

No. 35-23-OR

AN ORDINANCE

An Ordinance of the County of Allegheny, Commonwealth of Pennsylvania, amending and supplementing the Allegheny County Code of Ordinances, Division 2, entitled "County Government Operations," Chapter 205, entitled "Allegheny County Jail," through the creation of a new Article III, entitled "Incarcerated Individuals Welfare Fund" in order to establish County budgetary procedures for revenues derived from individuals incarcerated at the Allegheny County Jail.

WHEREAS, pursuant to Article IV, §2(b) of the Home Rule Charter of Allegheny County, County Council is expressly vested with the power and duty to "[m]ake appropriations, levy taxes, fees and service charges, and incur indebtedness as permitted by law or by this Charter."; and

WHEREAS, pursuant to this Charter-granted authority, the Council exercises authority over fees established by Allegheny County and enacts annual budgets providing, *inter alia*, for the fashion in which revenues derived from those fees are spent; and

WHEREAS, also pursuant to its Charter-granted budgetary authority, the Council enacts annual grants and special accounts budgets, *see, e.g.*, resolution 08-22-RE; and

WHEREAS, as part of the annual grants and special accounts budget, Council enacts appropriations specific to the Incarcerated Individuals Welfare Fund, *see, e.g.*, resolution 08-22-RE Appendix B and Bill No. 12827-23 Appendix B; and

WHEREAS, the Allegheny County Jail (ACJ) charges incarcerated individuals fees for certain goods and services, such as items purchased from the commissary and telephone service; these goods and services are often provided by third party contractors; and

WHEREAS, for several years, the Allegheny County Jail has adopted an inconsistent practice of depositing revenues derived from some of the fees paid by incarcerated individuals (most notably those charged for commissary purchases) into the Incarcerated Individuals Welfare Fund, but depositing other fee revenues into the County's general fund; and

WHEREAS, the process of depositing fee revenues into the general fund establishes no restrictions on how such revenues may be spent, in effect establishing a system in which fair market pricing for goods and services does not apply, and under which general County government operations are subsidized by incarcerated individuals who have no choice but to pay the fees established by the County and County Jail; and

WHEREAS, it further the judgment of Council that the Chief Executive, in the process of negotiating and executing contracts with entities that provide goods and services within the County Jail, *can* obligate the County to pay for those goods or services under the terms of such contracts, but *cannot* contractually obligate incarcerated individuals - who are not parties to the contracts in question - to assume those payments on the County's behalf via fees unilaterally imposed upon them, without authorization of such fees as required by Article IV, §2(b) of the Charter; and

WHEREAS, it is finally the judgment of Council that any fees imposed upon individuals incarcerated at the County Jail should be utilized to improve the health, safety, and well-being of those incarcerated individuals, rather than placed in the County's general fund;

The Council of the County of Allegheny hereby enacts as follows:

SECTION 1. Incorporation of the Preamble.

The preamble to this Ordinance is hereby entirely incorporated by reference herein.

SECTION 2. Amendment of the Code.

The Allegheny County Code of Ordinances, Division 2, entitled "County Government Operations," Chapter 205, entitled "Allegheny County Jail," is hereby amended through the creation of a new Article III, entitled "Incarcerated Individuals Welfare Fund", and comprised as follows:

**Chapter 205
Allegheny County Jail**

**Article III
Incarcerated Individuals Welfare Fund**

§205-30. Allegheny County Jail Fees and Incarcerated Individuals Welfare Fund.

All fees imposed by Allegheny County or the Allegheny County Jail upon individuals incarcerated at the County Jail shall become effective only upon authorization by Allegheny County Council via validly enacted ordinance or resolution. All revenues derived from fees imposed by Allegheny County or the Allegheny County Jail upon incarcerated individuals shall be deposited into the Incarcerated Individuals Welfare Fund. Council shall, at its discretion, establish appropriations of revenue from the Incarcerated Individuals Welfare Fund for expenditure by the Allegheny County Jail Oversight Board for the purpose(s) delineated in such appropriations. No portion of this Section shall be read, interpreted, or otherwise deemed to forbid or restrict any action ordered by a court of competent jurisdiction that results in revenues payable to the County.

SECTION 3. Effective Date and Transitory Provisions.

The provisions of this Ordinance shall become effective immediately upon final approval. Within sixty (60) days of such effective date, the Chief Executive shall introduce an ordinance or resolution delineating all fees imposed upon individuals incarcerated at the Allegheny County Jail for approval in accordance the requirements of Article IV, §2(b) of the Home Rule Charter of Allegheny County, and thereafter shall also submit all alterations to such fee structure for legislative approval.

SECTION 4. If any provision of this Ordinance shall be determined to be unlawful, invalid, void or unenforceable, then that provision shall be considered severable from the remaining provisions of this Ordinance which shall be in full force and effect.

SECTION 5. Any Resolution or Ordinance or part thereof conflicting with the provisions of this Ordinance is hereby repealed so far as the same affects this Ordinance.

PRIMARY SPONSOR: COUNCIL MEMBER HALLAM

CO-SPONSORS:

Enacted in Council, this 5th day of December, 2023

Council Agenda No. 12853-23



Patrick Catena
President of Council

Attest: 

Jared E. Barker, Chief Clerk
Allegheny County Council

Chief Executive Office _____, 2023

Approved: _____

Rich Fitzgerald
Chief Executive

Attest: _____

Jennifer Liptak, Chief of Staff