

MAINE STATE LEGISLATURE

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L.D. 1244

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CRIMINAL JUSTICE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
117TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 891, L.D. 1244, Bill, "An Act to Require County and State Inmates to Pay a Health Care Fee"

Amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

'Sec. 1. 30-A MRSA §1561, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is repealed and the following enacted in its place:

§1561. Medical care and expenses

Any person incarcerated in a county jail has a right to adequate professional medical care, which does not include medical treatment requested by the prisoner that the facility's treating physician determines unnecessary. The county commissioners may establish medical and dental fees not to exceed \$5 for the medical and dental services that are provided pursuant to this section and a fee not to exceed \$5 for prescriptions, medication or prosthetic devices. Except as provided in subsection 1, every prisoner may be charged a medical or dental services fee for each medical or dental visit and a fee for each prescription, medication or prosthetic device. The facility shall collect the fee. All money received by a county jail under this section is retained by the jail to offset the costs of medical and dental services fees and fees for prescriptions, medication or prosthetic devices.

COMMITTEE AMENDMENT

R. G. S.

COMMITTEE AMENDMENT "A" to H.P. 891, L.D. 1244

2 1. Exemption from fees. A prisoner is exempt from payment
3 of medical and dental services fees and fees for prescriptions,
4 medication or prosthetic devices when the prisoner:

6 A. Receives treatment initiated by county jail staff;

8 B. Is a juvenile;

10 C. Is pregnant;

12 D. Is seriously mentally ill or developmentally disabled.
13 For the purposes of this paragraph, "seriously mentally ill"
14 or "developmentally disabled" means a prisoner who, as a
15 result of a mental disorder or developmental disability,
16 exhibits emotional or behavioral functioning that is so
17 impaired as to interfere substantially with the prisoner's
18 capacity to remain in the general prison population without
19 supportive treatment or services of a long-term or
20 indefinite duration, as determined by the facility's
21 psychiatrist or psychologist;

22 E. Is an inpatient at a state-funded mental health or
23 mental retardation facility;

24 F. Is undergoing follow-up treatment;

26 G. Receives emergency treatment as determined by the county
27 jail's medical or dental staff; or

28 H. Has less than \$15 in the prisoner's facility account and
29 did not receive additional money from any source for 6
30 months following the medical or dental service or provision
31 of the prescription, medication or prosthetic device.

32 2. Civil action for recovery of expenses. Notwithstanding
33 the other provisions of this section, the State may bring a civil
34 action in a court of competent jurisdiction to recover the cost
35 of medical, dental, psychiatric or psychological expenses
36 incurred by the State on behalf of a prisoner incarcerated in a
37 facility. The following assets are not subject to judgment under
38 this subsection:

39 A. Joint ownership, if any, that the prisoner may have in
40 real property;

41 B. Joint ownership, if any, that the prisoner may have in
42 any assets, earnings or other sources of income; and

43 C. The income, assets, earnings or other property, both
44 real and personal, owned by the prisoner's spouse or family.

R. of S.

2 **Sec. 2. 34-A MRSA §3031, sub-§2**, as amended by PL 1991, c.
314, §35, is repealed and the following enacted in its place:

4 **2. Medical care.** Adequate professional medical care, which
6 does not include medical treatment requested by the client that
7 the facility's treating physician determines unnecessary. The
8 commissioner may establish medical and dental fees not to exceed
9 \$5 for the medical and dental services that are provided pursuant
10 to this subsection and a fee not to exceed \$5 for prescriptions,
11 medication or prosthetic devices. Except as provided in
12 paragraph A, every client may be charged a medical or dental
13 services fee for each medical or dental visit, prescription,
14 medication or prosthetic device. The facility shall collect the
15 fee. All money received by the department under this subsection
16 is retained by the facility to offset the cost of medical and
17 dental services, prescriptions, medication and prosthetic devices.

18 A. A client is exempt from payment of medical and dental
19 services fees and fees for prescriptions, medication or
20 prosthetic devices when the client:

- 21 (1) Receives treatment initiated by facility staff;
- 22 (2) Is a juvenile;
- 23 (3) Is pregnant;
- 24 (4) Is seriously mentally ill or developmentally
25 disabled. For the purposes of this paragraph,
26 "seriously mentally ill" or "developmentally disabled"
27 means a client who, as a result of a mental disorder or
28 developmental disability, exhibits emotional or
29 behavioral functioning that is so impaired as to
30 interfere substantially with the client's capacity to
31 remain in the general prison population without
32 supportive treatment or services of a long-term or
33 indefinite duration, as determined by the facility's
34 psychiatrist or psychologist;
- 35 (5) Is an inpatient at a state-funded mental health or
36 mental retardation facility;
- 37 (6) Is undergoing follow-up treatment;
- 38 (7) Receives emergency treatment as determined by the
39 facility's medical or dental staff; and
- 40 (8) Has less than \$15 in the client's facility account
41 and did not receive additional money from any source
42 for 6 months following the medical or dental service or

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provision of the prescription, medication or prosthetic device.

B. Notwithstanding paragraph A, the State may bring a civil action in a court of competent jurisdiction to recover the cost of medical, dental, psychiatric or psychological expenses incurred by the State on behalf of a client incarcerated in a facility. The following assets are not subject to judgment under this paragraph:

(1) Joint ownership, if any, that the client may have in real property;

(2) Joint ownership, if any, that the client may have in any assets, earnings or other sources of income; and

(3) The income, assets, earnings or other property, both real and personal, owned by the client's spouse or family.'

Further amend the bill by inserting at the end before the statement of fact the following:

FISCAL NOTE

The Department of Corrections and the county jail system may experience savings as a result of the establishment of a health care fee. The exact amount of Other Special Revenue that will be generated and the corresponding General Fund savings to the Department of Corrections can not be determined at this time.

This bill will increase the number of civil actions filed in the court system. The additional workload and administrative costs associated with the minimal number of new cases filed can be absorbed within the budgeted resources of the Judicial Department.'

STATEMENT OF FACT

This amendment replaces the bill. It allows the county commissioners and the Commissioner of Corrections to establish a fee, not to exceed \$5 per item, for medical and dental services and prescriptions, medication and prosthetic devices for clients in state correctional facilities and prisoners in county jails. Exemptions from payment are provided for certain clients and prisoners under specific circumstances. Existing provisions for recovering full costs of medical treatment through a civil action remain, but this amendment allows more expeditious charges for basic medical services. Money received by the county jail or facility is retained to help offset the costs of these services.