

Senate Bill 185

By: Senators Robertson of the 29th, Gooch of the 51st, Albers of the 56th, Summers of the 13th, Burns of the 23rd and others

AS PASSED SENATE

A BILL TO BE ENTITLED

AN ACT

1 To amend Chapter 5 of Title 42 of the Official Code of Georgia Annotated, relating to
2 correctional institutions of state and counties, so as to prohibit the use of state funds or
3 resources for certain treatments for state inmates; to provide for the adoption of rules and
4 regulations by the Board of Corrections relating to such prohibitions and exceptions; to
5 provide for a definition; to provide for related matters; to provide for an effective date; to
6 repeal conflicting laws; and for other purposes.

7 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

8 **SECTION 1.**

9 Chapter 5 of Title 42 of the Official Code of Georgia Annotated, relating to correctional
10 institutions of state and counties, is amended by revising Code Section 42-5-2, relating to
11 responsibilities of governmental unit with custody of inmate, costs of emergency and
12 follow-up care, access to medical services or hospital care, and hospital requirements for
13 providing emergency health care services to state inmates, as follows:

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14 "42-5-2.

15 (a) As used in this Code section, the term 'state inmate' means any inmate in the custody
16 of the department and for whom the department shall be responsible for the payment of
17 medical care.

18 (b) Except as provided in subsection ~~(b)~~(c) of this Code section, it shall be the
19 responsibility of the governmental unit, subdivision, or agency having the physical custody
20 of an inmate to maintain the inmate, furnishing ~~him~~ such inmate food, clothing, and any
21 needed medical and hospital attention; to defend any habeas corpus or other proceedings
22 instituted by or on behalf of the inmate; and to bear all expenses relative to any escape and
23 recapture, including the expenses of extradition. Except as provided in subsection ~~(b)~~(c)
24 of this Code section, it shall be the responsibility of the department to bear the costs of any
25 reasonable and necessary emergency medical and hospital care which is provided to any
26 inmate after the receipt by the department of the notice provided by subsection (a) of Code
27 Section 42-5-50 who is in the physical custody of any other political subdivision or
28 governmental agency of this state, except a county correctional institution, if the inmate is
29 available and eligible for the transfer of his custody to the department pursuant to Code
30 Section 42-5-50. Except as provided in subsection ~~(b)~~(c) of this Code section, the
31 department shall also bear the costs of any reasonable and necessary follow-up medical or
32 hospital care rendered to any such inmate as a result of the initial emergency care and
33 treatment of the inmate. With respect to state inmates housed in county correctional
34 institutions, the department shall bear the costs of direct medical services required for
35 emergency medical conditions posing an immediate threat to life or limb if the inmate
36 cannot be placed in a state institution for the receipt of this care. The responsibility for
37 payment will commence when the costs for direct medical services exceed an amount
38 specified by rules and regulations of the ~~Board of Corrections~~ board. The department will
39 pay only the balance in excess of the specified amount. Except as provided in subsection
40 ~~(b)~~(c) of this Code section, it shall remain the responsibility of the governmental unit

41 having the physical custody of an inmate to bear the costs of such medical and hospital
42 care, if the custody of the inmate has been transferred from the department pursuant to any
43 order of any court within this state. The department shall have the authority to promulgate
44 rules and regulations relative to payment of such medical and hospital costs by the
45 department.

46 ~~(b)~~(c)(1) The officer in charge will provide an inmate access to medical services or
47 hospital care and may arrange for the inmate's health insurance carrier to pay the health
48 care provider for the services or care rendered as provided in Article 3 of Chapter 4 of
49 this title.

50 (2) With respect to an inmate covered under Article 3 of Chapter 4 of this title, the costs
51 of any medical services, emergency medical and hospital care, or follow-up medical or
52 hospital care as provided in subsection ~~(a)~~(b) of this Code section for which a local
53 governmental unit is responsible shall mean the costs of such medical services and
54 hospital care which have not been paid by the inmate's health insurance carrier or the
55 Department of Community Health.

56 ~~(c)~~(d) A hospital authority or hospital which is not a party to a contract with the Georgia
57 ~~Department of Corrections~~ department or its agents on July 1, 2009, shall be reimbursed
58 no more than the applicable Georgia Medicaid rate for emergency services provided to
59 such state inmate. ~~For purposes of this subsection, the term 'state inmate' means any~~
60 ~~inmate for whom the Georgia Department of Corrections shall be responsible for the~~
61 ~~payment of medical care thereof.~~ Nothing in this Code section shall prohibit the Georgia
62 ~~Department of Corrections~~ department from negotiating higher fees or rates with health
63 care providers. It is the intent of the General Assembly that the ~~Georgia Department of~~
64 ~~Corrections~~ department or its agents enter into negotiations with health care providers to
65 contract for the provision of services as provided in this Code section.

66 (e)(1) Except as otherwise provided for in paragraph (2) of this subsection, no state funds
67 or resources shall be used for the following treatments for state inmates:

68 (A) Sex reassignment surgeries or any other surgical procedures that are performed for
69 the purpose of altering primary or secondary sexual characteristics;

70 (B) Hormone replacement therapies; and

71 (C) Cosmetic procedures or prosthetics intended to alter the appearance of primary or
72 secondary sexual characteristics.

73 (2) The board shall adopt rules and regulations regarding the procedures and therapies
74 prohibited by this subsection, which shall provide for the following limited instances in
75 which the treatments set forth in paragraph (1) of this subsection shall be authorized:

76 (A) Treatments for medical conditions where such treatments are considered
77 medically necessary, provided that such condition is not gender dysphoria or the
78 purpose of such treatment is not for sex reassignment;

79 (B) Treatments for individuals born with a medically verifiable disorder of sex
80 development, including individuals born with ambiguous genitalia or chromosomal
81 abnormalities resulting in ambiguity regarding the individual's biological sex;

82 (C) Treatments for individuals with partial androgen insensitivity syndrome; and

83 (D) Hormone replacement therapy treatment for state inmates who were being treated
84 with such therapy prior to the effective date of this Act, provided that the provision of
85 such therapy is solely for the purpose of transitioning off such therapy."

86 **SECTION 2.**

87 This Act shall become effective upon its approval by the Governor or upon its becoming law
88 without such approval.

89 **SECTION 3.**

90 All laws and parts of laws in conflict with this Act are repealed.