

A-Engrossed Senate Bill 93

Ordered by the Senate April 13
Including Senate Amendments dated April 13

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SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

For charges and expenses of injuries related to law enforcement activity, requires provider first to bill and attempt to collect charges and expenses from individual, individual's insurance and responsible third party payer before billing Law Enforcement Medical Liability Account or local correctional facility.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to medical expenses of individuals in custody of law enforcement; amending ORS 169.155,
3 169.166, 414.805 and 414.807; and declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 169.155 is amended to read:

6 169.155. As used in ORS 169.166 and this section:

7 (1) "Local correctional facility" includes lockups and temporary hold facilities.

8 (2) "Reasonable efforts to collect the charges and expenses" means that the provider has billed
9 the individual to whom the [*emergency*] medical services were provided [*or the insurer or health care*
10 *service contractor of the individual before seeking to collect from the keeper of the local correctional*
11 *facility*] **and any responsible third party payer.**

12 **(3) "Responsible third party payer" means:**

13 **(a) The individual's insurance.**

14 **(b) The individual's health benefit plan.**

15 **(c) The individual's estate or any person financially responsible for the individual.**

16 **SECTION 2.** ORS 169.166 is amended to read:

17 169.166. Notwithstanding ORS 169.140 and 169.150 and except as otherwise provided in ORS
18 414.805 and 414.807:

19 (1) An individual who receives medical services not provided by the county or city while in the
20 custody of a local correctional facility or juvenile detention facility is liable:

21 (a) To the provider of the medical services not provided by the county or city for the charges
22 and expenses therefor; and

23 (b) To the keeper of the local correctional facility for any charges or expenses paid by the
24 keeper of the facility for the medical services not provided by the county or city.

25 (2) A person providing medical services not provided by the county or city to an individual de-

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 scribed in subsection (1)(a) of this section shall first make reasonable efforts to collect the charges
2 and expenses [*thereof from the individual*] before seeking to collect [*them*] **the charges and ex-**
3 **penditures** from the keeper of the local correctional facility.

4 (3)(a) Except as otherwise provided in subsection (4) of this section, if the provider has not been
5 paid within 45 days of the date of the billing, the provider may bill the keeper of the local
6 correctional facility who shall pay the account in accordance with ORS 169.140 and 169.150.

7 (b) A bill submitted to the keeper of a local correctional facility under this subsection must be
8 accompanied by evidence documenting that[:]

9 [(A) *The provider has billed the individual or the individual's insurer or health care service con-*
10 *tractor for the charges or expenses owed to the provider; and*]

11 [(B) *The provider has made a reasonable effort to collect from the individual or the individual's*
12 *insurer or health care service contractor*] **the provider has made reasonable efforts to collect** the
13 charges and expenses owed to the provider.

14 (c) If the provider receives payment from the individual or [*the insurer or health care service*
15 *contractor*] **a responsible third party payer** after receiving payment from the keeper of the facility,
16 the provider shall repay the keeper the amount received from the keeper less any difference between
17 payment received from the individual[, *insurer or contractor*] **or responsible third party payer** and
18 the amount of the billing.

19 (4) Except as otherwise provided by ORS 30.260 to 30.300 and federal civil rights laws, upon
20 release of the individual from the actual physical custody of the local correctional facility, the
21 keeper of the local correctional facility is not liable for the payment of charges and expenses for
22 medical services provided to the individual.

23 **SECTION 3.** ORS 414.805 is amended to read:

24 414.805. (1) An individual who receives medical services while in the custody of a law enforce-
25 ment officer is liable:

26 (a) To the provider of the medical services for the charges and expenses therefor; and

27 (b) To the Oregon Health Authority for any charges or expenses paid by the authority out of
28 the Law Enforcement Medical Liability Account for the medical services.

29 (2) A person providing medical services to an individual described in subsection (1)(a) of this
30 section shall first make reasonable efforts to collect the charges and expenses [*thereof from the in-*
31 *dividual*] before seeking to collect [*them*] **the charges and expenses** from the authority out of the
32 Law Enforcement Medical Liability Account.

33 (3)(a) If the provider has not been paid within 45 days of the date of the billing, the provider
34 may bill the authority who shall pay the account out of the Law Enforcement Medical Liability
35 Account.

36 (b) A bill submitted to the authority under this subsection must be accompanied by evidence
37 documenting that[:]

38 [(A) *The provider has billed the individual or the individual's insurer or health care service con-*
39 *tractor for the charges or expenses owed to the provider; and*]

40 [(B) the provider has made [*a*] reasonable [*effort*] **efforts** to collect [*from the individual or the*
41 *individual's insurer or health care service contractor*] the charges and expenses owed to the provider.

42 (c) If the provider receives payment from the individual or [*the insurer or health care service*
43 *contractor*] **a responsible third party payer** after receiving payment from the authority, the pro-
44 vider shall repay the authority the amount received from the [*public agency*] **authority** less any
45 difference between payment received from the individual[, *insurer or contractor*] **or responsible**

1 **third party payer** and the amount of the billing.

2 (4) As used in this section **and ORS 414.807**:

3 (a) “Law enforcement officer” means an officer who is commissioned and employed by a public
4 agency as a peace officer to enforce the criminal laws of this state or laws or ordinances of a public
5 agency.

6 (b) “Public agency” means the state, a city, port, school district, mass transit district or county.

7 (c) “**Reasonable efforts to collect the charges and expenses**” means **that the provider has**
8 **billed the individual to whom the medical services were provided and any responsible third**
9 **party payer.**

10 (d) “**Responsible third party payer**” means:

11 (A) **The individual’s insurance.**

12 (B) **The individual’s health benefit plan.**

13 (C) **The individual’s estate or any person financially responsible for the individual.**

14 **SECTION 4.** ORS 414.807 is amended to read:

15 414.807. (1)(a) When charges and expenses are incurred for medical services provided to an in-
16 dividual for injuries related to law enforcement activity and subject to the availability of funds in
17 the account, the cost of such services shall be paid by the Oregon Health Authority out of the Law
18 Enforcement Medical Liability Account established in ORS 414.815 if the provider of the medical
19 services has made *[all]* reasonable efforts to collect the *[amount]* **charges and expenses**, or any part
20 thereof, *from the individual who received the services*].

21 (b) When a law enforcement **officer or the public agency that commissions and employs the**
22 **law enforcement officer** involved with an injury certifies that the injury is related to law
23 enforcement activity, the Oregon Health Authority shall pay the provider:

24 (A) If the provider is a hospital, in accordance with current fee schedules established by the
25 Director of the Department of Consumer and Business Services for purposes of workers’ compen-
26 sation under ORS 656.248; or

27 (B) If the provider is other than a hospital, 75 percent of the customary and usual rates for the
28 services.

29 (2) After the injured *[person]* **individual** is incarcerated and throughout the period of
30 incarceration **in a local correctional facility or a juvenile detention facility**, the Oregon Health
31 Authority shall continue to pay, out of the Law Enforcement Medical Liability Account, charges and
32 expenses for injuries related to law enforcement activities as provided in subsection (1) of this sec-
33 tion. Upon release of the injured *[person]* **individual** from actual physical custody, the Law
34 Enforcement Medical Liability Account is no longer liable for the payment of medical expenses of
35 the injured *[person]* **individual.**

36 (3) If the provider of medical services has filed a medical services lien as provided in ORS
37 87.555, the Oregon Health Authority shall be subrogated to the rights of the provider to the extent
38 of payments made by the authority to the provider for the medical services. The authority may
39 foreclose the lien as provided in ORS 87.585.

40 (4) The authority shall deposit in the Law Enforcement Medical Liability Account all moneys
41 received by the authority from:

42 (a) Providers of medical services as repayment;

43 (b) Individuals whose medical expenses were paid by the authority under this section; and

44 (c) Foreclosure of a lien as provided in subsection (3) of this section.

45 (5) As used in this section,[:]

1 [(a)] “injuries related to law enforcement activity” means injuries sustained prior to booking,
2 citation in lieu of arrest or release instead of booking that occur during and as a result of efforts
3 by a law enforcement officer to restrain or detain, or to take or retain custody of, the individual.

4 [(b)] “Law enforcement officer” has the meaning given that term in ORS 414.805.]

5 **SECTION 5. This 2011 Act being necessary for the immediate preservation of the public**
6 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**
7 **on its passage.**

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