. "Costs and expenses of incarceration"	Jail Inmates sentenced to six months or less, or overnight or weekend incarceration	No more than \$10/day	None (failed 1990 legislation)

STATE	REIMBURSEMENT	BY	RATE	AUTHORITY
OK cont.	4. "Costs and expenses of incarceration"	Prison Inmates	No more than \$20/day	None (failed 1990 legislation)
	5. Cost of medical care	Jail Inmates	100% of uncovered costs; law provides that "[t]he custodial county shall only be liable for conditions that are not pre-existing prior to arrest and that arise due to acts or omissions of the county."	Statute
Oregon	1. Medical care; an inmate may purchase his own medical or dental care from the practitioner of his choice.	Prison Inmate	Actual cost	Administrative Rule
	2. "Cost of care" for participation in work program	Jail Inmate	15% of gross income	None (proposed legislation)
Pennsylvania	None			
Rhode Island	1. "Medical expenses"	"All persons incarcerated at adult correctional institutions, whether serving a sentence or awaiting trial"	Based upon ability to pay (determined by Dept. of Corrections)	Statute
	2. Cost of confinement if on work release	Adult Corrections Prisoners	Appropriate and reasonable as determined by Dept. of Corrections	Statute
	3. Costs of confinement	"Community confinement inmates" (nonviolent inmates with 12-month sentences)	All or a reasonable portion of costs (set by judge, reviewed by Dept. of Corrections)	Statute
South Carolina	Prison Industries only			
South Dakota	1. Cost of keep	Prison Inmates	Reasonable under circumstances	Statute
	2. All Medical Costs	Prison Inmates	Reasonable under circumstances	Statute

STATE	REIMBURSEMENT	BY	RATE	AUTHORITY
Texas	Cost of care for work release inmates	Specially categorized "Restitution Center Probationers"	Actual cost to center	Statute
Utah	Cost of care	State prisoners held in either prison or jail	Determined by court after full hearing based upon estate of prisoner; maximum is actual cost of care in facility where held	None; proposed 1989 legislation withdrawn
Vermont	None			
Washington State	"Costs of incarceration"	Felons (Payment may be required by court at sentencing if offender has means to pay)	\$50/day	None (proposed legislation)
Wisconsin	1. Medical costs for care received outside facility	Jail Inmates	Up to full cost, based upon ability to pay	Statute
	2. Emergency services including medical, crisis intervention, mental or developmental disabilities, alcohol or drug abuse problems	Jail and Prison Inmates	Up to full cost, based upon ability to pay	Statute
	3. Cost of care of a work release inmate	Prison Inmates and Jail Inmates	"Reasonable" as set by Dept. of Corrections or county board, respectively	Statute
Wyoming	1. For work release: Room, board and medical expenses	Work Release Inmates	\$2/day for room and board; all medical expenses	Statute
	2. (Retention of income) for personal necessities and room and board	"Community Corrections Inmates"	100% of personal necessities, no more than \$10/day for room and board	Statute

APPENDIX D
Media Accounts of Jail Cost Reimbursement

JLRC NEWSLETTER, 1988 VOL. 2, ISSUE 1

COUNTY UPDATE

Kent County Jail Inmates pay up or . . .

On November 1, 1987, Kent County initiated an \$18 per day charge for inmates housed in their jail. A Detroit News article of December 17, 1987, stated the county estimates generating up to \$10,000 per month under the program. Jail Administrator, Capt. William TenBrink said the \$18 figure was chosen because county officials believe they will be more successful collecting that amount. State legislation passed three years ago allows up to \$30 per day be charged. Under the program, inmates are sent a bill after their release with 30 days to pay or establish a payment plan. A second letter will be sent if there is no response to the first. Unpaid accounts will be turned over to a credit collection agency with the charge being increased to \$30 per day. The collection agency will keep one-third of the funds as their fee.

CORRECTIONS DIGEST, MARCH 8, 1989; Page 5

Oregon Sheriff Wants Inmates To Pay For Their "Lodging"

Josephine County, Ore. , Sheriff Bill Arnado thinks jail inmates should get the same thing other folks do after using a private facility with room service, laundry and cable TV: a bill. Arnado has proposed legislation to let counties charge inmates for room and board to help pay for jail operations. With county resources spread thin and a need to finance a new jail, the sheriff said: "I believe the criminals can pay for it, not the taxpayers." Under the legislation, drafted by County Counsel Jim Bolt, inmates would be billed \$40 a day at checkout time and would either pay or agree to a payment schedule. Pre-trial inmates or those found innocent would not be charged, Arnado said. The inmate would not have to start paying for 30 days, during which an inmate could appeal the charges in court. "The judge can say, 'This guy doesn't have anything,'" Arnado said. "Those would not pay." It cost \$876,000 to house and feed inmates last year, the sheriff said, adding he realized collecting the money could be a problem in some cases. "But even if you collect \$1, you are better off than with the fat zero we get now," he said.

CORRECTIONS DIGEST, MARCH 4, 1987; Page 10

Nassau County, N.Y., Jail Inmates Will Pay A Per Diem If Plan Is Approved By State

Non-indigent prisoners in the Nassau County, Long Island, N.Y. Jail would pay for the cost of their incarceration under a plan announced on Feb. 24 by County Executive Thomas S. Gulotta that seeks to save taxpayers millions of dollars.

"It is a ludicrous aspect of the penal law that permits our innocent citizens to be the victims of crimes and then have to pay for the support of those who perpetrated the crimes against them," Gulotta said.

He has asked County Attorney Edward T. O'Brien to prepare local and state legislation to enable the county to establish a daily fee equal to the taxpayer expense for prisoners with money. He estimated the cost of a day in the County Jail at \$86.57 an inmate.

"It's absolutely preposterous," said Evelyn P. Luton, executive director of the Nassau Coalition for Safety and Justice, an organization of community and religious groups.

Alvin Bronstein, executive director of the National Prisoner Project of the American Civil Liberties Union (ACLU), said Florida tried to make state inmates pay for incarceration several years ago but the program failed. He said such a plan might have a better chance of success in Nassau County, where jail terms given to the "fairly lightweight collection of offenders" are less than a year and the inmates might have more money.

USA TODAY, NOVEMBER 19, 1987

By John Bacon

More Jails Are Charging Inmates For Their Stays

Rent is coming due for USA jail inmates who really are paying for their crimes.

California, Ohio, Michigan and Maryland are among states where some jails collect inmate rent.

Florida may OK pay-to-stay jails next year. The catalysts: tight local budgets, crowded jails and the

lure of a hit-'em-where-it-hurts punishment option. "We're saying, 'Let's hit the criminals instead of the taxpayers,' that's all," Florida state Rep. Joe Titone says.

Where crime is costly:

- At \$85 a day, Hermosa Beach is among several California towns booked into next year by inmates avoiding the crowded Los Angeles County Jail. Actor Sean Penn paid \$40 a day to spend six days at Mono County Jail for assault.
- All convicted Leelanau County, Mich., inmates are charged \$30 a day for the first four days, \$5 a day thereafter. 1987 total: \$9,000.
- Washington County, Ohio, has collected more than \$3,000 in the five months it has billed county jail inmates up to \$20 a day.
- Prince Georges County, MD., charges convicted drunken drivers on work release up to \$35 a day. County corrections chief Sam Saxton hopes to expand the program to all work-release inmates.

"It's a mistake to believe that the people who commit the crimes can't afford to help pay the costs of their punishment," Saxton says. Charging inmates involved in work-release programs is fairly common. Inmates generally aren't charged for time awaiting trial, unless their sentence includes time already served.

The pay-as-you-serve concept has drawbacks:

- Costs have slowed the spread of such programs, experts agree. "The cost of accounting, of court hearings and of administration can be prohibitive, particularly in urban areas where court dockets are already jammed," says Bob Greene of the National Institute of Corrections.
- Many inmates simply can't pay. "Crooks can buck the system, not pay up and probably win," says Leelanau Sheriff's Deputy Patrick Brunet. "But there's no sense taking money from someone whose family is on welfare, anyway."

CALIFORNIA PROBATION, PAROLE AND CORRECTIONAL ASSOCIATION, Page 21

Pay to Stay In Jail

Inmates in Placer County, California may have to pay for the privilege of being incarcerated there. The Board of Supervisors gave preliminary approval to an ordinance that will allow the county to charge inmates \$35-\$40/day for the cost of their imprisonment. The ordinance provides for a court hearing to determine whether an inmate is financially able to pay. The process would be similar to a determination of whether a defendant is entitled to free representation by a public defender's office. However, authorities in Placer County say they doubt that many inmates would actually be billed for the jail stays. "Very few inmates can afford to pay," said Jail Commander Captain Marvin Jacinto. "When you put an inmate in jail, he is not able to work, and many of them are unemployed anyway. I could be wrong - I hope I am - but I don't see us collecting a lot of money." The county ordinance is the result of a state law passed a few years ago that gives counties the authority to collect fees from inmates (SB 1612, 1983-84 Session).

APPENDIX E
Representative Cost-of-Keep and Medical Reimbursement Statutes
(Michigan and Missouri)

STATE OF MICHIGAN
82ND LEGISLATURE
REGULAR SESSION OF 1984
ENROLLED HOUSE BILL No. 4590
(Michigan Compiled Laws 801.83)

AN ACT regarding county jails and prisoners housed therein; to provide certain powers and duties of county officials; and to provide for the reimbursement of certain expenses incurred by counties in regard to prisoners sentenced to county jail.

The People of the State of Michigan enact:

Sec. 1. This act shall be known and may be cited as "the prisoner reimbursement to the county act."

Sec. 2. For purposes of this act, "county jail" includes the Detroit house of correction.

Sec. 3. (1) The county may seek reimbursement for any expenses incurred by the county in relation to the charge or charges for which a person was sentenced to a county jail as follows:

(a) From each person who is or was a prisoner not more than \$30.00 per day (emphasis added) for the expenses of maintaining that prisoner or the actual per diem cost of maintaining that prisoner, whichever is less, for the entire period of time the person was confined in the county jail, including any period of pretrial detention.

(b) To investigate the financial status of the person.

(c) Any other expenses incurred by the county in order to collect payments under this act.

(2) Before seeking any reimbursement under this act, the county shall develop a form to be used for the (sic) determining the financial status of prisoners. The form shall provide for obtaining the age and marital status of a prisoner, the number and ages of children of a prisoner, the number and ages of other dependents, type and value of real estate, type and value of personal property, cash and bank accounts, type and value of investments, pensions and annuities and any other personalty of significant cash value. The county shall use the form when investigating the financial status of prisoners.

DISCUSSION OF THE MICHIGAN PRISONER REIMBURSEMENT TO THE COUNTY ACT (House Bill 4590)

Procedure

In accordance with the request of the county commission or county executive, the county sheriff would forward to the county commission, the county executive, or the county executive's designee a list of all prisoners serving sentences in the county jail together with any other required information. The commission or executive would investigate the reports and could file a civil action while the prisoner is incarcerated or up to six months after his or her release to recover the costs of incarceration. The county could also seek a restraining order preventing a prisoner from disposing of property pending a hearing. The court could appoint a receiver to protect the property until the action is resolved. Any reimbursement obtained would be credited to the county general fund.

Prisoners would be required to cooperate in the county's attempt to obtain reimbursement. A prisoner failing to cooperate would lose entitlement to sentence reduction under the Day Parole Act.

Reimbursable Expenses

The County could recover either the actual per diem cost of maintaining a prisoner in jail or \$30 per day, whichever is less. It could also recover the cost of the financial investigations and any costs incurred in collecting payments.

Exemptions

The bill would protect a prisoner's homestead from being used to satisfy a judgment for reimbursement. Additionally, the court would be required to consider any legal or moral obligation of the prisoner to support dependents before entering a judgement for reimbursement.

House Bills 4589 and 5120

Michigan House Bill 4589 amended the law regulating county jails to give county boards of commissioners or county executives the authority to provide for reimbursement by prisoners under the provisions of House Bill 4590.

Michigan House Bill 5120 amended the Day Parole Act, which permits a prisoner to receive, with the approval of the court, a reduction for good behavior of up to one quarter in his or her sentence, to cite the provision in House Bill 4590 forbidding such a reduction for a prisoner who does not cooperate in providing reimbursement.

MISSOURI INCARCERATION REIMBURSEMENT ACT

(Sections 1 to 6)

Section 1. Sections 1 to 9 of this act shall be known and may be cited as the "Missouri Incarceration Reimbursement Act".

Section 2. As used in sections 1 to 9 of this act, the following terms shall mean:

(1) (a) "Assets:, property, tangible or intangible, real or personal, belonging to or due a prisoner or former prisoner including income or payments to such former prisoner from social security, workers' compensation, veteran's compensation, pension benefits, previously earned salary or wages, bonuses, annuities, retirement benefits, or from any other source whatsoever, including any of the following:

a. Money or other tangible assets received by the prisoner as a result of a settlement of a claim against the state, any agency thereof, or any claim against an employee or independent contractor arising from and in the scope of said employee's or contractor's official duties on behalf of the state or any agency thereof;

b. A money judgment received by the prisoner from the state as a result of a civil action in which the state, an agency thereof or any state employee or independent contractor where such judgment arose from a claim arising from the conduct of official duties on behalf of the state by said employee or subcontractor or for any agency of the state;

(b) "Assets" shall not include:

a. The homestead of the prisoner up to fifty thousand dollars in value;

b. Money saved by the prisoner from wages and bonuses up to two thousand five hundred dollars paid the prisoner while he or she was confined to a state correctional facility;

(2) "Cost of care", the cost to the department of corrections and human resources for providing transportation, room, board, clothing, security, medical, and other normal living expenses of prisoners under the jurisdiction of the department, as determined by the director of the department;

(3) "Department", the department of corrections and human resources of this state;

(4) "Director", the director of the department;

(5) "Prisoner", any person who is under the jurisdiction of the department and is confined in any state correctional facility or is under the continuing jurisdiction of the department;

(6) "State correctional facility:, a facility or institution which houses a prisoner population under the jurisdiction of the department. State correctional facility includes a correctional camp, community correction center, honor center, or state prison.

Section 3. 1. The department shall develop a form which shall be used by the department to obtain information from all prisoners regarding assets of the prisoners.

2. The form shall be submitted to each person who is a prisoner as of the date the form is developed and to every person who thereafter is sentenced to imprisonment under the jurisdiction of the department. The form may be resubmitted to a prisoner by the department for purposes of obtaining current information regarding assets of the prisoner.

3. Every prisoner shall complete the form or provide for completion of the form and the prisoner shall swear or affirm under oath that to the best of his or her knowledge the information provided is complete and accurate.

4. Failure by a prisoner to fully and adequately complete the form may be considered for purposes of a parole determination.

Section 4. The director shall forward to the attorney general a report on each prisoner containing a completed form pursuant to the provisions of section 3 of this act together with all other information available on the assets of the prisoner and an estimate of the total cost of care for that prisoner.

Section 5. 1. The attorney general may investigate or cause to be investigated all reports furnished pursuant to the provisions of section 4 of this act. This investigation may include seeking information from any source that may have relevant information concerning a prisoner's assets.

2. If the attorney general upon completing the investigation under subsection 1 of this section has good cause to believe that a prisoner has sufficient assets to recover not less than ten percent of the estimated cost of care of the prisoner or ten percent of the estimated cost of care of the prisoner for two

years, whichever is less, the attorney general may seek to secure reimbursement for the expense of the state of Missouri for the cost of care of such prisoner.

3. Not more than ninety percent of the value of the assets of the prisoner may be used for purposes of securing costs and reimbursement pursuant to the provisions of sections 1 to 9 of this act.

4. The amount of reimbursement sought from a prisoner shall not be in excess of the per capita cost for care for maintaining prisoners in the state correctional facility in which the prisoner is housed for the period or periods such prisoner is a prisoner in a state correctional facility.

Section 6. 1. The circuit court shall have exclusive jurisdiction over all proceedings seeking reimbursement from prisoners pursuant to the provisions of sections 1 to 9 of this act. The attorney general may file a complaint in the circuit court for the county or city from which a prisoner was sentenced or in the circuit court in the county or city of the office of the director of the department, against any person under the jurisdiction of the department stating that the person is or has been a prisoner in a state correctional facility, that there is good cause to believe that the person has assets, and praying that the assets be used to reimburse the state for the expenses incurred or to be incurred, or both, by the state for the cost of care of the person as a prisoner.

2. Upon the filing of the complaint under subsection 1 of this section, the court shall issue an order to show cause why the prayer of the complainant should not be granted. The complaint and order shall be served upon the person personally, or, if the person is confined in a state correctional facility, by registered mail addressed to the person in care of the chief administrator of the state correctional facility where the person is housed, at least thirty days before the date of hearing on the complaint and order.

3. At the time of the hearing on the complaint and order, it appears that the person has any assets which ought to be subjected to the claim of the state pursuant to the provisions of sections 1 to 9 of this act, the court shall issue an order requiring any person, corporation, or other legal entity possessed or having custody of such assets, to appropriate an apply such assets or a portion thereof to satisfy such claim.

4. At the hearing on the complaint and order and before entering any order on behalf of the state against the defendant, the court shall take into consideration any legal obligation of the defendant to support a spouse, minor children, or other dependents and any moral obligation to support dependents to whom the defendant is providing or has in fact provided support.

5. If the person, corporation, or other legal entity shall neglect or refuse to comply with an order issued pursuant to subsection 3 of this section, the court shall order the person, corporation, or other legal entity to appear before the court at such time as the court may direct and to show cause why the person, corporation, or other legal entity should not be considered in contempt of court.

6. If, in the opinion of the court, the assets of the prisoner are sufficient to pay the cost of the proceedings undertaken pursuant to the provisions of sections 1 to 9 of this act, the prisoner shall be liable for those costs upon order of the court.

**Representative Medical Reimbursement Statutes
(Rhode Island and Oklahoma)**

Rhode Island 42-56-20.1 Liability for medical care and treatment of imprisoned persons. - All persons incarcerated at the adult correctional institutions, whether serving a sentence or awaiting trial, shall reimburse the state for any and all medical expenses incurred in that individual's treatment based upon his or her ability to pay for those medical expenses as determined by the director of the department of corrections. That reimbursement shall apply to medical services rendered by state or private medical facilities.

Oklahoma 19 O.S., Section 746 When a defendant is in the custody of a county jail, the custodial county shall only be liable for the cost of medical care for conditions that are not preexisting prior to arrest and that arise due to acts or omissions of the county. Preexisting conditions are defined as those illnesses beginning or injuries sustained before a person is in the peaceable custody of the county's officers.

An inmate receiving medical care for a preexisting condition or a condition not caused by the acts or omissions of the county shall be liable for payment of the cost of care, including but not limited to, medication, medical treatment, and transportation costs, for or relating to the condition requiring treatment.

APPENDIX F
Existing Virginia "Reimbursement" Statutes

§ 53.1-131. Provision for release of prisoner from confinement for employment, educational or other rehabilitative programs; escape; penalty; disposition of earnings. — A. Any court having jurisdiction for the trial of a person charged with a criminal offense or charged with an offense under Chapter 5 (§ 20-61 et seq.) of Title 20 may, if the defendant is convicted and (i) sentenced to confinement in jail or (ii) being held in jail pending completion of a presentence report pursuant to § 19.2-299, and if it appears to the court that such offender is a suitable candidate for work release, assign the offender to a work release program under the supervision of a probation officer, the office of the sheriff or the administrator of a local or regional jail or a program designated by the court. The court further may authorize the offender to participate in educational or other rehabilitative programs designed to supplement his work release employment. The court shall be notified in writing by the director or administrator of the program to which the offender is assigned of the offender's place of employment and the location of any educational or rehabilitative program in which the offender participates.

Any person who has been sentenced to confinement in jail or who has been convicted of a felony but is confined in jail pursuant to § 53.1-20, in the discretion of the sheriff or the administrator of a local or regional jail, may be assigned by the sheriff or the administrator of a local or regional jail to a work release program under the supervision of the office of the sheriff or the administrator of a local or regional jail. The sheriff or the administrator of a local or regional jail may further authorize the offender to participate in educational or other rehabilitative programs as defined in this section designed to supplement his work release employment. The court that sentenced the offender shall be notified in writing by the sheriff or the administrator of a local or regional jail of any such assignment and of the offender's place of employment or other rehabilitative program. The court, in its discretion, may thereafter revoke the authority for such an offender to participate in a work release program.

The sheriff or other administrative head of a local correctional facility and the Director may enter into agreements whereby persons who are committed to the Department, whether such persons are housed in a state or local correctional facility, and who have met all standards for such release, may participate in a local work release program or in educational or other rehabilitative programs as defined in this section. All persons accepted in accordance with this section shall be governed by all regulations applying to local work release, notwithstanding the provisions of any other section of the Code. Local jails shall qualify for compensation for cost of incarceration of such persons pursuant to § 53.1-20.1, less any payment for room and board collected from the inmate.

Any offender assigned to such a program by the court or sheriff or the administrator of a local or regional jail who, without proper authority or just cause, leaves the area to which he has been assigned to work or attend educational or other rehabilitative programs, or leaves the vehicle or route of travel involved in his going to or returning from such place, shall be guilty of a Class 2 misdemeanor. In the event such offender leaves the Commonwealth, the offender may be found guilty of an escape as provided in § 18.2-477. An offender who is found guilty of a Class 2 misdemeanor in accordance with this section shall be ineligible for further participation in a work release program during his current term of confinement.

The Board shall prescribe regulations to govern the work release, educational and other rehabilitative programs authorized by this section.

Any wages earned pursuant to this section by an offender may, upon order of the court, be paid to the director or administrator of the program after standard payroll deductions required by law. Distribution of such wages shall be made for the following purposes:

1. To pay an amount to defray the cost of his keep;
2. To pay travel and other such expenses made necessary by his work release employment or participation in an educational or rehabilitative program;

3. To provide support and maintenance for his dependents or to make payments to the local department of welfare or social services or the Commissioner of Social Services, as appropriate, on behalf of dependents who are receiving public assistance as defined in § 63.1-87; or

4. To pay any fines, restitution or costs as ordered by the court.

Any balance at the end of his sentence shall be paid to the offender upon his release.

B. For the purposes of this section:

"*Work release*" means full-time employment or participation in suitable vocational training programs.

"*Educational program*" means a program of learning recognized by the State Council of Higher Education, the State Board of Education or the State Board of Corrections.

"*Rehabilitative program*" includes an alcohol and drug treatment program, mental health program, family counseling, community service or other community program approved by the court having jurisdiction over the offender. (Code 1950, §§ 19-273.1, 53-166.1; 1956, c. 688; Code 1950, § 19.1-300; 1960, c. 366; 1970, c. 121; 1972, c. 145; 1973, c. 38; 1976, c. 295; 1979, c. 706; 1980, c. 566; 1982, c. 636; 1984, c. 516; 1985, c. 301; 1988, c. 397; 1989, c. 586; 1990, cc. 107, 676, 768.)

§ 53.1-131.1. Provision for sentencing of person to nonconsecutive days in jail; payment to defray costs; penalty. — Any court having jurisdiction for the trial of a person charged with a criminal or traffic offense or charged with any offense under Chapter 5 (§ 20-61 et seq.) of Title 20 may, if the defendant is convicted and sentenced to confinement in jail, impose the time to be served on weekends or nonconsecutive days to permit the convicted defendant to retain gainful employment. A person sentenced pursuant to this section may be ordered to pay a reasonable amount ordered by the court to defray the cost of his keep. Such amount shall be collected by the clerk of the court. If the defendant willfully fails to report at times specified by the court, the sentence imposed pursuant to this section shall be revoked and a straight jail sentence imposed.

The time served by a person sentenced for violation of state law in a local jail, regional jail, or local jail farm pursuant to this section shall be included in the count of prisoner days reported by the Department for the purpose of apportioning state funds to local correctional facilities for operating costs in accordance with § 53.1-84. (1983, c. 172; 1984, c. 490.)

§ 53.1-131.2. Assignment to a home/electronic incarceration program; payment to defray costs; escape; penalty. — A. Any court having jurisdiction for the trial of a person charged with a criminal offense, a traffic offense or an offense under Chapter 5 (§ 20-61 et seq.) of Title 20 may, if the defendant is convicted and sentenced to confinement in jail, and if it appears to the court that such an offender is a suitable candidate for home/electronic incarceration, assign the offender to a home/electronic incarceration program, if such program exists, under the supervision of the office of the sheriff, the administrator of a local or regional jail, or a Department of Corrections probation and parole district office established pursuant to § 53.1-141. The court may further authorize the offender's participation in work release employment or educational or other rehabilitative programs as defined in § 53.1-131. The court shall be notified in writing by the director or administrator of the program to which the offender is assigned of the offender's place of home/electronic incarceration, place of employment, and the location of any educational or rehabilitative program in which the offender participates.

B. In any city or county in which a home/electronic incarceration program established pursuant to this section is available, the court, subject to approval by the sheriff, may assign the accused to such a program pending trial if it appears to the court that the accused is a suitable candidate for home/electronic incarceration.

C. Any person who has been sentenced to jail or convicted and sentenced to confinement in prison but is actually serving his sentence in jail and who has less than two months to serve in his sentence, may be assigned by the sheriff or the administrator of a local or regional jail to a home/electronic incarceration program under the supervision of the office of the sheriff, the administrator of a local or regional jail, or a Department of Corrections probation and parole office established pursuant to § 53.1-141. The court shall retain authority to remove the offender from such home/electronic incarceration program. The court which sentenced the offender shall be notified in writing by the sheriff or the administrator of a local or regional jail of the offender's place of home/electronic incarceration and place of employment or other rehabilitative program.

D. The Board may prescribe regulations to govern home/electronic incarceration programs.

E. Any offender or accused assigned to such a program by the court or sheriff or the administrator of a local or regional jail who, without proper authority or just cause, leaves his place of home/electronic incarceration, the area to which he has been assigned to work or attend educational or other rehabilitative programs, or the vehicle or route of travel involved in his going to or returning from such place, shall be guilty of a Class 2 misdemeanor. An offender or accused who is found guilty of a violation of this section shall be ineligible for further participation in a home/electronic incarceration program during his current term of confinement.

F. The director or administrator of a home/electronic incarceration program who also operates a residential program may remove an offender from a home/electronic incarceration program and place him in such residential program if the offender commits a noncriminal program violation. The court shall be notified of the violation and of the placement of the offender in the residential program.

G. The director or administrator of a home/electronic incarceration program may charge the offender or accused a fee for participating in the program to pay for the cost of home/electronic incarceration equipment. The offender or accused shall be required to pay the program for any damage to the equipment which is in his possession or for failure to return the equipment to the program. (1989, c. 476; 1990, c. 209; 1991, cc. 278, 428.)

§ 53.1-150. Contributions by persons on parole, probation, and work release; delinquency as grounds for revocation of parole or probation; exemptions. — A. Any person (i) who is placed on parole, who is granted suspension of sentence and probation by a court of competent jurisdiction, who is participating in a community diversion program as provided in § 53.1-181, or who is participating in a work release program pursuant to the provisions of § 53.1-60, (ii) who is under the supervision of the Department, which shall include being under the supervision of a court services officer who is employed by the Department and serves a general district court, or of a community diversion program as provided in § 53.1-181, and (iii) who is gainfully employed, shall be required to contribute thirty dollars per month or, if such person is under the supervision of a court services officer of a general district court, then, in the discretion of the court, an amount not to exceed thirty dollars per month, toward the cost of his supervision beginning thirty days from the date he is employed.

Such sums shall be deducted by the parolee, probationer, or participant in a community diversion program from his monthly net earned income and shall be delivered to the Department pursuant to rules and regulations adopted by the Board of Corrections. By prior agreement between an employer and parolee, probationer, or participant in a community diversion program, an employer may deduct thirty dollars from the monthly earned income of the parolee or probationer and remit such amount to the Department pursuant to rules and regulations adopted by the Board of Corrections. In the case of prisoners employed pursuant to § 53.1-60, such sums shall be deducted by the Director from any wages earned by the prisoners. All such funds collected by the Department shall be deposited in the general fund of the state treasury.

In the event of more than two months' delinquency in making such contributions by a parolee or probationer, such delinquency may constitute sufficient grounds for revocation of his parole or probation. In the event that a probationer or parolee has made timely payments pursuant to this subsection for a total of sixty months without revocation of his probation or parole or extension of the length of his probation or parole, then he shall have no further obligation to contribute toward the cost of his supervision for the offense or offenses for which he was originally placed on probation or parole.

B. The Virginia Parole Board may exempt a parolee from the requirements of subsection A on the grounds of unreasonable hardship, and the sentencing court may exempt a probationer or participant in a community diversion program from the requirements of subsection A on the grounds of unreasonable hardship. The Director may exempt a work releasee from the requirements of subsection A on the grounds of unreasonable hardship. Any parolee or probationer transferred to or from other states under the supervision of the interstate compact for the supervision of parolees or probationers shall be exempt from the requirements of subsection A.

C. The provisions of subsection A shall not apply to any person against whom further proceedings have been deferred pursuant to § 18.2-251. (Code 1950, § 53-19.40; 1981, c. 634; 1982, cc. 492, 636; 1984, c. 668; 1988, c. 824; 1990, cc. 511, 816.)

APPENDIX G

DRAFT REIMBURSEMENT STATUTE

(1) Any person convicted and sentenced to confinement in any correctional facility in the Commonwealth, whether a jail or prison, shall pay to the facility or agency to which he is sentenced as much as 100% of both his cost of confinement and his extraordinary cost of medical care, in accordance with his ability to pay, if the sheriff, chief jail officer or warden a) determines he has the ability to pay and b) gives him, upon his entry into the facility, written notice that he shall be liable for such costs.

Such costs may be collected for each day the person is confined. All costs collected shall be paid over to the chief financial officer for the county or city in which the local jail is located, to the chief financial officer for the governing jail authority or board, or to the chief financial officer for the Department of Corrections, whichever is appropriate. Such sums shall be supplementary, used to defray the cost of operation of the facility or agency, and shall not supplant any monies otherwise appropriated from any source for such operation.

Any bill for costs incurred by a person pursuant to this section may be enforced by a civil motion for judgment within one year of the person's release. In such action, the plaintiff shall have the burden to prove the amount owed. Inability to pay, as determined by the court, in accordance with §§19.2-159 and 19.2-159.1, mutatis mutandis, shall be a defense to the payment of part or all of the costs.

"Cost of confinement" means, for the purposes of this section, the cost expended by the facility or agency to which a person is sentenced, for guarding, feeding, clothing and caring for the person, including expenses of administration and maintenance but not including extraordinary cost of medical care. Such cost shall not exceed the lesser of a) \$35.00 per day or b) the actual average facility cost of confinement per inmate per day.

"Extraordinary cost of medical care" means, for the purposes of this section, the actual cost expended by the facility or agency to which a person is sentenced, for the person's medical care, if such cost is in excess of the actual average facility cost of medical care per inmate per day.

(2) The provisions of this act shall remain in force and effect until July 1, 1995.

2 SENATE BILL NO. HOUSE BILL NO.

3 A BILL to amend the Code of Virginia by adding sections numbered
4 53.1-61.1 and 53.1-88.1, relating to cost of confinement in jails
5 and prisons.

6
7 Be it enacted by the General Assembly of Virginia:

8 1. That the Code of Virginia is amended by adding sections numbered
9 53.1-61.1 and 53.1-88.1 as follows:

10 § 53.1-61.1. Cost of confinement; payment by prison inmate.--A.

11 Any person sentenced to confinement in any state correctional facility
12 shall pay to the Department up to 100 percent of both his cost of
13 confinement and his extraordinary cost of medical care, in accordance
14 with his ability to pay, if the warden (i) determines he has the
15 ability to pay and (ii) provides him, upon his entry into the
16 facility, with written notice that he shall be liable for such costs.

17 Such costs shall be collected for each day the person is
18 confined. All costs collected shall be paid over to the chief
19 financial officer for the Department of Corrections. Such sums shall
20 be supplementary, used to defray the cost of operation of the
21 facility, and shall not supplant any moneys otherwise appropriated
22 from any source for such operation.

23 Any bill for costs incurred by a person pursuant to this section
24 may be enforced by a civil action brought within one year of the
25 person's release. In such action, the plaintiff shall have the burd'
26 to prove the amount owed. Inability to pay, as determined by the

1 court in the same manner prescribed in §§ 19.2-159 and 19.2-159.1,
2 shall be a defense to the payment of part or all of the costs.

3 "Cost of confinement" means, for the purposes of this section,
4 the cost expended by the Department for guarding, feeding, clothing,
5 and caring for the person, including expenses of administration and
6 maintenance but not including extraordinary cost of medical care.
7 Such cost shall not exceed the lesser of (i) thirty-five dollars per
8 day or (ii) the actual average facility cost of confinement per inmate
9 per day.

10 "Extraordinary cost of medical care" means, for the purposes of
11 this section, the actual cost expended by the Department for the
12 person's medical care, if such cost is in excess of the actual average
13 facility cost of medical care per inmate per day.

14 B. The provisions of this section shall expire on July 1, 1995.

15 § 53.1-88.1. Cost of confinement; payment by jail inmate.--A.
16 Any person sentenced to confinement in any local facility in the
17 Commonwealth shall pay to the facility up to 100 percent of both his
18 cost of confinement and his extraordinary cost of medical care, in
19 accordance with his ability to pay, if the sheriff, jail
20 superintendent or other chief jail officer (i) determines he has the
21 ability to pay and (ii) provides him, upon his entry into the
22 facility, with written notice that he shall be liable for such costs.

23 Such costs shall be collected for each day the person is
24 confined. All costs collected shall be paid over to the chief
25 financial officer for the county or city in which the local jail is
26 located or to the chief financial officer for the governing jail
27 authority or board, whichever is appropriate. Such sums shall be
28 supplementary and used to defray the cost of operation of the facility

1 and shall not supplant any moneys otherwise appropriated from any
2 source for such operation.

3 Any bill for costs incurred by a person pursuant to this section
4 may be enforced by a civil action brought within one year of the
5 person's release. In such action, the plaintiff shall have the burden
6 to prove the amount owed. Inability to pay, as determined by the
7 court in the same manner prescribed in §§ 19.2-159 and 19.2-159.1,
8 shall be a defense to the payment of part or all of the costs.

9 "Cost of confinement" means, for the purposes of this section,
10 the cost expended by the facility for guarding, feeding, clothing, and
11 caring for the person, including expenses of administration and
12 maintenance but not including extraordinary cost of medical care.
13 Such cost shall not exceed the lesser of (i) thirty-five dollars per
14 day or (ii) the actual average facility cost of confinement per
15 prisoner per day.

16 "Extraordinary cost of medical care" means, for the purposes of
17 this section, the actual cost expended by the facility for the
18 person's medical care, if such cost is in excess of the actual average
19 facility cost of medical care per prisoner per day.

20 B. The provisions of this section shall expire on July 1, 1995.

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