

SENATE BILL No. 228

By Committee on Judiciary

2-9

1 AN ACT concerning county jails; removing the requirement that every
2 county shall have a jail; modernizing requirements related to food,
3 drink and medical care for prisoners and jail records; modifying
4 procedures used when district courts commit prisoners to jail in another
5 county and when counties contract with city jails or other county jails
6 to keep prisoners; requiring a medical examination before certain
7 United States prisoners or city prisoners are taken into custody of a
8 county jail; amending K.S.A. 19-1901, 19-1903, 19-1904, 19-1905, 19-
9 1910, 19-1911, 19-1916, 19-1917, 19-1927, 19-1929 and 19-1930 and
10 repealing the existing sections; also repealing K.S.A. 19-1906, 19-
11 1907, 19-1908, 19-1912, 19-1913, 19-1914 and 19-1915.
12

13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 19-1901 is hereby amended to read as follows: 19-
15 1901. ~~There shall be established and kept at Every county seat, by~~
16 ~~authority of the board of county commissioners shall provide jail services,~~
17 at the expense of the county, a jail for the safekeeping of prisoners lawfully
18 committed.

19 Sec. 2. K.S.A. 19-1903 is hereby amended to read as follows: 19-
20 1903. (a) The sheriff of the county ~~by himself~~, or *such sheriff's* deputy,
21 shall:

22 ~~(a)(1)~~ Keep the jail; and ~~shall~~ be responsible for the manner in which
23 ~~the same jail~~ is kept;

24 ~~(b)(2)~~ He ~~shall~~ keep separate rooms for the sexes, ~~except where they~~
25 ~~are lawfully married. He shall~~ **each sex, female and male; and**

26 ~~(c)(3)~~ supply proper ~~bread, meat~~ food, drink and ~~fuel~~ medical care for
27 the prisoners.

28 **(b) As used in this section, "sex" means the biological state of**
29 **being female or male based on the individual's organs, chromosomes**
30 **and endogenous hormone profiles.**

31 Sec. 3. K.S.A. 19-1904 is hereby amended to read as follows: 19-
32 1904. The sheriff of each county ~~must~~ shall keep a true and exact calendar
33 of all prisoners committed to the county jail, ~~which~~. *Such* calendar ~~must~~
34 shall contain the names of all persons who are committed, their place of
35 abode, the time of their commitment, the time of their discharge, the cause
36 of their commitment, the authority that committed them, and the

1 description of their persons; ~~and~~. When any person is ~~liberated~~ *released*
2 *from the county jail*, such calendar ~~must~~ *shall* state the ~~time when and the~~
3 ~~authority by which such liberation took place, and authority for such~~
4 ~~release and the time when such release occurred.~~ If any person ~~escape~~
5 ~~escapes from the county jail, it must~~ *such calendar shall* state particularly
6 the time and manner of such escape.

7 Sec. 4. K.S.A. 19-1905 is hereby amended to read as follows: 19-
8 1905. At the opening of each term of the district ~~or criminal~~ court ~~within~~
9 ~~his in the sheriff's~~ county, the sheriff ~~must return a copy of such calendar,~~
10 ~~under his hand shall provide a record of the calendar maintained pursuant~~
11 ~~to K.S.A. 19-1904, and amendments thereto, to the judge of such court;~~
12 ~~and if any sheriff neglect or refuse so to do, he shall be punished by fine~~
13 ~~not exceeding five hundred dollars by providing a physical or electronic~~
14 ~~copy of such calendar or access to an electronic record of such calendar.~~
15 *The record provided to the court shall include all information added to*
16 *such calendar since the last report was submitted.*

17 Sec. 5. K.S.A. 19-1910 is hereby amended to read as follows: 19-
18 1910. (a) When a prisoner is committed to a county jail in a criminal
19 action, the board of county commissioners shall allow the sheriff
20 reasonable ~~charges~~ *funding* for maintaining such prisoner.

21 (b) (1) If a person is stopped by or is in the custody of a law
22 enforcement officer; as defined in K.S.A. 22-2202, and amendments
23 thereto, who is an employee of the state and such person is injured by the
24 officer while acting within the scope of such officer's authority, costs
25 incurred for medical care and treatment of the person shall be paid by the
26 state if such care and treatment is required due to the injury and a
27 determination has been made that the person has no other resources. When
28 such medical expenses have been paid by the state, the state may seek
29 reimbursement of such expenses from the prisoner. If the state determines
30 that the prisoner is covered under a current individual or group accident
31 and health insurance policy, medical service plan contract, hospital service
32 corporation contract, hospital and medical service corporation contract,
33 fraternal benefit society or health maintenance organization contract, then
34 the state may require the prisoner or the provider rendering ~~health care~~
35 *healthcare* services to the prisoner to submit a claim for such ~~health care~~
36 *healthcare* services rendered in accordance with the prisoner's policy or
37 contract.

38 (2) All other costs incurred by the county for medical care and
39 treatment of prisoners held within the county shall be paid from the county
40 general fund when a determination has been made that the prisoner has no
41 other resources. When medical expenses have been paid out of the county
42 general fund of any county in this state for a prisoner held within such
43 county, the county may seek reimbursement of such expenses from the

1 prisoner. If the county determines that a prisoner of the county jail is
2 covered under a current individual or group accident and health insurance
3 policy, medical service plan contract, hospital service corporation contract,
4 hospital and medical service corporation contract, fraternal benefit society
5 or health maintenance organization contract, then the county may require
6 the prisoner of such county jail or the provider rendering health care
7 services to the prisoner to submit a claim for such health care services
8 rendered in accordance with the prisoner's policy or contract.

9 (c) When a prisoner is delivered to a county jail pursuant to K.S.A.
10 75-5217, and amendments thereto, the costs of holding such prisoner shall
11 be paid as provided in K.S.A. 19-1930, and amendments thereto.

12 Sec. 6. K.S.A. 19-1911 is hereby amended to read as follows: 19-
13 1911. (a) When a prisoner is confined by virtue of any process directed to
14 the sheriff; ~~and which shall require such process is required~~ to be returned
15 to the *issuing* court ~~whence it issued~~, such sheriff shall keep a copy of ~~the~~
16 ~~same, together with his return made thereon, which such process and~~
17 *return. Such* copy, duly certified by such sheriff, shall be presumptive
18 evidence of ~~his such sheriff's~~ right to retain such prisoner in custody.

19 (b) *All instruments of every kind, or attested copies thereof, by which*
20 *a prisoner is committed to or released from the custody of the sheriff, shall*
21 *be regularly endorsed and filed and safely kept in a paper or electronic*
22 *form by such sheriff, or such sheriff's deputy acting as the keeper of the*
23 *jail.*

24 (c) *The records required to be retained in this section shall be*
25 *delivered to the successor of the officers having charge of the prisoner.*

26 Sec. 7. K.S.A. 19-1916 is hereby amended to read as follows: 19-
27 1916. Any committing judge of the district court of any county ~~in which~~
28 *where* there is no sufficient jail may order any person whom they may
29 lawfully order to be committed to prison to be sent to the jail of the ~~county~~
30 ~~nearest having a sufficient jail, and nearest county that has sufficient space~~
31 *and means to care for the inmate as determined by the sheriff or keeper of*
32 *the jail* of such nearest county. The sheriff of such nearest county shall, on
33 exhibit of the order of such judge, ~~which order shall have endorsed thereon~~
34 *that contains* a statement that there is no sufficient jail ~~in the such judge's~~
35 ~~county from whence it issued~~, receive and keep in custody in the jail of ~~his~~
36 ~~or her such sheriff's~~ county the prisoner ordered to be committed ~~as~~
37 ~~aforsaid~~, at the expense of the county from which such person was sent;
38 ~~and the said sheriff shall, upon the order of the committing judge of the~~
39 ~~district court, redeliver such person when demanded. The sheriff of the~~
40 *county ordering commitment is responsible for transportation of the*
41 *prisoner.*

42 Sec. 8. K.S.A. 19-1917 is hereby amended to read as follows: 19-
43 1917. Any county jail may be used for the safekeeping of any fugitive

1 from justice from another state or territory, ~~and~~. The ~~jailer~~ *sheriff or the*
2 *keeper of the jail of such county* shall ~~in such case~~ be entitled to reasonable
3 compensation for the support and custody of such fugitive from justice, to
4 be paid by the officer demanding the custody of ~~the same~~ *such fugitive*.

5 Sec. 9. K.S.A. 19-1927 is hereby amended to read as follows: 19-
6 1927. Whenever any county or board of county commissioners in this state
7 owns a tract of real estate formerly the site for its county jail, ~~and the same~~
8 *such real estate* is no longer used for that purpose, ~~and a new county jail~~
9 ~~has been built elsewhere in such county~~, and such abandoned jail and its
10 site is no longer in the judgment of the board of county commissioners of
11 such county needed for county jail purposes, the board of county
12 commissioners of such county, without a vote of the people or of the
13 electors of such county, may:

14 (a) Sell and dispose of such real estate either at public or private sale,
15 for cash or other consideration and on such terms as the board of county
16 commissioners of such county deems to be *in* the best interests of the
17 county, ~~or~~;

18 (b) convey by deed, without consideration, such jail and site to a
19 historical society incorporated under the laws of Kansas as a charitable or
20 benevolent corporation for the purposes of a historical society, if the board
21 finds that such jail and site should be preserved as a historical site or
22 monument. ~~Provided~~. Such conveyance shall be upon the condition that
23 the title shall revert to the county when the property is no longer
24 maintained and used by such historical society for the purpose for which it
25 was conveyed; *or*

26 (c) *demolish or repurpose such jail or repurpose such site as the*
27 *board of county commissioners of such county deems to be in the best*
28 *interests of the county.*

29 Sec. 10. K.S.A. 19-1929 is hereby amended to read as follows: 19-
30 1929. (a) Any county in the state, ~~which~~ *that* is without a sufficient jail by
31 reason of the remodeling of its jail or the construction of a new jail or for
32 any other reason, may contract with:

33 (1) Any city in ~~such county~~ *the state* having an adequate jail for the
34 use of ~~the such~~ jail of ~~such city~~ upon such terms as the board of county
35 commissioners and the governing body of such city may agree; *or*

36 (2) *any county in the state having an adequate jail for the use of such*
37 *jail upon such terms as the board of county commissioners and the*
38 *receiving county's board of county commissioners may agree.*

39 (b) Any committing judge of the district court of any such county
40 may order any person whom they may lawfully order to be committed to
41 prison; to be committed to such *other county or city* jail, and the ~~officer~~
42 ~~having charge of such~~ *keeper of the jail* shall receive and keep in custody
43 ~~therein~~ any prisoner ordered to be committed ~~as aforesaid~~, ~~and shall upon~~

1 ~~the order of the committing court redeliver such person when demanded.~~
2 *The sheriff of the county ordering commitment is responsible for*
3 *transportation of the prisoner.*

4 Sec. 11. K.S.A. 19-1930 is hereby amended to read as follows: 19-
5 1930. (a) (1) The sheriff or the keeper of the jail in any county of the state
6 shall receive all prisoners committed to the sheriff's or jailer's custody by
7 the authority of the United States or by the authority of any city located in
8 such county and shall keep them safely in the same manner as prisoners of
9 the county until discharged in accordance with law. The county
10 maintaining such prisoners shall receive from the United States or such
11 city compensation for the maintenance of such prisoners in an amount
12 equal to that provided by the county for maintenance of county prisoners
13 and provision shall be made for the maintenance of such prisoners in the
14 same manner as prisoners of the county. The governing body of any city
15 committing prisoners to the county jail shall provide for the payment of
16 such compensation upon receipt of a statement from the sheriff of such
17 county as to the amount due therefor from such city.

18 (2) *The sheriff and the keeper of the jail shall not be required to*
19 *receive or detain a prisoner-in-custody under paragraph (1) who is in the*
20 ***custody of an arresting agency until the prisoner has been examined by a***
21 ***medical care facility as defined in K.S.A. 65-425, and amendments thereto,***
22 ***or a healthcare provider as defined in K.S.A. 40-3401, and amendments***
23 ***thereto, if the prisoner appears to be:***

24 (A) *Unconscious or having been unconscious at any time during*
25 *custody or during the events leading to the person's custody;*

26 (B) *suffering from a serious illness;*

27 (C) *suffering from a serious injury; or*

28 (D) *seriously impaired by alcohol or drugs or combination thereof.*

29 (3) ***Except as provided in K.S.A. 22-4612 and 22-4613, and***
30 ***amendments thereto, the prisoner shall remain in the custody of the***
31 ***arresting agency during the examination required under paragraph (2)***
32 ***and the cost of the examination and resulting treatment under paragraph***
33 ***(2) is the financial responsibility of the prisoner receiving the examination***
34 ***or treatment.***

35 (b) The sheriff or the keeper of the jail in any county of the state shall
36 receive all prisoners committed to the sheriff's or jailer's custody pursuant
37 to K.S.A. 75-5217, and amendments thereto, and shall keep them safely in
38 the same manner as prisoners of the county until discharged in accordance
39 with law or until otherwise ordered by the secretary of corrections. The
40 cost of maintenance of such prisoners, including medical costs of such
41 prisoners shall be paid by the department of corrections in an amount
42 equal to that provided by the county for maintenance of county prisoners.

43 (c) In lieu of charging city authorities for the cost of maintenance of

1 prisoners as provided by subsections (a) and (b), the board of county
2 commissioners of Sedgwick county may levy a tax not to exceed one mill
3 upon all tangible taxable property of the county to pay such costs and the
4 costs of maintaining county prisoners. No revenue derived from such levy
5 shall be used to pay the costs of maintenance of prisoners committed to the
6 jail by federal or state authorities, or authorities of other counties or cities
7 in other counties. For the purpose of this subsection, if any portion of a
8 city is located within a county levying a tax hereunder, all prisoners of
9 such city shall be deemed prisoners of such county.

10 (d) The board of county commissioners of a county may provide by
11 resolution that any inmate of the county jail who participates in a work
12 release or job training program for which the inmate receives
13 compensation or a subsistence allowance shall be required to pay to the
14 county an amount not exceeding \$20 per day to defray costs of
15 maintaining such inmate in the county jail. Such resolution shall provide
16 for reduction or waiver of such amount in instances in which payment
17 would create undue hardship for an inmate. The inmate shall pay any
18 amount charged pursuant to such resolution, in cash or by money order, to
19 the county treasurer, who shall deposit the entire amount in the county
20 treasury and credit it to the county general fund. If payment is made in
21 cash, the county treasurer shall provide the inmate with a written receipt
22 for such payment. If the county is otherwise entitled to receive
23 reimbursement or compensation for the maintenance of an inmate who is
24 required to pay an amount pursuant to such resolution, the amount paid by
25 such inmate shall be deducted from the amount of the other reimbursement
26 or compensation to which the county is entitled.

27 (e) (1) The board of county commissioners of a county may provide
28 by resolution that any inmate of the county jail who is incarcerated in the
29 county jail pursuant to a sentence for the conviction of a crime in this state
30 shall be required to pay to the county a fee in an amount not exceeding the
31 county's daily cost of housing the inmate to defray the costs of maintaining
32 such inmate in the county jail for each day prior to and after conviction for
33 an offense resulting in a conviction.

34 (2) Such resolution shall provide:

35 (A) For the priority of restitution, child support, court costs or fines
36 over such fee;

37 (B) for reduction or waiver of such amount in instances in which
38 payment would create undue hardship for an inmate and for a procedure to
39 provide for a reduction or waiver; and

40 (C) that if the inmate fails to pay such amount charged pursuant to
41 such resolution, the county keeping such inmate may garnish such inmate's
42 commissary account to recover such costs, upon notice and hearing given
43 to such inmate as provided for in any such resolution contemplated herein.

1 (3) The inmate shall pay the amount charged pursuant to such
2 resolution, in cash or by money order, or by release of funds in the
3 inmate's jail commissary account, to the county treasurer, who shall
4 deposit the entire amount in the county treasury and credit it to the county
5 general fund.

6 (4) The sheriff shall forward any garnished commissary account
7 payment to the county treasurer, who shall deposit the entire amount in the
8 county treasury and credit it to the county general fund.

9 (5) If the county is otherwise entitled to receive reimbursement or
10 compensation for the maintenance of an inmate who is required to pay an
11 amount pursuant to such resolution, and such reimbursement or
12 compensation constitutes the entirety of the costs of maintaining such
13 inmate in the county jail, the amount paid by such inmate shall be
14 deducted from the amount of the other reimbursement or compensation to
15 which the county is entitled.

16 (f) If any sheriff or ~~jailer~~ *keeper of the jail* neglects or refuses to
17 perform the services and duties required by the provisions of this act, the
18 sheriff or ~~jailer~~ *keeper of the jail* shall be subject to the same penalties,
19 forfeitures and actions as if the prisoners had been committed under the
20 authority of this state.

21 (g) Attorneys of prisoners held in a county jail shall be permitted to
22 visit them professionally at all reasonable hours.

23 (h) *As used in this section:*

24 (1) *"Serious injury" means any injury with a substantial risk of death*
25 *or resulting in:*

26 (A) *Loss of orientation, loss of full movement of a limb or complaint*
27 *of neck or spinal pain with an onset related to the incident leading to or*
28 *during the person's custody;*

29 (B) *a reasonable belief a bone fracture may exist;*

30 (C) *laceration with an appearance it needs sutures;*

31 (D) *loss or serious impairment of vision with an onset during or*
32 *subsequent to the events leading to the arrest;*

33 (E) *loss or fracture of any teeth with an onset during or subsequent to*
34 *the events leading to the arrest; or*

35 (F) *any similar condition reasonably indicating immediate*
36 *assessment by a medical care provider is prudent.*

37 (2) *"Serious illness" includes, but is not limited to:*

38 (A) *Any illness or ailment resulting in loss of consciousness or*
39 *responsiveness or affecting a person's level of consciousness to a degree*
40 *immediate intervention is prudent;*

41 (B) *a body temperature in excess of 101° F;*

42 (C) *acute or chronic blood loss indicative of underlying illness; or*

43 (D) *pain to a degree it affects the person's ability to function.*

1 (3) *"Seriously impaired by alcohol or drugs or combination thereof"*
2 *means the loss of consciousness, inability to stand without assistance or*
3 *inability to move from one location to another without assistance*
4 *reasonably believed to be induced by the consumption of alcohol, a*
5 *controlled substance as defined in chapter 65 of the Kansas Statutes*
6 *Annotated, and amendments thereto, a drug other than a controlled*
7 *substance or a combination of alcohol, controlled substances or drugs.*

8 Sec. 12. K.S.A. 19-1901, 19-1903, 19-1904, 19-1905, 19-1906, 19-
9 1907, 19-1908, 19-1910, 19-1911, 19-1912, 19-1913, 19-1914, 19-1915,
10 19-1916, 19-1917, 19-1927, 19-1929 and 19-1930 are hereby repealed.

11 Sec. 13. This act shall take effect and be in force from and after its
12 publication in the statute book.