



2013 SENATE BILL 648

February 28, 2014 – Introduced by Senators HARSDORF and VINEHOUT, cosponsored by Representatives BILLINGS, DOYLE, NASS, MILROY, KAHL, BERCEAU, DANOU, OHNSTAD and HULSEY. Referred to Committee on Transportation, Public Safety, and Veterans and Military Affairs.

1 **AN ACT** *to renumber and amend* 302.44 and 800.095 (1) (b) 3.; and *to create*
2 302.44 (2) and 800.095 (1) (b) 3. b. of the statutes; **relating to:** allowing county
3 and municipal prisoners to be imprisoned in a bordering county within or
4 outside of the state.

Analysis by the Legislative Reference Bureau

COUNTIES

Currently, counties may enter into cooperative agreements with other counties within the state regarding the building, maintenance, and use of the jails and rehabilitation facilities to detain prisoners before, during, and after trial. Counties generally share expenses in accordance with the cooperative agreement, but the county where a prisoner would be detained without the cooperative agreement provides transportation of the prisoner to and from court or as otherwise needed. Under current law, only jails and rehabilitation facilities approved by the Department of Corrections (DOC) for the detention of prisoners may be used under the agreement.

Current law also allows DOC to enter into contracts with other states to send prisoners who are in DOC custody to the other states. Under current law, any contract allowing for the transfer of a prisoner to another state must contain certain provisions, including a termination date, provisions regarding the treatment, care, and transfer of prisoners, prisoner participation in employment programs, reporting requirements, and retention of jurisdiction in this state over prisoners transferred.

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Under this bill, a county in this state may enter into an agreement with a receiving county outside of the state to pay the receiving county to detain or imprison county prisoners before, during, and after trial if the other county borders the county in which the prisoner would otherwise be detained or imprisoned, and the monthly expenses charged to the county in this state by the receiving county to detain or imprison the prisoner are at least 25 percent less than the monthly expenses charged by the county in this state. The bill sets forth certain provisions that any contract allowing a county to transfer a county prisoner to another state, which generally mirror the requirements for a contract allowing the transfer of a state prisoner to another state. Under the bill, any contract between a county in this state and a receiving county in another state must include a requirement that the Department of Corrections or its equivalent agency or department in the receiving state approve the jail or facility in the receiving county to receive prisoners from the county in this state.

MUNICIPALITIES

Currently, if a person fails to pay a monetary judgment ordered by a municipal court, the court may suspend the person's motor vehicle operating privilege for up to two years under certain conditions, order the assignment of up to 25 percent of the person's earnings or other money due to the person to pay the judgment, order that the person be imprisoned for up to 90 days, with each day resulting in a credit of at least \$50 of the unpaid judgment, or a combination of these remedies.

If the court orders that the person be imprisoned, the person is required to be committed to a jail or house of correction in the county in which the cause of action arose. Under this bill, if the court orders that the person be imprisoned, the person may be committed to a jail in a different county within or outside of the state if all of the following requirements are met:

1. The other county borders the county in which the cause of action arose.
2. The monthly expenses charged to the municipality by the other county to imprison the defendant are at least 25 percent less than the monthly expenses charged by the county in which the cause of action arose.
3. The other county agrees to having the defendant committed to a jail in that county.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 302.44 of the statutes is renumbered 302.44 (1) and amended to
2 read:

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1 302.44 (1) Two or more counties within the state may agree under s. 66.0301
2 for the cooperative establishment and use of the jails and rehabilitation facilities of
3 any of them for the detention or imprisonment of prisoners before, during and after
4 trial and for sharing the expense without reference to s. 302.34. The sheriffs of the
5 counties shall lodge prisoners in any jail or rehabilitation facility authorized by the
6 agreement and shall endorse the commitment, if any, under s. 302.35 in case
7 detention or imprisonment is in the jail or rehabilitation facility of another county.
8 Only jails and rehabilitation facilities approved by the department for the detention
9 of prisoners may be used under the agreement. The sheriff of the county of arrest
10 shall transport the prisoner to and from court and to any other institution whenever
11 necessary.

12 **SECTION 2.** 302.44 (2) of the statutes is created to read:

13 302.44 (2) A county in this state may enter into a contract with a receiving
14 county outside of the state to pay the receiving county to detain or imprison prisoners
15 who are not in the custody of the department before, during, and after trial if the
16 receiving county borders the county in which the prisoner would otherwise be
17 detained or imprisoned, and the monthly expenses charged to the county in this state
18 by the receiving county to detain or imprison the prisoner are at least 25 percent less
19 than the monthly expenses charged by the county in this state. Any such contract
20 shall provide for all of the following:

21 (a) A termination date.

22 (b) A requirement that the department of corrections or its equivalent agency
23 or department in the receiving state approve the jail or facility in the receiving
24 county to receive prisoners from the county in this state.

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1 (c) Provisions concerning the costs of prisoner maintenance, extraordinary
2 medical and dental expenses, and any participation in or receipt by prisoners of
3 rehabilitative or correctional services, facilities, programs, or treatment, including
4 those costs not reasonably included as part of normal maintenance.

5 (d) Provisions concerning any participation in programs of prisoner
6 employment, if any, the disposition or crediting of any payments received by
7 prisoners on account of employment, and the crediting of proceeds from or disposal
8 of any products resulting from employment.

9 (e) Delivery and retaking of prisoners.

10 (f) Waiver of extradition by Wisconsin and the state to which the prisoners are
11 transferred.

12 (g) Retention of jurisdiction of the prisoners transferred by Wisconsin.

13 (h) Regular reporting procedures concerning Wisconsin prisoners by officials
14 of the receiving county.

15 (i) Provisions concerning procedures for probation, parole, extended
16 supervision, and discharge.

17 (j) The same standards of reasonable and humane care as the prisoners would
18 receive in an appropriate Wisconsin institution.

19 (k) Any other matters as are necessary and appropriate to fix the obligations,
20 responsibilities and rights of the state of Wisconsin, the county within the state, and
21 the receiving state and county.

22 **SECTION 3.** 800.095 (1) (b) 3. of the statutes is renumbered 800.095 (1) (b) 3. a.
23 and amended to read:

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1 800.095 (1) (b) 3. a. ~~The~~ Except as provided in subd. 3. b., the defendant shall
2 be committed to a jail or a house of correction in the county in which the cause of
3 action arose.

4 c. The defendant shall be eligible for privileges under s. 303.08. or a similar
5 program in the other county if committed under subd. 3. b. The municipality shall
6 pay the expenses incurred by the county to imprison the defendant.

7 **SECTION 4.** 800.095 (1) (b) 3. b. of the statutes is created to read:

8 800.095 (1) (b) 3. b. The defendant may be committed to the jail in another
9 county within or outside of the state if the other county borders the county in which
10 the cause of action arose, and the monthly expenses charged to the municipality by
11 the other county to imprison the defendant are at least 25 percent less than the
12 monthly expenses charged by the county in which the cause of action arose, and the
13 other county agrees to having the defendant committed to the jail in that county.

14 **(END)**