



1995 ASSEMBLY BILL 371

May 10, 1995 - Introduced by Representatives KREUSER, BALDUS, BOCK, BOYLE, F. LASEE, MORRIS-TATUM, NOTESTEIN, PLACHE, PLOMBON, REYNOLDS, RILEY, RYBA and WIRCH, cosponsored by Senators ANDREA, BURKE and MOEN. Referred to Committee on Criminal Justice and Corrections.

1 **AN ACT** *to amend* 302.336 (3) (intro.); and *to create* 20.410 (1) (dx) and 302.33
2 (3) of the statutes; **relating to:** requiring the department of corrections to
3 reimburse a county for the transfer of certain inmates and making an
4 appropriation.

Analysis by the Legislative Reference Bureau

Under current law, the department of corrections (DOC) is responsible for supervising persons placed on probation or parole. If a person who is placed on probation or parole violates the rules of probation or parole, he or she may be detained while DOC conducts proceedings to revoke the person's probation or parole. Current law requires DOC to reimburse a county for the cost of keeping, in that county's jail or in a tribal jail in which the county houses its inmates, a person who has been detained for a violation of probation or parole and is awaiting the disposition of revocation proceedings. The person must be in the jail only as a result of the probation or parole violation, and must be on probation or parole for a felony conviction. DOC must reimburse the county at a rate of \$40 per person per day, except that the amount of reimbursement may be prorated if there are insufficient funds to pay all counties entitled to reimbursement in full. In addition, DOC is required to pay \$500,000 to any county that has 12,000 or more reimbursable days, and that payment is not subject to proration. A county must inform DOC of the amount of reimbursement that the county is entitled to no later than September 1 of the fiscal year following the fiscal year for which reimbursement is requested.

This bill requires DOC to reimburse a county for the actual cost that the county incurs if the county has to transfer one of its inmates to another county's jail or to a tribal jail in order to make room in its jail for a person who has been detained for a probation or parole violation and is awaiting the disposition of revocation proceedings. The bill defines a county's "reimbursable cost" to be the difference between: 1) the amount that a county pays to keep an inmate whom it has had to

transfer in another county jail or a tribal jail; and 2) the amount of reimbursement that the county receives from DOC for keeping the person who is in the custody of DOC and for whom the county made space by transferring a county inmate to another county jail or a tribal jail. As under current law, the bill's reimbursement requirements apply only if the person is detained solely for a probation or parole violation and is not also in jail on pending criminal charges, and if the person is on probation or parole for a felony. Also, as under current law, a county must inform DOC of the amount of reimbursement to which the county is entitled no later than September 1 of the fiscal year following the fiscal year for which reimbursement is requested.

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.** 20.410 (1) (dx) of the statutes is created to read:

2 20.410 (1) (dx) *Reimbursement claims of counties for inmate transfers.* A sum
3 sufficient to pay for the costs of reimbursing counties for the transfer of inmates as
4 provided under s. 302.33 (3).

5 **SECTION 2.** 302.33 (3) of the statutes is created to read:

6 302.33 (3) (a) In this subsection, "reimbursable cost" means the cost
7 determined as follows:

8 1. Calculate the amount that a county pays to another county or to a tribal
9 governing body to keep an inmate of the county who is transferred under par. (b) to
10 the other county's jail or to a tribal jail.

11 2. Calculate the amount, whether full or prorated, that the county receives from
12 the department under sub. (2) (a) 3. for the person in the custody of the department
13 for whom space was made by transferring a county inmate under par. (b) to another
14 county's jail or to a tribal jail.

15 3. If the amount under subd. 1. is greater than the amount under subd. 2.,
16 subtract the amount under subd. 2. from the amount under subd. 1. If the amount

1 under subd. 1. is equal to or less than the amount under subd. 2., then the
2 reimbursable cost is zero.

3 (b) If a county transfers an inmate in its jail to the jail of another county or to
4 a tribal jail under s. 302.445 solely for the purpose of providing space for a person who
5 is in the custody of the department and who is placed in the county's jail under sub.
6 (2), the department shall reimburse the county for that county's reimbursable cost,
7 if any. Payment under this paragraph is subject to the following conditions:

8 1. The department shall make payments under this paragraph beginning when
9 the county's inmate is transferred to the jail of another county or a tribal jail in order
10 to provide space for a person who is placed in the county's jail under sub. (2) pursuant
11 only to a departmental hold and ending when the revocation process is completed
12 and a final order of the department of corrections or the division of hearings and
13 appeals in the department of administration has been entered.

14 2. The department shall not pay for a transfer that is due to the county
15 providing space for a person who has pending criminal charges whether or not a
16 departmental hold has been placed on the person. Reimbursement for the transfer
17 of a county jail inmate is limited to transfers to provide space for an offender who is
18 held solely because of conduct that violates the offender's supervision and that would
19 not otherwise constitute a criminal offense.

20 3. After verifying the costs, the department shall reimburse the county for the
21 reimbursable cost to the county of keeping the county's inmate in the jail of another
22 county or a tribal jail, subject to the conditions in subds. 1. and 2. Reimbursement
23 under this subsection shall be made from the appropriation under s. 20.410 (1) (dx).
24 The department shall not reimburse a county unless the county informs the
25 department of the amount of reimbursement to which the county is entitled under

1 this subsection no later than September 1 of the fiscal year following the fiscal year
2 for which reimbursement is requested.

3 (c) This subsection applies only to transfers of inmates in order to make space
4 for probationers or parolees who are placed on probation or parole status in
5 connection with a felony.

6 **SECTION 3.** 302.336 (3) (intro.) of the statutes is amended to read:

7 302.336 (3) (intro.) Except as provided in sub. (4) and s. 302.33 (2) and (3), a
8 county under sub. (1) is solely responsible for:

9 **SECTION 4. Initial applicability.**

10 (1) This act first applies to persons transferred from a county jail on the
11 effective date of this subsection.

12 (END)