1983

Session Law 83-189

Florida Senate & House of Representatives

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**Committee of Ref.**
- Senate: ECCA
- House: Corrections (Sub. Jud.)

**Previous versions?**
SB 354 (1982)

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**Other Documentation**
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04/22/83 HOUSE ON COMMITTEE AGENDA—SUBCOMM., NAT. RESOURCES, 212 HOB, 3:00 PM, 04/26
05/06/83 HOUSE ON COMMITTEE AGENDA—NATURAL RESOURCES, 413 C, 1:30 PM, 05/10/83
05/18/83 HOUSE COMM. REPORT: C/S BY NATURAL RESOURCES—HJ 00486; NOW IN APPROPRIATIONS
05/31/83 HOUSE ON COMMITTEE AGENDA—APPROPRIATIONS, 21 HOB, 8:00 AM, 06/01/83
06/02/83 HOUSE COMM. REPORT: FAVORABLE, PLACED ON CALENDAR BY APPROPRIATIONS—HJ 01027
06/03/83 HOUSE PLACED ON SPECIAL ORDER CALENDAR; IDENT./SIM. SENATE BILL SUBSTITUTED; LAID ON TABLE UNDER RULE, IDENT./SIM./COMPARE BILL PASSED, REFER TO C/S SB 459 (CH. 83-358)—HJ 01108

H 0829 GENERAL BILL BY SELPH AND OTHERS (IDENTICAL S 0451, COMPARE CS/H 1217)
MAJOR FUEL TAX; REPEALS S. 64 UF CH. 83-3, LAWS OF FLORIDA, WHICH PROVIDES FOR REPEAL OF PROVISIONS WHICH ALLOW REFUND OF COUNTY GAS TAX & SALES TAX PAID ON MOTOR FUEL USED IN VEHICLES OPERATED BY COUNTIES, MUNICIPALITIES, & SCHOOL DISTRICTS. EFFECTIVE DATE: UPON BECOMING LAW.
04/05/83 HOUSE NOTE: AMENDS SB 8-A (CH. 83-31) FILED
04/11/83 HOUSE INTRODUCED; REFERRED TO TRANSPORTATION, FINANCE & TAXATION, APPROPRIATIONS—HJ 00139
04/28/83 HOUSE SUBREFERRED TO SUBCOMMITTEE ON OVERSIGHT/LOCAL GOVERNMENT; ON COMMITTEE AGENDA—SUBCOMM., TRANSP., 24 HOB, 3:15 PM, 05/02/83
05/05/83 HOUSE ON COMMITTEE AGENDA—TRANSPORTATION, 21 HOB, 1:45 PM, 05/09
05/11/83 HOUSE COMM. REPORT: FAVORABLE BY TRANSPORTATION—HJ 00384; NOW IN FINANCE & TAXATION
05/16/83 HOUSE ON COMMITTEE AGENDA—FOR SUBREFERRAL, 21 HOB, 1:00 PM, 05/18/83
06/03/83 HOUSE INDEF. POSTPONED & W/D ISCR 1209); WAS IN COMM; ISC BILL PASSED, SEE C/S HB 1217 (CH. 83-137)

H 0830 GENERAL BILL/CS BY CORRECTIONS, PROBATION & PAROLE, SELPH (IDENTICAL C/S 0260)
COUNTY & MUNICIPAL LAW ENFORCEMENT; PROVIDES FOR FINANCIAL RESPONSIBILITY FOR CERTAIN EXPENSES PROVIDED TO ARRESTED PERSONS; AUTHORIZES COUNTY & MUNICIPAL DETENTION FACILITIES TO SEEK REIMBURSEMENT FOR MEDICAL EXPENSES PAID ON BEHALF OF PRISONERS, ETC. CREATES 901.35, 951.032. EFFECTIVE DATE: 10/01/83.
04/05/83 HOUSE FILED
04/11/83 HOUSE INTRODUCED; REFERRED TO CORRECTIONS, PROBATION & PAROLE, APPROPRIATIONS—HJ 00139
05/05/83 HOUSE SUBREFERRED TO SUBCOMMITTEE ON INSTITUTIONS
05/06/83 HOUSE ON COMMITTEE AGENDA—SUBCOMM., CORRECTIONS, 317 C, 1:00 PM, 05/10/83; ON COMMITTEE AGENDA, PENDING SUBCOMMITTEE ACTION—CORRECTIONS, 317 C, 2:30 PM, 05/10/83
05/17/83 HOUSE COMM. REPORT: C/S BY CORRECTIONS, PROBATION & PAROLE—HJ 00461; NOW IN APPROPRIATIONS
05/20/83 HOUSE WITHDRAWN FROM APPROPRIATIONS—HJ 00529; PLACED ON CALENDAR
05/30/83 HOUSE C/S READ FIRST AND SECOND TIMES; READ THIRD TIME; C/S PASSED; YEAS 108 NAYS 7—HJ 00807
05/30/83 SENATE IN MESSAGES
06/01/83 SENATE RECEIVED; PLACED ON SPECIAL ORDER CALENDAR; SUBSTITUTED FOR CS/SB 260; PASSED; YEAS 34 NAYS 0—SJ 0648
06/01/83 HOUSE ORDERED ENROLLED
06/09/83 HOUSE SIGNED BY OFFICERS AND PRESENTED TO GOVERNOR
06/22/83 APPROVED BY GOVERNOR CHAPTER NO. 83-189

H 0631 GENERAL BILL BY RICHMOND (SIMILAR ENG/S 0671)
MARRIED WOMEN'S PROPERTY; PROVIDES THAT CONVEYANCES OR MORTGAGES OF REAL PROPERTY EXECUTED BY A MARRIED WOMAN WITHOUT JOINER OF HER HUSBAND BEFORE CERTAIN DATE ARE VALID; PROVIDES TIME LIMITATION FOR ACTIONS CONTESTING VALIDITY OF SUCH CONVEYANCES OR MORTGAGES, ETC. AMENDS 708.08. EFFECTIVE DATE: UPON BECOMING LAW.
04/05/83 HOUSE FILED
CONTINUED ON NEXT PAGE
06/03/83 SENATE INDEFINITELY POSTPONED & W/D (SCR 1209); WAS ON CALENDAR

HISTORY OF SENATE BILLS

S 0260 GENERAL BILL/CS BY ECONOMIC, COMMUNITY AND CONSUMER AFFAIRS, KIRKPATRICK

COUNTY & MUNICIPAL LAW ENFORCEMENT: PROVIDES FOR FINANCIAL RESPONSIBILITY FOR CERTAIN EXPENSES PROVIDED TO ARRESTED PERSONS; AUTHORIZES COUNTY & MUNICIPAL DETENTION FACILITIES TO SEEK REIMBURSEMENT FOR MEDICAL EXPENSES PAID ON BEHALF OF PRISONERS ETC. CREATES 901.35, 951.02. EFFECTIVE DATE: 10/01/83.

02/25/83 SENATE PREFILE

03/10/83 SENATE REFERRED TO ECONOMIC, COMMUNITY AND CONSUMER AFFAIRS, CORRECTIONS, PROBATION AND PAROLE, APPROPRIATIONS

04/05/83 SENATE REFERRED TO ECONOMIC, COMMUNITY AND CONSUMER AFFAIRS, CORRECTIONS, PROBATION AND PAROLE, APPROPRIATIONS -SJ 00027

04/15/83 SENATE EXTENSION OF TIME GRANTED COMMITTEE ECONOMIC, COMMUNITY AND CONSUMER AFFAIRS

04/22/83 SENATE ON COMMITTEE AGENDA -- ECCA, 04/26/83, 2:00 PM, RM. H

04/26/83 SENATE COMM. REPORT: C/S BY ECONOMIC, COMMUNITY AND CONSUMER AFFAIRS -SJ 00020; C/S READ FIRST TIME 05/05/83 -SJ 00218

04/29/83 SENATE NOW IN CORRECTIONS, PROBATION AND PAROLE -SJ 00200

05/05/83 SENATE ON COMMITTEE AGENDA -- CORRECTIONS, P & P, 05/09/83, 2:00 PM, RM. B

05/09/83 SENATE COMM. REPORT: FAVORABLE BY CORRECTIONS, PROBATION AND PAROLE -SJ 00241

05/10/83 SENATE NOW IN APPROPRIATIONS -SJ 00241

05/16/83 SENATE EXTENSION OF TIME GRANTED COMMITTEE APPROPRIATIONS

05/30/83 SENATE EXTENSION OF TIME GRANTED COMMITTEE APPROPRIATIONS

05/31/83 SENATE WITHDRAWN FROM APPROPRIATIONS -SJ 00572; PLACED ON CALENDAR

06/01/83 SENATE PLACED ON SPECIAL ORDER CALENDAR -SJ 00565; C/S PASSED; YEAS 55 NAYS 0 -SJ 00629; RECONSIDERED; IDENT./SIM. HOUSE BILL SUBSTITUTED; LAID ON TABLE UNDER RULE, IDENT./SIM./COMPARE BILL PASSED, REFER TO C/S HB 836 (CH. 83-169) -SJ 00648

S 0261 GENERAL BILL BY KIRKPATRICK (SIMILAR CS/H 0958; COMPARE H 1154, CS/S 0653)

LANDLORD & TENANT: SPECIFIES ALTERNATIVE METHODS BY WHICH LANDLORD MAY RECOVER POSSESSION OF NONRESIDENTIAL PREMISES; PROVIDES ADDITIONAL DUTIES FOR CERTAIN SERVICE OF SUMMONS FOR REMOVAL OF A TENANT; Redefines "Dwelling Unit", etc. AMENDS CH. 83. EFFECTIVE DATE: 06/22/83.

02/25/83 SENATE PREFILE

03/10/83 SENATE REFERRED TO ECONOMIC, COMMUNITY AND CONSUMER AFFAIRS

04/05/83 SENATE REFERRED TO ECONOMIC, COMMUNITY AND CONSUMER AFFAIRS -SJ 00028

04/08/83 SENATE ON COMMITTEE AGENDA -- ECCA, 04/12/83, 2:00 PM, RM. H

04/12/83 SENATE COMM. REPORT: FAVORABLE WITH AMEND., PLACED ON CALENDAR

BY ECONOMIC, COMMUNITY AND CONSUMER AFFAIRS -SJ 0009

04/21/83 SENATE PLACED ON SPECIAL ORDER CALENDAR; PASSED AS AMENDED; YEAS 35 NAYS 0 -SJ 00157

04/26/83 HOUSE IN MESSAGES

04/28/83 HOUSE RECEIVED; REFERRED TO JUDICIARY -HJ 00254

04/29/83 HOUSE REFERRED TO SUBCOMMITTEE ON CONSUMER, PROBATE AND FAMILY LAW; ON COMMITTEE AGENDA -- SUBCOM., JUDICIARY, 212 HOB, 8:00 AM, 05/04/83

05/04/83 HOUSE ON COMMITTEE AGENDA -- JUDICIARY, 317 C, 8:10 AM, 05/06/83

05/07/83 HOUSE COMM. REPORT: FAVORABLE WITH AMEND., PLACED ON CALENDAR

BY JUDICIARY -HJ 00383

05/16/83 HOUSE SUBSTITUTE FOR HB 1154; READ SECOND TIME -HJ 00415; AMENDMENTS ADOPTED -HJ 00416

05/17/83 HOUSE READ THRU TIME -HJ 00433; AMENDMENT ADOPTED; PASSED AS AMENDED; YEAS 115 NAYS 0 -HJ 00436

05/19/83 SENATE IN MESSAGES

05/30/83 SENATE CONCURRED IN ONE AMENDMENT; AMENDMENTS TO HOUSE AMENDMENTS ADOPTED; CONCURRED IN HOUSE AMENDMENTS AS CONTINUED ON NEXT PAGE
320.01 Definitions, general.—As used in the Florida Statutes, except as otherwise provided:

(29) "Golf cart" means a motor vehicle designed and manufactured for operation on a golf course for sporting or recreational purposes.

Section 4. Section 320.105, Florida Statutes, is created to read:

320.105 Golf carts; exemptions.—Golf carts, as defined in s. 320.01(29), when operated in accordance with s. 316.212, are exempt from the provisions of this chapter which require the registration of vehicles or the display of a license plate.

Section 5. This act shall take effect October 1, 1983.

Approved by the Governor June 22, 1983.

Filed in Office Secretary of State June 23, 1983.

CHAPTER 83-189

Committee Substitute for House Bill No. 830

An act relating to county and municipal law enforcement; creating s. 901.35, Florida Statutes; providing for financial responsibility for certain expenses provided to arrested persons; creating s. 951.032, Florida Statutes; authorizing county and municipal detention facilities to seek reimbursement for medical expenses paid on behalf of prisoners; providing that prisoners who willfully refuse to cooperate with such reimbursement efforts not receive gain-time; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 901.35, Florida Statutes, is created to read:

901.35 Financial responsibility for medical expenses.—

(1) Notwithstanding any other provision of law, the responsibility for paying the expenses of medical care, treatment, hospitalization, and transportation for any person ill, wounded, or otherwise injured during or at the time of arrest for any violation of state law or county or municipal ordinance shall be the responsibility of the person receiving such care, treatment, hospitalization, and transportation. The provider of such services shall seek reimbursement for the expenses incurred in providing medical care, treatment, hospitalization, and transportation from the following sources in the following order:

(a) From insurance companies, health care corporations, or other sources if the prisoner is covered by an insurance policy or subscribes to a health care corporation or other source for those expenses.

(b) From the person receiving the medical care, treatment, hospitalization, or transportation.
(2) Upon a showing that reimbursement from the sources listed in subsection (1) is not available, the costs of medical care, treatment, hospitalization, and transportation shall be paid:

(a) From the general fund of the county in which the person was arrested if the arrest was for violation of a state law or county ordinance; or

(b) From the municipal general fund if the arrest was for violation of a municipal ordinance.

The responsibility for payment of such medical costs shall exist until such time as an arrested person is released from the custody of the arresting agency.

(3) An arrested person who has health insurance, subscribes to a health care corporation, or receives health care benefits from other sources shall assign such benefits to the health care provider.

Section 2. Section 951.032, Florida Statutes, is created to read:

951.032 Financial responsibility for medical expenses.--

(1) A county or municipal detention facility incurring expenses for providing medical care, treatment, hospitalization, or transportation may seek reimbursement for the expenses incurred in the following order:

(a) From the prisoner or person receiving medical care, treatment, hospitalization, or transportation.

(b) From insurance companies, health care corporations, or other sources if the prisoner or person is covered by an insurance policy or subscribes to a health care corporation or other source for those expenses.

(2) A prisoner who receives medical care, treatment, hospitalization, or transportation shall cooperate with the county or municipal detention facility in seeking reimbursement under paragraph (1)(b) for expenses incurred by the facility for the prisoner. A prisoner who willfully refuses to cooperate with the reimbursement efforts of the detention facility shall not receive gain-time as provided by s. 951.21.

Section 3. This act shall take effect October 1, 1983.

Approved by the Governor June 22, 1983.

Filed in Office Secretary of State June 23, 1983.

CHAPTER 83-190

Committee Substitute for House Bill No. 927

An act relating to saltwater fisheries; creating s. 370.1585, Florida Statutes, creating the Hernando-Pasco-Citrus Counties Shrimping and Crabbing Advisory Committee; providing for appointment, terms of office,
A bill to be entitled
An act relating to county and municipal
prisoners; creating s 951.031, Florida
Statutes, providing that the arresting agency
is financially responsible for certain unpaid
charges for medical care provided to such
prisoners; creating s. 951.032, Florida
Statutes; authorizing the arresting agency to
seek reimbursement for expenses incurred in
providing medical care to a prisoner; providing
that prisoners who willfully refuse to
cooperate in seeking reimbursement shall not
receive gain-time for good conduct, providing
an effective date

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 951.031, Florida Statutes, is
created to read:

951.031 Financial responsibility for medical care of
prisoners—Notwithstanding any other provision of law, the
financial responsibility for providing medical care and
treatment for any person wounded or otherwise injured at the
time of arrest for any violation of state law or county or
municipal ordinance shall be the obligation of the arresting
agency, to the extent that the person arrested does not have
the ability to pay for such care. Such obligation shall exist
until such time as the person is released from custody or
transferred to state custody.

Section 2. Section 951.032, Florida Statutes, is
created to read:
951.032 Reimbursement for medical expenses.--

(1) The arresting agency may seek reimbursement for expenses incurred in providing medical care and treatment to any prisoner. If the arresting agency seeks reimbursement pursuant to this section, reimbursement shall be sought in the following order:

(a) From the prisoner or person charged.

(b) From insurance companies, health care corporations, or other sources if the prisoner or person charged is covered by an insurance policy or subscribes to a health care corporation or other source for those expenses.

(2) A prisoner who receives medical care or treatment shall cooperate with the arresting agency in seeking reimbursement under subsection (1)(b) for medical expenses incurred by the arresting agency for the prisoner. A prisoner who willfully refuses to cooperate with the arresting agency shall not receive gain-time or commutation of time for good conduct as provided by s. 951.21.

Section 3. This act shall take effect upon becoming a law.

SENATE SUMMARY

Requires an arresting agency to be financially responsible for providing medical care for a person injured during his arrest. Authorizes the arresting agency to seek reimbursement for medical care and treatment provided to a prisoner from the prisoner or his insurance company. Prohibits a prisoner from receiving gain-time or commutation of time for good conduct if he fails to cooperate with the agency in seeking reimbursement.

CODING: Words in struck through type are deletions from existing law, words underlined are additions.
ANNUAL REPORT
of the
ATTORNEY GENERAL
STATE OF FLORIDA

January 1 through December 31, 1972

ROBERT L. SHEVIN
Attorney General

Tallahassee, Florida
1973
foam-water sprinkler systems and foam-water spray systems. Section 633.061(1) and (6), F S

Thus, it is my opinion that not only must a municipal fire department be licensed and pay the licensing fee pursuant to Ch. 633, F S., prior to servicing and recharging its own fire extinguishers and other fire extinguishers used by the municipalities when said fire extinguishers are required by the rules and regulations of the state fire marshal, but each individual actually performing such work must be licensed and also must pay a permit fee except as provided in §633.061-(6), F S.

072-346—October 11, 1972

SHERIFFS

LIABILITY FOR MEDICAL AND SURGICAL EXPENSES OF PRISONERS

To Richard L. Jorandby, Attorney for Palm Beach County Sheriff, Palm Beach
Prepared by Rebecca Boules Haukens, Assistant Attorney General

QUESTION

Is the sheriff's office liable for medical and surgical expenses incurred by prisoners and others while in the custody of the sheriff's office, when such prisoners have been arrested by members of other law enforcement agencies?

SUMMARY

Under §951.23, F S., and Rule 10B-8.08 of the Department of Health and Rehabilitative Services, a sheriff has the duty to provide medical care for a prisoner in his custody for violating a state law even though the arrest was made by a state or municipal officer. When the prisoner's sentence ends or he is released from custody, he is no longer a "prisoner" and the sheriff's responsibility in this respect comes to an end. Funds for paying the necessary medical and surgical expenses of prisoners may be budgeted as a legal expense of the sheriff's office.

Insofar as the responsibility for the cost of providing medical and surgical services to prisoners is concerned, the fact that the prisoner was arrested by a state highway patrolman or by a municipal officer for violation of a state criminal statute and turned over to the sheriff for detention would seem to be irrelevant. It was said in A GO-059-18 that state patrolmen "are agents of the state directed by law to deliver their prisoners to the sheriff of the county wherein arrested, so that they hold their prisoners in their official capacities, as officers of the county or for the county, and not in their individual capacities." Similarly, a municipal officer who arrests a person for violation of a state criminal statute is acting on behalf of the state in so doing. When the sheriff accepts custody of the person so arrested, that person becomes a prisoner of the county. See §951-23(1)(b), F S., defining "county prisoner" as "a person who is detained in a county detention facility by reason of being charged with or convicted of either a felony or misdemeanor." And the sheriff then becomes responsible for his safekeeping to the same extent as any other prisoner.

It is generally held that a sheriff owes a duty to a prisoner in his custody to keep him in health and free from harm, and that the sheriff will be personally liable for a negligent breach of his duty in this respect resulting in injury or death of the prisoner. Alexander, Laws of Arrest, Vol. 1, pp. 648, §154, cited in AGO 059-18, 80 C.J. S., Sheriffs and Constables §117, pp. 326-327. The rule as to a
sheriff's duty in this respect has been incorporated into a rule of the Department of Health and Rehabilitative Services (Rule 10B-8.08) adopted pursuant to a statutory directive (§951.23, F.S.) This rule provides that the officer in charge of a county detention facility, including a county jail, is required to call a physician immediately if there are indications of serious injury, wound, or illness on the part of an inmate and the instructions of the physician "shall be strictly carried out." It provides also that, whenever practicable, the officer in charge "shall obtain a satisfactory arrangement with the nearest available hospital for the admission and treatment of inmates on both a routine and an emergency basis. Whenever practicable, similar arrangements shall also be made with a physician.

As the sheriff has the legal duty to provide medical and hospital treatment for a county prisoner who needs such services, it follows that the expense of such treatment would be a legal expense of the sheriff's office for which funds should be budgeted along with other funds budgeted for the care of prisoners. Neither the statute nor the rule makes any distinction between indigent and non-indigent prisoners in prescribing the duty to provide medical care and treatment to prisoners. Thus, until such time as this question should be legislatively or judicially clarified, funds sufficient to cover the expected cost of medical care to any prisoner should be budgeted.

It should be noted that special provisions are made by law for the care and treatment of certain types of indigent persons who are required to be committed and for the payment of the cost of such treatment. See, for example, §§394.451-394.477, F.S. (mentally ill), Ch. 396, id. (alcoholics), and Ch. 397, id. (drug dependents). Many counties also have programs for the treatment of indigent persons and for providing hospital service for the indigent. It was held in ACO 059-18 that if a county is participating in the hospital service program for the indigent under Ch. 401, F.S., it could be reimbursed for hospital expenses provided to an indigent person at the request of the sheriff while he was a prisoner as well as after he is released from custodial custody. Thus, some arrangement might be made with the county for reimbursing the sheriff's office for such expenses to the extent of the county's coverage under Ch. 401, supra, or other applicable programs.

You have inquired also as to the liability of the sheriff's office for hospital expenses incurred in treating a person who was in custody of the sheriff at the time he was admitted to the hospital for treatment but was thereafter technically released from custody by court order—either on his own recognizance or by an order vacating his sentence—and remained in the hospital for further treatment. It has been held by one of my predecessors in office in ACO 078-148 that a municipality should provide necessary medical care for indigent prisoners but that "as the liability of the city for medical care for its prisoners is based upon the incarceration of the prisoner, the termination of the sentence would serve to terminate the liability of the city." It was suggested that this fact should be called to the attention of any doctor or hospital rendering medical services to a prisoner.

This conclusion would appear to be equally applicable to the responsibility of a sheriff to provide medical care for his prisoners under Rule 10B-8.08, supra, as the sheriff's duties under the rule is to provide medical care and treatment to an "inmate," defined as "a person who is detained in a detention facility by reason of being charged with or convicted of a felony, misdemeanor, or a municipal offense." Rule 10B-8.01, id. Accord Section 951.22(1)(b), supraj defining "county prisoner" as "a person who is detained in a county detention facility by reason of being charged with or convicted of either a felony or misdemeanor." Thus, the termination of the sentence or the release of the prisoner on his own recognizance while he was in a hospital would seem to end the sheriff's responsibility in the matter.

Your question is answered accordingly.
ANNUAL REPORT
of the
ATTORNEY GENERAL
STATE OF FLORIDA

January 1 through December 31, 1975

ROBERT L. SHEVIN
Attorney General

Tallahassee, Florida
1976
fill a vacancy in the office created by his resignation. Accordingly, where a municipal charter provides for the filling of such a vacancy by appointment, an officer who resigns pursuant to the resign-to-run law is eligible for appointment to the vacancy created by his resignation, should such be the will of the appointing power.

Because there appears to be some confusion on this point, it is appropriate to note that the resignation is not required to become effective immediately. Under subsection (2) of the statute, the resigning official must make his resignation effective not later than the date upon which he would assume the duties of the new office, if elected, or upon the date that his successor is entitled to assume the duties of the office from which he resigned, whichever occurs earlier, and the resigning officer "shall continue to serve until his successor is elected or the vacancy otherwise filled. Subsection (3), id cit should also be noted that the resign-to-run law was amended by Ch 74-76, Laws of Florida, to provide that resignations by county or municipal officers "shall be directed and presented to the officer with whom he qualified for the office from which he is resigning, or in the case of an appointed official by directing such notice to the officer or authority by whom he was appointed to the office from which he is resigning with a copy to the governor and to the department of state."

075-35—February 17, 1975

COUNTY PRISONERS

RESPONSIBILITY FOR PROVIDING MEDICAL CARE

To: Melvin G Colman, Orange County Sheriff, Orlando

Prepared by Jerald S Price, Assistant Attorney General

QUESTIONS:

1. Is the county legally liable for payment of a bill covering illness during time after release when a prisoner is treated for a specific disease or ailment while in the county prison system and his ailment continues after release, on the premise that the illness was contracted while the prisoner was in county hands?

2. At what point is county responsibility for care generally terminated?

3. Can he be personally billed for hospital costs if he has personal hospital insurance if hospitalization of the prisoner is required while he is a county prisoner?

4. Should his medical care be billed to him as an individual for the entire time of his stay in the system, assuming an illness was contracted prior to entry into the county system?

5. Is the county required to pay for a prisoner's medical care or should the municipality be responsible for such a bill when he is arrested by a municipal law enforcement agency for the commission of a felony, during which time of arrest he has been injured?

SUMMARY:

Under s. 951.23, F. S., and F.A.C. Rule 10B-8.08 of the Department of Health and Rehabilitative Services, a sheriff has the duty to provide medical care to any prisoner in his custody for violation of a state criminal law regardless of whether the prisoner's illness or injury existed before he was taken into the sheriff's custody and regardless of whether the prisoner was initially arrested by a municipal law enforcement officer before being taken into the sheriff's custody. Neither s. 951.23 nor Rule 10B-8.08 makes any distinction between indigent and nonindigent prisoners as to a sheriff's duty to provide medical care; thus, sufficient funds should be budgeted to cover the cost of providing such care to any
ANNUAL REPORT OF THE ATTORNEY GENERAL

prisoner in need thereof. A sheriff’s duty to provide medical care generally ends when the prisoner is released from custody.

AS TO QUESTIONS 1 and 2.

Section 951.03, F S., requires boards of county commissioners, when working county prisoners on the public works of the counties, to “provide or cause to be provided, substantial food, clothes, shoes, medical attention, etc., for said prisoners as are required for state prisoners in the state.” And F A C Rule 10B-8.08., adopted by the Department of Health and Rehabilitative Services under the authority of s 951.23, id., requires the officer in charge of a county or municipal detention facility to call a physician immediately if there are indications of serious injury, wound, or illness on the part of an inmate. The statute—which has been on our statute books for more than 50 years—has been uniformly interpreted by my predecessors in office as making the county liable for hospital, medical, and surgical expenses for the care and treatment of sick or injured prisoners incurred at the request of its law enforcement officers. Thus, in a 1921 opinion reported at p 352 of the 1921-1922 Biennial Report of the Attorney General, it was said that, while there were no court decisions on the question, it was the duty of the sheriff, as custodian, to procure the necessary attention for the inmates, and that “the county would be liable for the compensation due the physician for services so had and obtained.” And, in AGO 059-18, it was ruled that “the medical and surgical expenses necessary for the keeping of a prisoner, although incurred by the sheriff, may be paid by the county.” Accord Attorney General Opinion 046-424, Biennial Report of the Attorney General, 1945-1946, p. 234, ruling that the county was liable for the medical expense incurred for a prisoner who was injured by a deputy sheriff in arresting him. Cf AGO’s 059-148 and 074-72, ruling that a nonindigent municipal prisoner arrested for violation of a municipal ordinance should bear the cost of medical care if the need for such care does not flow from any negligent act on the part of the city which would subject the city to a tort action. It should be emphasized here that AGO 074-72 was concerned with the ultimate responsibility for payment of medical care furnished by a municipality. Insofar as AGO 074-72 suggests that there is some distinction between indigent and nonindigent prisoners as to the duty imposed upon the officer in charge of a detention facility to provide medical care to inmates, it is hereby receded from.

The opinions are also unanimous in ruling that the duty of the sheriff and the county with respect to medical care for county prisoners is specifically limited to “prisoners” or “inmates” of a detention facility and that this duty ends upon the release of the prisoner from custody. As noted in AGO 072-346, incarceration is the basis of the responsibility, so that

the termination of the sentence, or the release of the prisoner on his own recognizance while he was in a hospital, would seem to end the Sheriff’s responsibility in the matter.

AS TO QUESTION 3

No decision of the Florida courts or those of any other jurisdiction on this question has been found. As noted in AGO 072-346, the sheriff has the duty under Rule 10B-8.08., supra, to provide appropriate medical care for ailing prisoners without regard to whether the prisoner is indigent or nonindigent and should budget funds sufficient to cover the expected cost of such care. (See also s 30.49(4), F S., providing for review and approval of the sheriff’s budget by the board of county commissioners.) It would appear, therefore, that the sheriff could not compel the hospital to look only to the prisoner’s insurance policy or the prisoner for payment.

AS TO QUESTION 4

Subsection (1) of Rule 10B-8.08., supra, provides:

(1) The officer-in-charge or his designated representative shall assure that each inmate is observed daily, and a physician shall be immediately called if there are indications of serious injury, wound, or illness. The instructions of the physician shall be strictly carried out. Ill inmates shall be furnished such food as is prescribed by the attending physician.
The above language makes no reference to the time an illness is contracted or an injury sustained. The rationale of the rule seems to be that an inmate must depend entirely upon the person in charge of the detention facility for his well-being while incarcerated, and, this being the case, the only relevant consideration is the existence of an illness or injury, not its cause or the time it first arises.

AS TO QUESTION 5

In AGO 072-346, it was my opinion that

Insofar as the responsibility for the cost of providing medical and surgical services to prisoners is concerned, the fact that the prisoner was arrested by a state highway patrolman or by a municipal officer for violation of a state criminal statute and turned over to the sheriff for detention would seem to be irrelevant. When the sheriff accepts custody of the person so arrested, he becomes a prisoner of the county, and the sheriff then becomes responsible for his safekeeping to the same extent as any other prisoner.

Your fifth question is answered accordingly.

075-36—February 17, 1975

COMMUNITY DEVELOPMENT

POWERS OF COUNTY COMMISSION

To John W. Bakas, Jr., Assistant Hillsborough County Resident Attorney, Tampa

Prepared by Sharyn L. Smith, Assistant Attorney General

QUESTION:

Does a board of county commissioners possess the necessary authority to perform all of the community development functions described in the Housing and Community Development Act of 1974?

SUMMARY:

The Hillsborough County Board of County Commissioners possesses the necessary authority to perform all the community development functions as described in the Housing and Community Development Act of 1974.

Public Law 93-383, The Housing and Community Development Act of 1974, requires that each "unit of general local government" electing to participate in the program possess certain governmental powers. The community development programs which may be assisted by the act are limited to certain types of programs. Without the power to perform the functions required by the program, a grant may not be approved by the Secretary of Housing and Urban Development pursuant to Title I. See 42 U.S.C. § 104(a)(1)-(6).

The Community Development Activities eligible for assistance under Title I include the following found at § 105:

(a)(1) the acquisition of real property (including air rights, water rights and other interests therein) which is (A) blighted, deteriorated, deteriorating, undeveloped, or inappropriately developed from the standpoint of sound community development and growth; (B) appropriate for rehabilitation or conservation activities, (C) appropriate for the preservation or restoration of historic sites, the beautification of urban land, the conservation of open spaces, natural resources, and scenic areas, the provision of recreational opportunities, or the guidance of urban development, (D) to be used for the provision of public

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ANNUAL REPORT
of the
ATTORNEY GENERAL
STATE OF FLORIDA

January 1 through December 31, 1975

ROBERT L. SHEVIN
Attorney General

Tallahassee, Florida
1976
The answer to your third question is that when an officer does not have probable cause to arrest an individual but does have a reasonable belief that the person was driving a vehicle while under the influence of alcoholic beverages and the person takes the prearrest breath test authorized by s 322.261(1)(b), F.S., either because the officer requested him to take it or because the person demanded that he be given this test, and the test result indicates the person was driving a motor vehicle while under the influence of alcoholic beverages to the extent that his normal faculties are impaired or the result indicates the person has an unlawful blood alcohol level, the officer, who at the beginning of his investigation had only a reasonable belief that the person was driving under the influence, now has probable cause to arrest this person for driving while under the influence and may administer the test authorized by s 322.261(1)(a), said test being admissible into evidence. The prearrest test may be given at the scene if the officer has the necessary equipment or, since the person has either demanded or consented to take the prearrest test, he may be transported to the facility where the equipment is located.

075-47—February 20, 1975

PRISONERS

LIABILITY FOR TORTS, MEDICAL TREATMENT FOR WOUNDED PRISONER, LIABILITY FOR PRISONER, ELEMENTS OF "CUSTODY"

To John R. Woodruff, Chief of Police, Naples

Prepared by A. S. Johnston, Assistant Attorney General

QUESTIONS:

1. Is a prisoner responsible for the results of his wrongful civil actions?
2. What is the city's responsibility concerning the medical expenses incurred by a wounded prisoner?
3. What is a city's liability concerning prisoners and, where the city is not liable, with whom does liability for prisoners lie?
4. Is a subject in custody who, if shot and unconscious, will be formally arrested upon release from the hospital?
5. Is there case law, either criminal or civil, where precedents have been set concerning the foregoing questions?

SUMMARY:

A prisoner is responsible in tort for any wrongful civil action he commits.

The liability of a municipality or a county (sheriff) for the cost of medical care of a person wounded by a law enforcement officer while said person was committing a crime must be determined on a factual basis. A municipality is responsible for medical care of municipal prisoners, while the county (sheriff) is responsible for county prisoners. The test to be applied for this determination is the nature of the crime which the wounded person will be charged with or convicted of, i.e., for a violation of a state law or of a municipal ordinance.

A city may be liable for the torts committed by prisoners when prisoners are working as agents of the city and may be liable for injuries to prisoners resulting from the negligence of the person in charge of them.

All of the elements of a valid arrest are present and a person is in custody when the person caught in the overt act of committing the crime forcibly resists or flees, is shot, and is taken to a hospital in an unconscious condition.
AS TO QUESTION 1

As a general rule, all competent persons are liable for torts which they commit, and I
know of no reason why a prisoner should not be held responsible for any wrongful civil
action he commits. See 74 Am Jur 2d Torts § 53. This would include any wrongful civil
actions committed in the course of committing a felony.

Accordingly, your first question is answered in the affirmative.

AS TO QUESTION 2

It was held in AGO 059-148 that a city is required to furnish and pay for hospitalization
and medical care for an indigent municipal prisoner. Attorney General Opinion 021-352
recognized the duty of a sheriff to provide medical care for prisoners in his custody, and
AGO 046-424 stated that the duty included the payment of physician's and hospital
expenses for a prisoner treated after he had been shot by a deputy sheriff in the
performance of his duty. Since the rendering of the above opinions, Rule 10B-8.08 of the
Department of Health and Rehabilitative Services has been promulgated pursuant to s.
961.22, F.S. Rule 10B-8.08 states that the officer in charge of a detention facility shall
provide for the medical care, including physician's care and hospitalization, for inmates.
The rule makes no distinction between indigent and nonindigent inmates, and therefore,
as pointed out in AGO 072-346, medical care now should be provided for all prisoners.

Section 961.22, F.S., defines a municipal prisoner as a person detained in a municipal
detention facility by reason of being charged with or convicted of violation of a municipal
ordinance or law. A county prisoner is defined as a person detained in a county detention
facility by reason of being charged with or convicted of either a felony or misdemeanor.
Attorney General Opinion 072-346 held that "a sheriff has the duty to provide medical
care for a prisoner in his custody for violating a state law even though the arrest was
made by a state or municipal officer," when the medical expenses resulted from the
activities of the arresting state or municipal officer. That opinion was based on the fact
that "a municipal officer who arrests a person for violation of a state criminal statute,
is acting on behalf of the state when so doing," and therefore his position is similar to that
of state patrolmen who, in AGO 059-18, were described as "agents of the state directed
by law to deliver their prisoners to the sheriff of the county wherein arrested, so that
they held their prisoners in their official capacities, as officers of the court or for the
county, and not in their individual capacities."

On the basis of the foregoing, it can be concluded that persons charged with violating
a state criminal statute, rather than a municipal ordinance or law, who are arrested by
a municipal officer, taken directly to a hospital for medical care, and then taken to the
county detention facility, are in fact "county prisoners" from the time they are first taken
into custody. This conclusion is not affected by the fact that, due to the emergency
situation, the prisoners are taken directly to a hospital by municipal officers without first
being routed through the county jail and are never physically within the confines of the
county jail before hospitalization or by the fact that the sheriff does not formally accept
custody of them prior to their hospitalization. Where municipal officers are enforcing
state law, they are acting on behalf of the state and holding the prisoners in their
capacities as officers for the county, thus their prisoners are constructively county
prisoners, and the sheriff is responsible for any medical expenses incurred in their

treatment and care.

The answer to your second question is that municipalities are responsible for the
medical expenses incurred by wounded municipal prisoners. However, under the factual
situation in your letter, the wounded prisoners were in fact county prisoners and the
sheriff would be responsible for their medical expenses.

AS TO QUESTION 3

In Hargrove v. Town of Cocoa Beach, 96 So 2d 130 (Fla. 1957), the Supreme Court of
Florida held at p. 133 that except where a municipal corporation is exercising its
legislative, quasi-legislative, judicial, or quasi-judicial powers, "when an individual
suffers a direct personal injury proximately caused by the negligence of a municipal
employee while acting within the scope of his employment, the injured individual is
entitled to redress for the wrong done." Thus municipalities now may be held liable for
the torts of their employees.
The Florida Supreme Court in Wolfe v City of Miami, 137 So 892 (Fla 1931), stated that when a prisoner, at the direction of his foreman, was operating the foreman's automobile on an errand to procure food for his fellow prisoners who were working for the city, the city's liability on a theory of agency for the negligent conduct of the prisoner operating the automobile was a question for the jury.

A city's liability was further explained in Lewis v City of Miami, 173 So 150 (Fla 1937), where the Florida Supreme Court held at p 152 as follows:

In the case of municipal prisoners the prisoners are deemed to be within the custody of the municipality as a public corporation, notwithstanding the fact that the designated municipal officials, as individuals have been charged with specific duties and responsibilities respecting the keeping and sustenance of such prisoners, as well as the execution of the laws and ordinances respecting them. It is on this theory that cities have been generally held liable for the board of municipal prisoners held in county jails as places of detention. [Cites omitted] And in this state of negligent injuries inflicted by municipal convicts on third parties, see Wolfe v City of Miami, 103 Fla 774, 134 So 539, 137 So 892 (Emphasis supplied)

This view is in accord with that expressed in the only foreign cases found dealing with the question of liability of a city for the torts of its prisoners, which held that a city is liable for the negligent conduct of convicts while such convicts are working for the city See City of Atlanta v Thurman, 91 S E 887 (Ga Ct App, 1917); Hall County v Luggins, 138 S E 2d 699 (Ga Ct App, 1964)

In addition to liability in the above area, a municipality may also be held liable to prisoners in a municipal jail for injuries from the negligence of a keeper, guard, or other person in charge of them See 25 Fla Jur Prisons and Prisoners s 22

Accordingly, the answer to your third question is that a city may be held liable for expenses incurred in the providing of food, clothing, shelter, and medical care for municipal prisoners, for the torts of municipal convicts while acting within the scope of their duties, and for injuries to prisoners resulting from the negligence of the person in charge of them, if the prisoners are county prisoners rather than municipal prisoners, the responsibility for providing food, clothing, shelter, and medical care is in the sheriff of the county. The sovereign immunity of counties and municipalities has been waived, within certain limits, by Art X, s 13, of the State Constitution and s 768.28 F S, as amended by Ch 74-235, Laws of Florida

AS TO QUESTION 4.

The elements of an arrest are as follows

(1) A purpose or intention to effect arrest under real or pretended authority,
(2) An actual or constructive seizure or detention of the person to be arrested by a person having present power to control the person arrested, (3) A communication by the arresting officer to the person whose arrest is sought, of an intention or purpose then and there to arrest, and (4) An understanding by the person whose arrest is sought that it is the intention of the arresting officer then and there to arrest and detain him [Melton v State, 75 So 2d 291, 294 (Fla 1954)]

Section 901.17, F S, states that an officer making an arrest without a warrant "shall inform the person to be arrested of his authority and the cause of arrest except when the person flees or forcibly resists before the officer has an opportunity to inform him or where giving the information will imperil the arrest."

The Florida Supreme Court has ruled, on the theory that the law does not require the doing of useless things, that "when detention by an officer follows immediately a commission of an overt act of criminality or illegality, the offender must be aware, without formality, of his purpose to arrest." See Gibb v City of Coral Gables, 149 So 2d 501 (Fla 1963)

Based on the foregoing authorities, I am of the opinion that all the elements of a valid arrest are present and a person is in custody when the person caught in the overt act of committing a crime forcibly resists or flees, is shot, and is taken to a hospital in an unconscious condition
AS TO QUESTION 5:

I know of no case precisely on point with the factual situation set forth in your letter; the case law with which I am familiar which has a bearing on your questions is included in my answers to your questions 1-4.

075-48—February 20, 1975

SUNSHINE LAW

APPLICABILITY TO CITY COUNCIL MEETING TO DISCUSS COLLECTIVE BARGAINING AND UNIONIZATION

To: Roger Saberson, City Attorney, Delray Beach

Prepared by: Sharyn L. Smith, Assistant Attorney General

QUESTIONS:

1. May a city council meet privately with a city manager and city attorney present if the purpose of such meeting is to discuss the provisions of a proposed mini-PERC ordinance and whether to pass said ordinance?

2. May a meeting of a city council with the city manager and city attorney present at which discussion is to be general in nature regarding the particular attitude or stance that a city is going to take with reference to unionization and collective bargaining be held in private?

3. If the answer to either one of the above hypothetical questions is negative, please delineate as specifically as possible what aspects of labor relations may be discussed privately outside of the Sunshine Law.

SUMMARY:

A meeting of a city council with a city manager and city attorney present at which discussions of a proposed mini-PERC ordinance and/or the particular attitude or stance a city is contemplating with reference to unionization or prospective collective bargaining are to transpire is subject to the Sunshine Law, s. 286.011, F. S.

The new Collective Bargaining Act, Ch. 74-100, Laws of Florida, provides the following exemption from the Government in the Sunshine Law, s 286 011, F S, at s 3 [s 447 605, F S (1974 Supp)].

All discussions between the chief executive officer of the public employer and the legislative body of the public employer relative to collective bargaining shall be exempt from s 286 011, F S (Emphasis supplied).

"Collective Bargaining" is defined at s 3 [s 447 203(14)] as

... the performance of the mutual obligations of the public employer and the bargaining agent of the employee organization to meet at reasonable times, to negotiate in good faith, and to execute a written contract with respect to agreements reached concerning the terms and conditions of employment.

The Government in the Sunshine Law, s 286 011, F S, requires that all meetings of a covered board or commission at which "foreseeable action" will be taken by said body be open to the public. The law also provides that no resolution, rule, regulation, or formal action shall be considered binding except as taken or made at such "open meeting." See s. 286 011(1). Moreover, s 116 041(3), F S., states that a proposed ordinance

... may be read by title, or in full, on at least two separate days and shall, at
ANNUAL REPORT
of the
ATTORNEY GENERAL
STATE OF FLORIDA

January 1 through December 31, 1976

ROBERT L. SHEVIN
Attorney General

Tallahassee, Florida
1977
corporation was considered as one in the nature of a personal trust committed to the judgment and discretion of the member as an individual, and was not delegable \(\text{[However,]}\) the Legislature has the power to delegate the right and to extend to voters the privilege of voting by proxy.

State \textit{ex rel}, Green \textit{v} Holzmueller, 40 Del 16, 5 A 2d 251, 253 (Super Ct 1939); see also Bontempo \textit{v} Carey, 64 N J Super 51, 165 A 2d 222 (1960), Friesen \textit{v} People \textit{ex rel} Fletcher, 118 Colo 1, 192 P 2d 430 (1948), O'Brien \textit{v} Fuller, 93 N Y 221, 30 A 2d 290 (1944), see generally 29 C J S \textit{Elections} s 20 (1), p 558, cf State \textit{v} Inter-American Center Authority, 84 So 2d 9, 14 (Fla 1955), in which a similar rule is stated that "in the absence of statutory authority, a public office can not [sic] delegate his [discretionary] powers, even with the approval of the court."

Applying this general rule to s 298 11 and 298 12, F S, which must be construed together in order to ascertain legislative intent, see \textit{In re Opinion to the Governor}, 60 So 2d 321, 324 (Fla 1952), it is clear that district landowners have been expressly granted the privilege of voting by proxy in the election of their district's first board of supervisors under s 298 11. As to whether district landowners may also vote by proxy in the annual election of a district supervisor under s 298 12, the legislative intent is indicated by the language of s 298 11(3) providing that a quorum of district landowners is absent both at the initial election of the board of supervisors and at "any election thereafter," if "the owners of a majority of the acreage included in such district are not present in person or "dually represented."" \(\text{Emphasis supplied}\) In addition, s 298 12 itself provides that the annual election meeting of a district's landowners shall be called "in the same manner as is provided for in s 298 11," and that in the event of a failure to elect a supervisor at an annual district election the Department of Environmental Regulation shall appoint a supervisor "in like manner as prescribed in s 298 11." The only circumstance in which the Department of Environmental Regulation appoints district supervisors under s 298 11 is when a quorum of district landowners, \textit{i.e.}, district landowners "in person or dually represented," is not present and, therefore, an election by district landowners in person or by proxy cannot be held. \(\text{Emphasis supplied}\) Thus, although the matter is not entirely free from doubt, I am of the opinion that district landowners may vote by proxy in the annual election of a district supervisor under s 298 12.

The conclusion reached herein is consistent with the proposition most recently enunciated in Spector \textit{v} Ghisson, 305 So 2d 777, 781-782 (Fla 1975), that absent clear expression otherwise, the applicable constitutional or statutory language should always be resolved in favor of retention in the people of the power and opportunity to select officials of the people's choice. In this instance, therefore, where the applicable statutory language is subject to construction, any question as to whether district landowners may vote by proxy in annual elections of district supervisors under s 298 12, F S, should be answered in the affirmative, since the alternative may be that the Department of Environmental Regulation will appoint such supervisors. Moreover, the conclusion reached herein is consistent with the well-accepted rule of statutory construction that statutes should be interpreted so as to avoid unreasonable or anomalous results. See Radio Tel Communications, Inc \textit{v} Southeastern Tel Co, 170 So 2d 577, 580 (Fla 1964), Leach \textit{v} State, 295 So 2d 777 (D C A Fla, 1974). In this regard, it seems unreasonable to conclude that s 298 11, \textit{id.}, allows district landowners to vote by proxy at the initial election of a district's board of supervisors, but that s 298 12 precludes their voting by proxy at subsequent elections of district supervisors. I perceive no reasonable basis for such a distinction in the statutes.

Your question is answered in the affirmative.

076-139 - June 18, 1976

MUNICIPALITIES

RESPONSIBILITIES TO PROVIDE MEDICAL TREATMENT FOR MUNICIPAL PRISONERS

To John C Chew, City Attorney, Daytona Beach

Prepared by Jerald S. Price, Assistant Attorney General

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QUESTION:
Is the City of Daytona Beach legally obligated for costs incurred by the hospital or a physician in furnishing medical care to persons incarcerated in the city detention facility in the absence of an agreement with the Halifax Hospital District, and, further, does the city's obligation depend upon whether the persons receiving treatment are indigent or nonindigent, or whether the treatment is for a serious illness or injury and is necessary during the period of confinement?

SUMMARY:
A municipality is responsible for providing all necessary medical care to its municipal prisoners so long as they remain in custody and regardless of whether they are indigent or nonindigent. Although local detention facility rules (Ch. 10B-17, Florida Administrative Code) require treatment for "serious" or "substantial" injury or illness, caution should be exercised in allowing nonmedical detention facility personnel to decide whether a prisoner's request for medical attention is frivolous or is based on serious or substantial illness or injury.

The opinions of this office have consistently held that the officer in charge of a county or municipal detention facility, and ultimately the county or municipality for which the officer in charge is acting, is charged with the responsibility to provide medical care to prisoners incarcerated in the local detention facility. This duty derives from s 951.23, F.S., and the implementing Florida Administrative Code (F.A.C.) or rules of the Department of Offender Rehabilitation (formerly the Division of Corrections of the Department of Health and Rehabilitative Services). See Ch. 10B-17, F.A.C., formerly Ch. 10B-8, F.A.C.

As to whether an individual is a municipal prisoner or a county prisoner for purposes of determining the entity responsible for providing medical care, the following definitions are provided in s 951.23, F.S. Section 951.23(1)b) defines county prisoner as "a person who is detained in a county detention facility by reason of being charged with or convicted of either felony or misdemeanor" (Emphasis supplied.) A municipal prisoner is defined by s 951.23(1)d) as "a person who is detained in a municipal detention facility by reason of being charged with or convicted of violation of municipal law or ordinance" (Emphasis supplied.) In AGO's 072-346 and 075-47 I held that a municipal police officer who arrests a person for violation of a state law (felony or misdemeanor) is acting on behalf of the state and that a person so arrested by a municipal officer for violation of state law is constructively a county prisoner for whose medical care the sheriff is responsible.

In AGO 075-35 I stated unequivocally that the duty to provide medical care applies with equal force to indigent and nonindigent prisoners. Also emphasized in AGO 075-35 were the points that the duty to provide medical care ends upon release of the prisoner from custody and that the duty is not affected by the fact that the illness or injury might have arisen before the prisoner was taken into custody.

I have considered the special act creating the Halifax Hospital District, Ch. 11272, 1925, Laws of Florida, as amended by Ch. 13490, 1927, Laws of Florida, but I am of the opinion that the act's requirement that the hospital district provide free care to indigents does not affect or relieve the duty of a municipality or county to be responsible for providing medical care required by its prisoners. While it does appear that the hospital district would become responsible for an indigent prisoner upon release from custody, under the rationale of the previous opinions of this office the entity in charge of the local detention facility in which the prisoner is incarcerated is responsible for furnishing medical care so long as the prisoner remains in custody. I would also note that it has been established, in AGO's 059-148 and 075-47, that the transfer of a prisoner from the detention facility to a hospital for treatment does not remove the prisoner from custody of the sheriff or municipal police department. Similarly, AGO 075-47 established that a sheriff's or police department's duty to provide medical care is not precluded or delayed if a prisoner must be taken to a hospital directly upon arrest and before being taken to the detention facility for formal booking procedures.

Finally, as to whether the city's duty to provide medical care depends upon "whether the treatment is for a serious illness or injury," I would refer you to the following sections...
of the local detention facility rules concerning medical care. In Ch 10B-17 07(1), F.A.C, it is provided in pertinent part "Prisoners that show or complain of substantial injuries or illness should be afforded the opportunity to be seen by a physician or another appropriate medical person unless the Officer-In-Charge determines it is not necessary."

(Emphasis supplied) Chapter 10B-17 07(2), F.A.C, provides in pertinent part "The Officer-In-Charge shall assure that each prisoner is observed on a regular basis and a physician called or treatment provided if there are indications of serious injury, wound or illness. The instructions of the physician shall be strictly carried out."

(Emphasis supplied) And in Ch 10B-17 07(8), F.A.C, it is provided that "(t)he Officer-In-Charge will take action concerning mentally ill persons consistent with applicable Florida Statutes and/or court orders.

It should be obvious that no clear or readily usable standard emerges from the above-quoted rules. Both "substantial" and "serious" are used to describe the degree of illness or injury which purportedly must exist before treatment or the summoning of a physician is required. Either of these modifiers could reasonably be subject to vastly differing interpretations on the part of either the prisoner or the officer in charge of the detention facility. In light of the recent proliferation of civil rights suits brought by prisoners demanding better medical care, food, recreation, etc., I must advise against your taking an overly strict approach to what constitutes serious or substantial illness or injury. Considerable caution should be exercised in allowing nonmedical personnel of the detention facility to decide that a prisoner's request for medical attention is frivolous.

MUNICIPALITIES

NOT AUTHORIZED UNDER COMMUNITY REDEVELOPMENT ACT TO SELL HOUSING UNITS AS CONDOMINIUMS

To Carl R Linn, City Attorney, St. Petersburg
Prepared by Martin S. Friedman, Assistant Attorney General

QUESTION:

Does the Community Redevelopment Act of 1969 expressly or impliedly grant to a city the authority to sell, in condominium form, units developed under the general redevelopment plan?

SUMMARY:

The Community Redevelopment Act of 1969 (ss. 163.330-163.450, F.S.) does not expressly or impliedly grant to a city the authority to sell in condominium form units developed under the general redevelopment plan.

Municipalities are granted extensive powers under the Community Redevelopment Act (Part III, Ch. 163, F.S.) to carry out the purposes of the act. See ss. 163.370, 163.375, 163.380, 163.385, and 163.420.

A thorough perusal of the act discloses no express or necessarily implied authority for a municipality to sell, in condominium form, newly constructed units developed under the Community Redevelopment Act. Cf ss. 163.335(2), 163.340(12)(b), 163.345, 163.370(1), (4)(a) and (b), (7)(a), and (8), and 163.380(1), (2), and (3), F.S. The municipality does have the authority, pursuant to s. 163.380(3), to temporarily operate and maintain real property acquired by it in a community development area pending disposition of the property as authorized in the act.

In spite of broad "home rule" powers granted to municipalities by s. 2(b), Art. VIII, of the Florida Constitution and implemented by Ch. 168, F.S., the Community
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**Bill Action Record**

Subcommittee on Institutions

Meeting Time 5-10-83; 1:00-3:00 pm

Place 317 C

Committee Action:
- Temporarily passed
- Reconsidered
- Favorable
- Favorable with amendments
- Favorable with committee substitute
- Unfavorable

Subcommittee report:
- Favorable
- Favorable with amendments
- Unfavorable

Other action: Temporarily passed

Date received

Date Reported

Bill No. HB 830

House of Representatives

Final vote on bill

Yeas Nays Totals

Yeas Nays Yeas Nays Yeas Nays Yeas Nays Yeas Nays

V 50

32

Yeas Nays

50

32

NOTICE OBJECTED (W)

Florida State Archives
Department of State
R.A. Gray Building
Tallahassee, FL 32399-0250
Series 19, Carton 14/81
Bill Action Record
Committee on Corrections, Probation & Parole
Meeting Time 5-10-83; 2:30 pm
Place 317 C

Referred to Subcommittee on

Subcommittee report:

favorable
favorable with amendments
unfavorable

Committee Action: Temporarily passed
Reconsidered favorable
favorable with amendments
favorable with committee substitute
unfavorable

Other action:

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TOTALS

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Date received

COlll!itte Action: Date Reported

Temporarily passed
Reconsidered
favorable
favorable with amendments
favorable with committee substitute
unfavorable

Other action:

Date received

COlll!itte Action: Date Reported

Temporarily passed
Reconsidered
favorable
favorable with amendments
favorable with committee substitute
unfavorable

Other action:
Committee Information Record  
Committee on Corrections, Probation & Parole

Date of meeting: May 10, 1983
Time: 2:30 pm
Place: 317 C

Final Action:  
- FAVORABLE
- FAVORABLE WITH AMENDMENTS
- \( \times \) FAVORABLE WITH SUBSTITUTE
- UNFAVORABLE

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<td>Rep. Sample</td>
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The following persons (other than legislators) appeared before the committee during the consideration of this bill:

<table>
<thead>
<tr>
<th>Name</th>
<th>Representing</th>
<th>Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jim York</td>
<td>Fla. Sheriffs Assoc.</td>
<td>2617 Mahan Dr. Tally, FL</td>
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</table>

NOTE: Please indicate by an "X" any State employee appearing at the request of Committee Chairman.

(File 2 copies with Clerk)
By Representatives Selph and Ward

A bill to be entitled
An act relating to county and municipal
prisoners; creating s. 951.031, Florida
Statutes; providing that the arresting agency
is financially responsible for certain unpaid
charges for medical care provided to such
prisoners; creating s. 951.032, Florida
Statutes; authorizing the arresting agency to
seek reimbursement for expenses incurred in
providing medical care to a prisoner; providing
that prisoners who willfully refuse to
cooperate in seeking reimbursement shall not
receive gain-time for good conduct; providing
an effective date.

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

Section 1. Section 951.031, Florida Statutes, is
created to read:

951.031 Financial responsibility for medical care of
prisoners.—Notwithstanding any other provision of law, the
financial responsibility for providing medical care and
treatment for any person wounded or otherwise injured at the
time of arrest for any violation of state law or county or
municipal ordinance shall be the obligation of the arresting
agency, to the extent that the person arrested does not have
the ability to pay for such care. Such obligation shall exist
until such time as the person is released from custody or
transferred to state custody.

Section 2. Section 951.032, Florida Statutes, is
created to read:

CODING: Words in struck through type are deletions from existing law, words underlined are additions.
951.032 Reimbursement for medical expenses.--

(1) The arresting agency may seek reimbursement for expenses incurred in providing medical care and treatment to any prisoner. If the arresting agency seeks reimbursement pursuant to this section, reimbursement shall be sought in the following order:

(a) From the prisoner or person charged.

(b) From insurance companies, health care corporations, or other sources if the prisoner or person charged is covered by an insurance policy or subscribes to a health care corporation or other source for those expenses.

(2) A prisoner who receives medical care or treatment shall cooperate with the arresting agency in seeking reimbursement under subsection (1)(b) for medical expenses incurred by the arresting agency for the prisoner. A prisoner who willfully refuses to cooperate with the arresting agency shall not receive gain-time or commutation of time for good conduct as provided by s. 951.21.

Section 3. This act shall take effect upon becoming a law.

SENATE SUMMARY

Requires an arresting agency to be financially responsible for providing medical care for a person injured during his arrest. Authorizes the arresting agency to seek reimbursement for medical care and treatment provided to a prisoner from the prisoner or his insurance company. Prohibits a prisoner from receiving gain-time or commutation of time for good conduct if he fails to cooperate with the agency in seeking reimbursement.
A bill to be entitled
An act relating to county and municipal law
enforcement; creating s. 901.35, Florida
Statutes; providing for financial
responsibility for certain expenses provided to
arrested persons; creating s. 951.032, Florida
Statutes; authorizing county and municipal
detention facilities to seek reimbursement for
medical expenses paid on behalf of prisoners;
providing that prisoners who willfully refuse
to cooperate with such reimbursement efforts
not receive gain-time; providing an effective
date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 901.35, Florida Statutes, is
created to read:

901.35 Financial responsibility for medical
expenses.--

(1) Notwithstanding any other provision of law, the
responsibility for paying the expenses of medical care,
treatment, hospitalization, and transportation for any person
ill, wounded, or otherwise injured during or at the time of
arrest for any violation of state law or county or municipal
ordinance shall be the responsibility of the person receiving
such care, treatment, hospitalization, and transportation.
The provider of such services shall seek reimbursement for the
expenses incurred in providing medical care, treatment,
hospitalization, and transportation from the following sources
in the following order:
(a) From insurance companies, health care corporations, or other sources if the prisoner is covered by an insurance policy or subscribes to a health care corporation or other source for those expenses.

(b) From the person receiving the medical care, treatment, hospitalization, or transportation.

(2) Upon a showing that reimbursement from the sources listed in subsection (1) is not available, the costs of medical care, treatment, hospitalization, and transportation shall be paid:

(a) From the general fund of the county in which the person was arrested if the arrest was for violation of a state law or county ordinance; or

(b) From the municipal general fund if the arrest was for violation of a municipal ordinance.

The responsibility for payment of such medical costs shall exist until such time as an arrested person is released from the custody of the arresting agency.

(3) An arrested person who has health insurance, subscribes to a health care corporation, or receives health care benefits from other sources shall assign such benefits to the health care provider.

Section 2. Section 951.032, Florida Statutes, is created to read:

951.032 Financial responsibility for medical expenses.--

(1) A county or municipal detention facility incurring expenses for providing medical care, treatment, hospitalization, or transportation may seek reimbursement for the expenses incurred in the following order:

(cod) Words in struck through type are deletions from existing law, words underlined are additions.
I. ISSUE STATEMENT

A. Current Situation

Presently, Section 951.23, F.S., and the rules of the Department (Rule 33-8.07, Fla. Adm. Code) place the burden of providing medical services on the agency which has the prisoner in its custody. The statutes are unclear as to who is responsible for such costs where the person is injured or previously ill at the time of apprehension or is arrested by one agency but is under the custody of another. Section 951.23, F.S., seems to imply and has been supported by at least one Attorney General's Opinion (AGO 75-47), that the cost for medical expenses should depend on whether he violated a state statute, county ordinance, or municipal ordinance. If it is a violation of state or county provisions, the cost is borne by the sheriff and if a violation of a municipal ordinance, the city police and ultimately the city must bear the expense, regardless of which agency actually made the arrest.

Also, the statutes do not expressly give either agency the authority to collect directly from the person arrested or his insurer, if applicable.

B. Issue Being Addressed

The issue of whether or not the person arrested can be forced to pay for medical expenses is addressed in the bill. If the person cannot pay, the issue becomes whether the money should come directly from the budgets of the sheriffs' office and the city police or whether it should come from the general fund of the county and city. After these are addressed, the final issue becomes whether it was the agency who effectuated the arrest or whether it is the nature of the offense that should determine liability.

On March 9, 1983, the Fourth District Court of Appeal of Florida issued a ruling which appears to go against a previous AGO (75-47) regarding the financial responsibility of the sheriff's office in the case of an injured person arrested by a municipal
police officer for violating a state criminal law. In that case, the court ruled that because the injured person was taken to the hospital for medical treatment before he was turned over to the sheriff, he was not yet a county prisoner and, therefore, the medical costs were not the responsibility of the sheriff's office. Also, the person was not considered a municipal prisoner because he was not arrested for violating a municipal ordinance. As a result, the hospital treating the person, who was indigent, could not hold the municipality or the sheriff liable for the arrested person's medical bill. (City of Plantation v. Humana, Inc. and Edward Stack, Sheriff of Broward County, Fourth District Court of Appeal, Case No. 80-1843, March 9, 1983).

C. Effect of Proposed Changes

House Bill 830 would create Section 951.032, F.S., to place the financial responsibility for providing medical care on the person wounded or otherwise injured at the time of arrest for violating a state law or county or municipal ordinance. While this is consistent with a previous opinion of the Attorney General (AGO 059-148), the statute will now give express authority.

If the person is indigent and cannot afford to pay such expenses, the obligation is placed on the arresting agency, regardless of the nature of the offense. Furthermore, the obligation exists until such time as the person is released from custody. Prior to the previously mentioned City of Plantation case, the general understanding was that the obligation depended upon whether it was a violation of a state or county provision (sheriff's office liable) or whether it was a violation of a municipal ordinance (city police liable). The obligation will now be on the arresting agency.

In addition to assigning financial responsibility on the person arrested, where the person cannot pay, the bill authorizes arresting agencies to seek reimbursement for expenses incurred from the prisoner's insurance company, health care company, or other sources. A prisoner must cooperate with the arresting agency in seeking such reimbursement. Refusal to cooperate will prevent the prisoner from receiving county gain-time or commutation of time for good conduct.
II. FISCAL IMPACT
A. State
The bill apparently does not prohibit the award of gain-time by the Department of Corrections to an uncooperating inmate once the inmate is transferred to the state system. Therefore, it is not anticipated that this portion of the bill will have any fiscal impact to the state. However, the state may have an additional cost associated with those persons injured by state law enforcement agencies. Presently when a person is injured by the Highway Patrol, the Marine Patrol, or the Florida Department of Law Enforcement, the person is transferred to the custody of the sheriff who assumes the financial responsibility for treatment. Although the bill will now place that financial on the arresting agency where the person is indigent, the total number of persons injured by such state agencies is believed to be minimal.

B. Local
Municipal and county governments may realize an indeterminable savings to the extent that they will now have the statutory authority to collect from the person arrested or his insurer. However, any additional success in collection is difficult to estimate in terms of actual fiscal savings.

The bill as drafted should have a dramatic impact on the budgets of municipal police departments by increasing the amounts paid for medical costs. Most of the persons arrested by municipal police are for state violations or county ordinances and most of the injuries and associated costs have been, to date, the responsibility of the sheriff's office. The bill would now place that burden on the municipal police department effectuating the arrest. The amount of this cost is indeterminable at this time.

III. COMMENTS
A. Background Information
None

B. Substantive Options
It is not clear in the newly created s. 951.031, F.S., whether the term "wounded or otherwise injured at the time of arrest" would include injuries or illnesses which may have occurred both prior to arrest or during custody. According to a
spokesperson for the Florida Sheriff's Association which drafted the bill, the wording was intended to cover both situations. If that is the intent, then the situation could arise whereby a person is arrested by a city police officer, is turned over to the custody of the sheriff, and becomes ill once he is detained in the county jail. The city police department would still have the ultimate responsibility of both collecting and of paying for medical costs for treating the person.

Another option would be to place the burden of collecting from the arrestee on the provider of the medical services, rather than on the arresting agency.

Another option is to allow the provider to collect directly from the city or county general revenues rather than from the budgets of the city police or county sheriff.

If all of the foregoing options were acceptable, the attached amendment would need to be adopted.

PREPARED BY:  

John D. Fuller  
Staff Attorney

STAFF DIRECTOR:  
Major James W. Reese  
Staff Director
I. ISSUE STATEMENT

A. Current Situation

Presently, Section 951.23, F.S., and the rules of the Department (Rule 33-8.07, Fla. Adm. Code) place the burden of providing medical services on the agency which has the prisoner in its custody. The statutes are unclear as to who is responsible for such costs where the person is injured or previously ill at the time of apprehension or is arrested by one agency but is under the custody of another. Section 951.23, F.S., seems to imply and has been supported by at least one Attorney General's Opinion (AGO 75-47), that the cost for medical expenses should depend on whether he violated a state statute, county ordinance, or municipal ordinance. If it is a violation of state or county provisions, the cost is borne by the sheriff and if a violation of a municipal ordinance, the city police and ultimately the city must bear the expense, regardless of which agency actually made the arrest.

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III. COMMENTS

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B. Substantive Options
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Another option would be to place the burden of collecting from the arrestee on the provider of the medical services, rather than on the arresting agency.

Another option is to allow the provider to collect directly from the city or county general revenues rather than from the budgets of the city police or county sheriff.

C. Amendments
On May 10, 1983, two substantial amendments were adopted and made into a committee substitute by the full committee which had the effect of placing the financial burden on the respective general fund of either the county or municipality depending upon the nature of the offense for which the person was arrested. (Please see Attachment.)
SUBCOMMITTEE REPORT

To Chairman, Committee on Corrections, Probation & Parole:

Subcommittee on Institutions:

Date of meeting: May 10, 1983
Time: 1:00 pm
Place: 317 C

Bill No.: HB 830

FINAL ACTION:

FAVORABLE
FAVORABLE WITH 2 AMENDMENTS
UNFAVORABLE

VOTE:

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Total Yea: 5
Total Nay: 0

SUBCOMMITTEE APPEARANCE RECORD

The following persons (other than legislators) appeared before the subcommittee during consideration of this bill:

Name: Jim York
Representing: Fla. Sheriffs Assoc.
Address: 2617 Mahan Dr., Tally, FL

Name: Jim Wolf
Representing: League of Cities
Address: P.O. Box 1775, Tally, FL

(If additional persons, enter on reverse side and check here)

NOTE: Please indicate by an "X" any State employee appearing at the request of Subcommittee Chairman.

Received by Parent Committee. Date: 
Received by: 

H-74(1976)
Representatives offered the following amendment:

Amendment

strike everything after the enacting clause.

and insert:

Section 1. Section 901.33, Florida Statutes, is created to read:

901.33 Financial responsibility for medical expenses.--

(1) Notwithstanding any other provision of law, the responsibility for paying the expenses of medical care, treatment, hospitalization, and transportation for any person ill, wounded, or otherwise injured during or at the time of arrest for any violation of state law or county or municipal ordinance shall be the responsibility of the person receiving such care, treatment, hospitalization, and transportation. The provider of such services shall seek reimbursement for the expenses incurred in providing medical care, treatment, hospitalization, and transportation from the following sources in the following order:

(a) From insurance companies, health-care corporations, or other sources if the prisoner is covered by an insurance policy or subscribes to a health-care corporation or other source for those expenses.

(b) From the person receiving medical care, treatment, hospitalization, or transportation.

(2) Upon a showing that reimbursement from the sources listed in subsection (1) is not available, the costs of medical care, treatment, hospitalization, and transportation shall be paid:

-1-
(a) From the general fund of the county in which the person was arrested if the arrest is for violation of a state law or county ordinance, or
(b) From the municipal general fund if the arrest was for violation of a municipal ordinance.

The responsibility for payment of such medical costs shall exist until such time as an arrested person is released from the custody of the arresting agency.

(3) An arrested person who has health insurance, subscribes to a health-care corporation, or receiver of health-care benefits from other sources shall assign such benefits to the health-care provider.

Section 2. Section 951.032, Florida Statutes, is created to read:

951.032 Financial responsibility for medical expenses.--

(1) A county or municipal detention facility incurring expenses for providing medical care, treatment, hospitalization, or transportation may seek reimbursement for the expenses incurred in the following order:

(a) From the prisoner or person receiving medical care, treatment, hospitalization, or transportation.

(b) From insurance companies, health-care corporations, or other sources if the prisoner or person is covered by an insurance policy or subscribes to a health-care corporation or other source for those expenses.

(2) A prisoner who receives medical care, treatment, hospitalization or transportation shall cooperate with the county or municipal detention facility in seeking reimbursement under paragraph (1)(b) for expenses incurred by the facility for the prisoner. A prisoner who willfully refuses to cooperate with the reimbursement efforts of the detention facility shall not receive gain-time as provided by s. 951.21.

Section 3. This act shall take effect October 1, 1983.
Representatives

offered the following amendment

Amendment  In title, On page 1 Line

2 Strike:
3 everything before the enacting clause

4 and insert:

A bill to be entitled
An act relating to county and municipal law enforcement;
creating s. 901.33, Florida Statutes; providing for financial
responsibility for certain expenses provided to arrested
persons; creating s. 951.032, Florida Statutes; authorizing
county and municipal detention facilities to seek reimbursement
for medical expenses paid on behalf of prisoners; providing
that prisoners who willfully refuse to cooperate with such
reimbursement efforts not receive gain-time; providing an
effective date.
By Committee on Economic, Community and Consumer Affairs
and Senator Kirkpatrick-

A bill to be entitled

An act relating to county and municipal law
enforcement; creating s. 901.35, Florida
Statutes; providing for financial
responsibility for certain expenses provided to
arrested persons; creating s. 951.032, Florida
Statutes, authorizing county and municipal
detention facilities to seek reimbursement for
medical expenses paid on behalf of prisoners,
providing that prisoners who willfully refuse
to cooperate with such reimbursement efforts not
receive gain-time; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 901.35, Florida Statutes, is
created to read:

901.35 Financial responsibility for medical expenses.--

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responsibility for paying the expenses of medical care,
treatment, hospitalization, and transportation for any person
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arrest for any violation of state law or county or municipal
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The provider of such services shall seek reimbursement for the
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(2) Upon a showing that reimbursement from the sources listed in subsection (1) is not available, the costs of medical care, treatment, hospitalization, and transportation shall be paid:

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(b) From insurance companies, health-care corporations, or other sources if the prisoner or person is covered by an insurance policy or subscribes to a health-care corporation or other source for those expenses.

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Section 3. This act shall take effect October 1, 1983.

STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN COMMITTEE SUBSTITUTE FOR SENATE BILL 260

- Transportation costs are added to the expenses for which arrested persons and prisoners in county and municipal detention facilities will be financially responsible.

- The provider of specified services to persons who are ill, wounded, or otherwise injured during or at the time of arrest must seek reimbursement for such care from the arrested person's insurance or health-care company and the person himself before the county or municipality is required to pay such costs.

- In those cases where the arrested person or prisoner is unable to pay for medical and transportation costs incurred on his behalf, the type of law that was violated, rather than which agency effected the arrest, will determine which agency will incur these expenses.
Senator Staff Analysis and Economic Impact Statement

I. Summary:

A. Present Situation:

Numerous opinions of the Attorney General (AGO's 72-346, 75-35, 75-47, 75-194, and 76-139) and at least one court case (Lee Memorial Hospital v. Robert T. Durkis, Sheriff of Hendry County, Second District Court of Appeal, Case No. 82-487, December 29, 1982) have said that under s. 951.23, F.S., and the rules of the Department of Corrections (Rule 33-8.07, F.A.C.), a sheriff has the duty to provide medical care for a prisoner in his custody for violating a state criminal law regardless of whether the arrest was made by a state or municipal officer or whether the prisoner's illness or injury existed before he was taken into the sheriff's custody. One of the AGO's stated that a person arrested by a municipal police officer for violating a state criminal law is considered a county prisoner in the custody of the sheriff from the time of arrest by the municipal police officer. Also, a municipality is responsible for the cost of medical care for municipal prisoners, defined as "a person who is detained in a municipal detention facility by reason of being charged with or convicted of violation of municipal law or ordinance (s. 951.23(1)(d), F.S.)."

A March 9, 1983, ruling of the Fourth District Court of Appeal of Florida appears to go against a previous AGO (75-47) regarding the financial responsibility of the sheriff's office in the case of an injured person arrested by a municipal police officer for violating a state criminal law. In that case, the court ruled that because the injured person was taken to the hospital for medical treatment before he was turned over to the sheriff, he was not yet a county prisoner and therefore the medical costs were not the responsibility of the sheriff's office. Also, the person was not considered a municipal prisoner because he was not arrested for violating a municipal ordinance. As a result, the hospital treating the person, who was indigent, could not hold the municipality or the sheriff liable for the arrested person's medical bill. (City of Plantation v. Humana, Inc. and Edward Stack, Sheriff of Broward County, Fourth District Court of Appeal, Case No. 80-1843, March 9, 1983.)

B. Effect of Proposed Changes:

This bill places the financial responsibility for providing medical care and transportation for a person ill, wounded, or otherwise injured during or at the time of arrest for violating a state law or local ordinance on the person arrested. The provider of such services must seek reimbursement first from the arrested person's insurance company or health-care company and then from the person himself. If that person does not have
the ability to pay for the medical care and transportation, the county is responsible for payment of the expenses if the arrest is for violation of a state law or county ordinance, or the municipality if the arrest is for violation of a municipal ordinance.

In addition to assigning financial responsibility for these particular medical and transportation costs, this bill authorizes county and municipal detention facilities to seek reimbursement for expenses incurred in providing all other medical care and transportation to their prisoners. The detention facilities must first seek reimbursement from the prisoner or person receiving such services and then from the prisoner's insurance company, health care company, or other sources. A prisoner must cooperate in seeking such reimbursement. Refusal to cooperate will prevent the prisoner from receiving gain-time as provided by s. 951.21, F.S.

II. ECONOMIC IMPACT AND FISCAL NOTE:
A. Public:

Persons arrested and persons placed in county or municipal detention facilities would be required to pay the expenses incurred in providing them medical care and transportation.

Any savings realized by local governments are presumed to be passed on ultimately to their taxpayers.

B. Government:

Municipal and county governments would realize indeterminable savings to the extent that they could transfer the cost of medical care and transportation for their prisoners to those prisoners or their insurance companies.

III. COMMENTS:

An identical bill, HB 830, has been introduced in the House this year.

A similar bill, SB 954, was reported favorably by ECCA in 1982.

IV. AMENDMENTS:

None.
MEMORANDUM

TO: Paul M. Eakin  
FROM: Keith Tischler  
RE: Sheriff's Liability For Medical Expenses Of Prisoners  
DATE: September 24, 1980

At issue in this memorandum is yet another chapter in the continuing saga of who pays for medical expenses incurred by prisoners. In the situation at hand with the St. John's County Sheriff, a suspect was shot by the St. Augustine City Police and immediately taken to the hospital for medical treatment, shortly after which he died. Indications are that the police had probable cause to believe the suspect had committed the felony of breaking and entering and/or burglary and that their intent was to arrest him. However, from the facts given, it does not appear the suspect was formally arrested, charged, or incarcerated in either a municipal or county detention facility. This set of facts necessarily raises questions as to whether the sheriff and the county should be held liable for the medical expenses of this "prisoner" when the sheriff never had custody of the person nor had anything to do with his injury or arrest.

There is a lack of controlling authority in this area, consisting of two cases and numerous Attorney General Opinions. Early on, the Attorney General set forth the general trend in this area, holding the county and the sheriff liable for the costs of any medical treatment for a prisoner, regardless of if that person was arrested by a state or municipal law enforcement agency. AGO 072-346. This Opinion was repealed in AGO 075-35. Most applicable to the instant situation is AGO 075-47 which resulted in the conclusion that "persons charged with violating a state criminal statute, rather than a municipal ordinance or law, who are arrested by a municipal officer, taken directly to a hospital for medical care, and then taken to the county detention facility are in fact "county prisoners' from the time they are first taken into custody." This conclusion, like those of earlier AGO's, was based on the premise that "where municipal officers are enforcing state law, they are acting on behalf of the state and holding the prisoners in their capacities as officers for the county." As such, these prisoners are constructively prisoners of the county, making the sheriff responsible for medical expenses incurred.

Contrary to the opinions rendered by the Attorney General is the holding of the County Court of Broward County in Kramer v. City of Ft. Lauderdale, 47 Fla. Supp. 199 (1977). That case involved a suit by a doctor to recover the costs of treatment rendered to a prisoner shot by a city policeman in the course of an arrest, who was later incarcerated in county jail. The city argued for county liability based on the aforementioned AGO's and the fact that the arrest was for violation of a state law. Noting the lack of controlling case law as well as the non-binding nature of an AGO, the County Court concluded that the municipality, not the county, was liable for the medical expenses. This decision was based primarily on the fact that only the city police were involved in the incident, the sheriff's department having no participation in or any contact with either the arrest, injury, or transportation of the prisoner, making him a municipal prisoner at all times prior to his delivery to the county jail. The court also noted that AGO 075-47 was based on a situation involving a stake-out by both city and county officers, not present in the Kramer case nor in the St. John's situation.
The most recent word on the subject is contained in Dade County v. Hospital Affiliates International, Inc., 378 So. 2d 43 (Fla. 3d DCA, 1979). This court cites the ACO's on the subject with approval, but found an absence of liability on the part of the county or the sheriff for the medical expenses incurred by two persons brought to the hospital by county officers after stabbing each other. The basis of this holding was that since neither person had been arrested or was in custody before or during their stay at the hospital, there was no duty on the part of the county to provide medical care or pay for such care. Although the opinion does not deal with a situation analogous to that with the St. John's County case, it is instructive as to the issue of custody. Clearly the implication present in this Court's opinion is that, had the individuals been arrested or in custody, the county would have been liable for the cost of medical care, especially since county officers had picked up the individuals.

Citing to Melton v. State, 75 So.2d 291 (Fla. 1954), the Court sets forth the requisites of an arrest: (1) An intention to effect an arrest under a real or pretended authority; (2) An actual or constructive seizure or detention of a person by one having the power to control that person, (3) A communication by the arresting officer of an intention to arrest; (4) An understanding by the person to be arrested of the officers' intent to arrest and detain. The opinion goes on to note opinions from two other jurisdictions dealing with hospitalized persons which stand for the proposition that an unconscious or hospitalized person may be under arrest and in custody even if he is unaware of his status as a prisoner. The custody and restraint factors are the key. Bouldin v. State, 350 A2d 130 (Md. 1976);

Lutheran Medical Center v. City of Omaha, 281 NW 2d 786 (Neb 1979). [Also note State v. Robbins, 359 So.2d 39 (Fla. 2d DCA, 1979), not "in custody" where only temporarily detained and not formally arrested or incarcerated.). Clearly present in the St. John's situation.

Thus, there are a number of factors considered by Court's and Attorney General in rendering their opinions on the issue. There the question of custody or arrest, the crime committed, the entity making the arrest or injuring the prisoner, as well as the statutory requirement of detention in a county facility. §951.23(1)(b) F.S.
The Attorney General bases his opinions on the crimes committed assuming that detention in a county facility will follow, whether the prisoner is hospitalized first or not. The Court in Kramer focuses on the issue of who does the shooting and arresting, delaying the time of county custody until the party is delivered to the county jail. Hospital Affiliates does not reach the question since an absence of detention or custody existed. The result is confusion and uncertainty for all who must deal with the problem.

For purposes of the St. John's County case and similar situation the Kramer case seems most applicable due to the analogous factual situation. Furthermore, common sense (as well as close reading of the statute, §951.23 F.S.) favors this result. If the city cops want to shoot them they should have to pay for them. However, common sense does not always control and there is some question as to whether the Kramer court would have reached the same result had the Hospital Affiliates decision been in existence. Clearly, Hospital Affiliates indicated an approval for the position of the Attorney General, a position which would hold the sheriff responsible for medical costs whenever anything but a municipal ordinance was violated. Should an opinion of the Attorney General be sought based on the facts of the present case, prior results certainly indicate that since a violation of state law appeared to have occurred and since the individual certainly would have been arrested and transferred to a county detention facility had he recovered, the sheriff would be deemed responsible for the medical costs incurred. One can only guess at the result should the parties choose to litigate the matter through the appellate courts.
However, considering the present status of the law, litigation may be necessary to clarify the law. That is, of course, unless the legislature should provide some guidelines or the sheriffs and counties choose to acquiesce in the opinions of the Attorney General and pay the medical costs of every person injured while being arrested for committing a felony or misdemeanor.

[Please note: For extensive discussion of the source of counties' duty to provide medical care and the Hospital Affiliates decision, see George Little's memorandum contained in the file on this subject.]
MEMORANDUM

CO: Ron Labasky 222-5750

FROM: Paul Eakin

DATE: 12/22/81

RE: Payment of Medical Bills by the Sheriffs in the State of Florida

In the past, there have been several occasions where this office was contacted by various Sheriff Departments inquiring about their responsibility regarding the payment of medical bills for prisoners entrusted to their custody that had been shot, hospitalized, and arrested by municipal police. It is my opinion that this problem is starting to take on a different nature, in that our Sheriffs are being sued by private hospitals and physicians or sued as third party defendants by cities and their police departments...lawsuits involving the responsibility for payment of such prisoners' medical bills.

I am presently handling a case for Sheriff Gilbert in Okaloosa County where the city police of Fort Walton Beach shot, arrested, and hospitalized their suspect. The man was actually arrested some two weeks later while he was still in the hospital and continued to stay in the hospital for three weeks after his arrest. The Sheriff's Department never became involved in the situation until the man was released which was well over a month after he had been initially shot by the city police. However, due to the status of the law in Florida and several Attorney General's opinions, Sheriff Gilbert is now facing the possibility of having to pay this man's $33,000 hospital bill.

This result will continue to occur to the Sheriffs of Florida so long as the law in Florida does not delineate at which point or under what circumstances the cities and their police have to take the financial responsibility for their own actions. I think it is a shame that peace officers of a municipality can go out and investigate, pursue, shoot and hospitalize a suspect, all without the knowledge of the Sheriff of the county and, months later, when the person is released from the hospital into the custody of the Sheriff, the hospital sends the Sheriff its bill for tens of thousands of dollars. I would hope that the Florida Sheriffs Association would undertake to correct this situation this legislative session by introducing a bill to rectify the problem. It is relief that the Sheriffs and counties want and need at this time.
A bill to be entitled

An act relating to arrested persons; providing
that the arresting agency is financially liable
for unpaid charges for medical care provided to
a person injured during his arrest; providing
an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Financial responsibility for medical care
of prisoners.--Notwithstanding any other provisions of law,
the financial responsibility for providing medical care and
treatment for any person wounded or otherwise injured in the
course of an arrest for any violation of state law or county
or municipal ordinance shall be the obligation of the
arresting agency, to the extent that the person arrested does
not have ability to pay for such care. Such obligation shall
exist until such time as the person is released from custody,
or transferred to state custody.

Section 2. This act shall take effect upon becoming a
law.

*****************************************
SENATE SUMMARY

Makes the arresting agency responsible for paying the
medical bills of a patient wounded while he was being
arrested, to the extent that the patient cannot pay such
bills.

CODING: Words in struck through type are deletions from existing law, words underlined are additions.
I. SUMMARY:

A. Present Situation:

The Florida Statutes contain no statement as to which law enforcement agency is responsible for the medical bills of a person injured while being arrested. A situation has arisen in Okaloosa County in which the city police of Fort Walton Beach shot a person in the course of an arrest for a violation of state law. The Okaloosa County Sheriff's Department was not aware of the situation until the person was released from the hospital 5 weeks later. The sheriff's department is involved in a lawsuit in which the hospital is trying to recover the $33,000 hospital bill from the department.

A sheriff's department's liability for the hospital bill of a person injured while being arrested by another law enforcement agency is not clear-cut. AGO 75-47 provides:

It can be concluded that persons charged with violating a state criminal statute, rather than a municipal ordinance or law, who are arrested by a municipal officer, taken directly to a hospital for medical care, and then taken to the county detention facility, are in fact "county prisoners" from the time they are first taken into custody. This conclusion is not affected by the fact that, due to the emergency situation, the prisoners are taken directly to a hospital by municipal officers without first being routed through the county jail before hospitalization or by the fact that the sheriff does not formally accept custody of them prior to their hospitalization. Where municipal officers are enforcing state law, they are acting on behalf of the state and holding prisoners in their capacities as officers for the counties; thus their prisoners are constructively county prisoners, and the sheriff is responsible for any medical expenses incurred in their treatment and care.

AGO 75-47 is based on the definition of "county prisoner" set out in s. 951.23, F.S., and Rule 10B-8.08, F.A.C., which has since been repealed. Rule 10B-8.08, F.A.C., stated that the officer in charge of a detention facility shall provide for the medical care, including physician's care and hospitalization, for inmates.

The outcome of the Okaloosa County case will not be known, at least for several months as it is still in the pleading stage.

B. Effect of Proposed Changes:

This bill would make the arresting agency financially responsible for providing medical care and treatment for any person injured in the course of an arrest for any violation of state law or county or municipal ordinance, to the extent the person arrested does not have the ability to pay for such care.
II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

Those persons injured in the course of an arrest would be primarily responsible for their medical bills. The amount of money which this would ultimately save the public can not be determined.

B. Government:

Each arresting agency may ultimately save money by requiring the arrested person to pay for medical care to the extent that the individual is financially able.

III. COMMENTS:

The new rule regarding medical care of prisoners in county and municipal detention facilities is a rule of the Department of Corrections, 33-8.07, F.A.C.

IV. AMENDMENTS:

None
A bill to be entitled
An act relating to county and municipal
prisoners; creating s. 951.031, Florida
Statutes; providing that the arresting agency
is financially responsible for certain unpaid
charges for medical care provided to such
prisoners; creating s. 951.032, Florida
Statutes, authorizing the arresting agency to
seek reimbursement for expenses incurred in
providing medical care to a prisoner; providing
that prisoners who willfully refuse to
cooperate in seeking reimbursement shall not
receive gain-time for good conduct; providing
an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 951.031, Florida Statutes, is
created to read:

951.031 Financial responsibility for medical care of
prisoners -- Notwithstanding any other provision of law, the
financial responsibility for providing medical care and
treatment for any person wounded or otherwise injured at the
time of arrest for any violation of state law or county or
municipal ordinance shall be the obligation of the arresting
agency, to the extent that the person arrested does not have
the ability to pay for such care. Such obligation shall exist
until such time as the person is released from custody or
transferred to state custody

Section 2. Section 951.032, Florida Statutes, is
created to read.
951.032 Reimbursement for medical expenses.--

(1) The arresting agency may seek reimbursement for expenses incurred in providing medical care and treatment to any prisoner. If the arresting agency seeks reimbursement pursuant to this section, reimbursement shall be sought in the following order:

(a) From the prisoner or person charged.

(b) From insurance companies, health care corporations, or other sources if the prisoner or person charged is covered by an insurance policy or subscribes to a health care corporation or other source for those expenses.

(2) A prisoner who receives medical care or treatment shall cooperate with the arresting agency in seeking reimbursement under subsection (1)(b) for medical expenses incurred by the arresting agency for the prisoner. A prisoner who willfully refuses to cooperate with the arresting agency shall not receive gain-time or commutation of time for good conduct as provided by s. 951.21.

Section 3. This act shall take effect upon becoming a law.

SENATE SUMMARY

Requires an arresting agency to be financially responsible for providing medical care for a person injured during his arrest. Authorizes the arresting agency to seek reimbursement for medical care and treatment provided to a prisoner from the prisoner or his insurance company. Prohibits a prisoner from receiving gain-time or commutation of time for good conduct if he fails to cooperate with the agency in seeking reimbursement.

CODING: Words in struck through type are deletions from existing law, words underlined are additions.
I. SUMMARY:

A. Present Situation:

Numerous opinions of the Attorney General (AGOs 72-346, 75-35, 75-47, 75-194, and 76-139) and at least one court case (Lee Memorial Hospital v. Robert T. Durkis, Sheriff of Hendry County, Second District Court of Appeal, Case No. 82-487, December 29, 1982) have said that under s. 951.23, F.S., and the rules of the Department of Corrections (Rule 33-8.07, F.A.C.), a sheriff has the duty to provide medical care for a prisoner in his custody for violating a state criminal law regardless of whether the arrest was made by a state or municipal officer or whether the prisoner's illness or injury existed before he was taken into the sheriff's custody. One of the AGOs stated that a person arrested by a municipal police officer for violating a state criminal law is considered a county prisoner in the custody of the sheriff from the time of arrest by the municipal police officer. Also, a municipality is responsible for the cost of medical care for municipal prisoners, defined as "a person who is detained in a municipal detention facility by reason of being charged with or convicted of violation of municipal law or ordinance (s. 951.23(1)(d), F.S.)."

A March 9, 1983, ruling of the Fourth District Court of Appeal of Florida appears to go against a previous AGO (75-47) regarding the financial responsibility of the sheriff's office in the case of an injured person arrested by a municipal police officer for violating a state criminal law. In that case, the court ruled that because the injured person was taken to the hospital for medical treatment before he was turned over to the sheriff, he was not yet a county prisoner and therefore the medical costs were not the responsibility of the sheriff's office. Also, the person was not considered a municipal prisoner because he was not arrested for violating a municipal ordinance. As a result, the hospital treating the person, who was indigent, could not hold the municipality or the sheriff liable for the arrested person's medical bill. (City of Plantation v. Humana, Inc. and Edward Stack, Sheriff of Broward County, Fourth District Court of Appeal, Case No. 80-1843, March 9, 1983.)

B. Effect of Proposed Changes:

This bill places the financial responsibility for providing medical care for a person wounded or otherwise injured at the time of arrest for violating a state law or local ordinance on the person arrested. If that person does not have the ability to pay for such care, the arresting agency is responsible for payment of the medical expenses.
In addition to assigning financial responsibility for these particular medical costs, this bill authorizes arresting agencies to seek reimbursement for expenses incurred in providing any medical care to any prisoners. The arresting agency must first seek reimbursement from the prisoner or person charged and then from the prisoner's insurance company, health care company, or other sources. A prisoner must cooperate with the arresting agency in seeking such reimbursement. Refusal to cooperate will prevent the prisoner from receiving gain-time or commutation of time for good conduct.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

Any savings realized by local governments are presumed to be passed on ultimately to their taxpayers.

B. Government:

Municipal and county governments would realize indeterminable savings to the extent that they could transfer the cost of medical care for their prisoners to those prisoners or their insurance companies. Municipalities and state government would incur all of the medical costs pertaining to every prisoner arrested by municipalities or state agents and delivered to the sheriff for violating state criminal laws, at least to the extent that these costs are unable to be transferred to the prisoner or his insurance company. These costs currently are paid by the county sheriff.

III. COMMENTS:

It is not clear in the newly created s. 951.031, F.S., whether the term "wounded or otherwise injured at the time of arrest" refers to injuries sustained by the person prior to the act of arrest or during and as a result of the arrest, or both. According to the Florida Sheriff's Association, which drafted the bill, the wording is intended to cover both situations.

By using the term "arresting agency" in s. 951.032, F.S., the situation could occur where a municipal police department would be the agency authorized to seek reimbursement for medical costs of a county prisoner that a municipal officer arrested and turned over to the sheriff for violating a state criminal law. The medical care could be for an illness contracted while in the county jail (as opposed to an injury at the time of arrest), but the sheriff could not seek reimbursement of the costs from the prisoner because the sheriff was not the "arresting agency".

An identical bill, HB 830, has been introduced in the House this year.

A similar bill, SB 954, was reported favorably by ECCA in 1982.

IV. AMENDMENTS:

None.
SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

SUBJECT: County and Municipal Prisoners

CS/SB 260 by ECCA and Senator Kirkpatrick

I. SUMMARY:

A. Present Situation:

Numerous opinions of the Attorney General (AGOs 72-346, 75-35, 75-47, 75-194, and 76-139) and at least one court case (Lee Memorial Hospital v. Robert T. Durkis, Sheriff of Hendry County, Second District Court of Appeal, Case No. 82-487, December 29, 1982) have said that under s. 951.23, F.S., and the rules of the Department of Corrections (Rule 33-8.07, F.A.C.), a sheriff has the duty to provide medical care for a prisoner in his custody for violating a state criminal law regardless of whether the arrest was made by a state or municipal officer or whether the prisoner's illness or injury existed before he was taken into the sheriff's custody. One of the AGOs stated that a person arrested by a municipal police officer for violating a state criminal law is considered a county prisoner in the custody of the sheriff from the time of arrest by the municipal police officer. Also, a municipality is responsible for the cost of medical care for municipal prisoners, defined as "a person who is detained in a municipal detention facility by reason of being charged with or convicted of violation of municipal law or ordinance (s. 951.23(1)(d), F.S.)."

A March 9, 1983, ruling of the Fourth District Court of Appeal of Florida appears to go against a previous AOG (75-47) regarding the financial responsibility of the sheriff's office in the case of an injured person arrested by a municipal police officer for violating a state criminal law. In that case, the court ruled that because the injured person was taken to the hospital for medical treatment before he was turned over to the sheriff, he was not yet a county prisoner and therefore the medical costs were not the responsibility of the sheriff's office. Also, the person was not considered a municipal prisoner because he was not arrested for violating a municipal ordinance. As a result, the hospital treating the person, who was indigent, could not hold the municipality or the sheriff liable for the arrested person's medical bill. (City of Plantation v. Humana, Inc. and Edward Stack, Sheriff of Broward County, Fourth District Court of Appeal, Case No. 80-1843, March 9, 1983.)

B. Effect of Proposed Changes:

This bill places the financial responsibility for providing medical care and transportation for a person ill, wounded, or otherwise in need of care at the time of arrest for violating a state law or local ordinance on the person arrested. The provider of such services must seek reimbursement first from the arrested person's insurance company or health-care company and then from the person himself. If that person does not have
the ability to pay for the medical care and transportation, the county is responsible for payment of the expenses if the arrest is for violation of a state law or county ordinance, or the municipality if the arrest is for violation of a municipal ordinance.

In addition to assigning financial responsibility for these particular medical and transportation costs, this bill authorizes county and municipal detention facilities to seek reimbursement for expenses incurred in providing all other medical care and transportation to their prisoners. The detention facilities must first seek reimbursement from the prisoner or person receiving such services and then from the prisoner's insurance company, health care company, or other sources. A prisoner must cooperate in seeking such reimbursement. Refusal to cooperate will prevent the prisoner from receiving gain-time as provided by s. 951.21, F.S.

II. ECONOMIC IMPACT AND FISCAL NOTE:
   A. Public:

   Persons arrested and persons placed in county or municipal detention facilities would be required to pay the expenses incurred in providing them medical care and transportation.

   Any savings realized by local governments are presumed to be passed on ultimately to their taxpayers.

   B. Government:

   Municipal and county governments would realize indeterminable savings to the extent that they could transfer the cost of medical care and transportation for their prisoners to those prisoners or their insurance companies.

III. COMMENTS:

   An identical bill, HB 830, has been introduced in the House this year.

   A similar bill, SB 954, was reported favorably by ECCA in 1982.

IV. AMENDMENTS:

   None.
SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

ANALYST
1. Richardson
2.
3.

STAFF DIRECTOR
Burnside

REFERENCE
1. ECCA
2. CPP
3. Appro.

ACTION
FAV/CS
FAV
WD

SUBJECT:
County and Municipal Prisoners

BILL NO. AND SPONSOR:
CS/SB 260 by
ECCA and Senator Kirkpatrick

I. SUMMARY:

A. Present Situation:

Numerous opinions of the Attorney General (AGOs 72-346, 75-35, 75-47, 75-194, and 76-139) and at least one court case (Lee Memorial Hospital v. Robert T. Durkis, Sheriff of Hendry County, Second District Court of Appeal, Case No. 82-487, December 29, 1982) have said that under s. 951.23, F.S., and the rules of the Department of Corrections (Rule 33-8.07, F.A.C.), a sheriff has the duty to provide medical care for a prisoner in his custody for violating a state criminal law regardless of whether the arrest was made by a state or municipal officer or whether the prisoner's illness or injury existed before he was taken into the sheriff's custody. One of the AGOs stated that a person arrested by a municipal police officer for violating a state criminal law is considered a county prisoner in the custody of the sheriff from the time of arrest by the municipal police officer. Also, a municipality is responsible for the cost of medical care for municipal prisoners, defined as "a person who is detained in a municipal detention facility by reason of being charged with or convicted of violation of municipal law or ordinance (s. 951.23(1)(d), F.S.)."

A March 9, 1983, ruling of the Fourth District Court of Appeal of Florida appears to go against a previous AGO (75-47) regarding the financial responsibility of the sheriff's office in the case of an injured person arrested by a municipal police officer for violating a state criminal law. In that case, the court ruled that because the injured person was taken to the hospital for medical treatment before he was turned over to the sheriff, he was not yet a county prisoner and therefore the medical costs were not the responsibility of the sheriff's office. Also, the person was not considered a municipal prisoner because he was not arrested for violating a municipal ordinance. As a result, the hospital treating the person, who was indigent, could not hold the municipality or the sheriff liable for the arrested person's medical bill. (City of Plantation v. Humana, Inc. and Edward Stack, Sheriff of Broward County, Fourth District Court of Appeal, Case No. 80-1843, March 9, 1983.)

B. Effect of Proposed Changes:

This bill places the financial responsibility for providing medical care and transportation for a person ill, wounded, or otherwise injured during or at the time of arrest for violating a ordinance on the person arrested. The provider of such services must seek reimbursement first from the arrested person's insurance company or health-care company and then from the person himself. If that person does not have
the ability to pay for the medical care and transportation, the county is responsible for payment of the expenses if the arrest is for violation of a state law or county ordinance, or the municipality if the arrest is for violation of a municipal ordinance.

In addition to assigning financial responsibility for these particular medical and transportation costs, this bill authorizes county and municipal detention facilities to seek reimbursement for expenses incurred in providing all other medical care and transportation to their prisoners. The detention facilities must first seek reimbursement from the prisoner or person receiving such services and then from the prisoner's insurance company, health care company, or other sources. A prisoner must cooperate in seeking such reimbursement. Refusal to cooperate will prevent the prisoner from receiving gain-time as provided by s. 951.21, F.S.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

Persons arrested and persons placed in county or municipal detention facilities would be required to pay the expenses incurred in providing them medical care and transportation.

Any savings realized by local governments are presumed to be passed on ultimately to their taxpayers.

B. Government:

Municipal and county governments would realize indeterminable savings to the extent that they could transfer the cost of medical care and transportation for their prisoners to those prisoners or their insurance companies.

III. COMMENTS:

An identical bill, CS/HB 830, was ordered enrolled on June 1, 1983.

A similar bill, SB 954, was reported favorably by ECCA in 1982.

IV. AMENDMENTS:

None.
- Transportation costs are added to the expenses for which arrested persons and prisoners in county and municipal detention facilities will be financially responsible.

- The provider of specified services to persons who are ill, wounded, or otherwise injured during or at the time of arrest must seek reimbursement for such care from the arrested person's insurance or health-care company and the person himself before the county or municipality is required to pay such costs.

- In those cases where the arrested person or prisoner is unable to pay for medical and transportation costs incurred on his behalf, the type of law that was violated, rather than which agency effected the arrest, will determine which agency will incur these expenses.