

As Amended by House Committee

{As Amended by Senate Committee of the Whole}

As Amended by Senate Committee

Session of 2023

SENATE BILL No. 228

By Committee on Judiciary

2-9

1 AN ACT concerning *{counties; requiring the secretary for aging and*
2 *disability services to reimburse counties for certain costs when a*
3 *person is ~~confined~~ in a county jail awaiting examination, evaluation*
4 *or treatment for competency; relating to}* county jails; removing the
5 requirement that every county shall have a jail; modernizing
6 requirements related to food, drink and medical care for prisoners and
7 jail records; modifying procedures used when district courts commit
8 prisoners to jail in another county and when counties contract with city
9 jails or other county jails to keep prisoners; requiring a medical
10 examination before certain United States prisoners or city prisoners are
11 taken into custody of a county jail; amending K.S.A. 19-1901, 19-1903,
12 19-1904, 19-1905, 19-1910, 19-1911, 19-1916, 19-1917, 19-1927, 19-
13 1929 and 19-1930 and repealing the existing sections; also repealing
14 K.S.A. 19-1906, 19-1907, 19-1908, 19-1912, 19-1913, 19-1914 and 19-
15 1915.

16
17 *Be it enacted by the Legislature of the State of Kansas:*

18 *{New Section 1. (a) Whenever a person is in the custody of ~~a sheriff~~*
19 *~~and confined in~~ a county jail awaiting examination, evaluation or*
20 *treatment pursuant to K.S.A. 22-3219, 22-3302, 22-3303, 22-3428, 22-*
21 *3429 or 22-3430, and amendments thereto, the county that maintains*
22 *such county jail shall be reimbursed by the secretary for aging and*
23 *disability services for the costs related to such custody at the rate of \$100*
24 *per day. The county shall be compensated at such rate for each day that*
25 *a person is in custody and confined as described in this subsection:*

26 *(1) If such person is awaiting examination or evaluation, from the*
27 *date the request for examination or evaluation is made until the date the*
28 *person is taken from confinement in the county jail for such*
29 *examination or evaluation or the examination or evaluation is*
30 *completed at the county jail; and*

31 *(2) if such person is awaiting treatment, from the date of return to*
32 *confinement in the county jail from examination or evaluation or the*

1 *examination or evaluation is completed at the county jail until the date*
 2 *the person is taken from confinement in the county jail for such*
 3 *treatment or treatment is completed at the county jail.*

4 *(b) On and after July 1, 2022, if a county has a claim for*
 5 *reimbursement of costs described in subsection (a), the county shall*
 6 *notify and provide documentation of such costs to the secretary for*
 7 *aging and disability services on a quarterly basis. The secretary for*
 8 *aging and disability services shall certify the amount of moneys*
 9 *attributable to such costs and shall transmit a copy of such certification*
 10 *to the director of accounts and reports. Upon receipt of such*
 11 *certification, the director of accounts and reports shall transfer an*
 12 *amount of moneys equal to such certified amount from the state general*
 13 *fund to the county competency expense fund. The secretary for aging*
 14 *and disability services shall transmit a copy of each such certification to*
 15 *the director of legislative research and the director of the budget.*

16 *(c) The secretary for aging and disability services shall develop and*
 17 *implement a procedure to provide payments to counites pursuant to*
 18 *subsection (b) on a quarterly basis.*

19 *(d) If there are no moneys available in the county competency*
 20 *expense fund to pay any such reimbursements, the county may file a*
 21 *claim against the state pursuant to article 9 of chapter 46 of the Kansas*
 22 *Statutes Annotated, and amendments thereto.*

23 *(e) There is hereby established in the state treasury the county*
 24 *competency expense fund that shall be administered by the secretary for*
 25 *aging and disability services. All expenditures from the county*
 26 *competency expense fund shall be for the purpose of reimbursing*
 27 *counties for the costs described in subsection (a). All expenditures from*
 28 *such fund shall be made in accordance with appropriation acts upon*
 29 *warrants of the director of accounts and reports issued pursuant to*
 30 *vouchers approved by the secretary for aging and disability services or*
 31 *the secretary's designee.*

32 *(f) For the purposes of this section, "county jail" means a jail*
 33 *operated by a county or a consolidated law enforcement agency.*

34 ~~Section 1. {Sec. 2.} K.S.A. 19-1901 is hereby amended to read as~~
 35 ~~follows: 19-1901. There shall be established and kept at Every county seat,~~
 36 ~~by authority of the board of county commissioners shall provide jail~~
 37 ~~services, at the expense of the county, a jail for the safekeeping of~~
 38 ~~prisoners lawfully committed.~~

39 ~~Sec. 2. {3.} K.S.A. 19-1903 is hereby amended to read as follows: 19-~~
 40 ~~1903. ~~(a)~~ The sheriff of the county by himself, or such sheriff's deputy,~~
 41 ~~shall:~~

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

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

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

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

9 Sec. ~~3.~~ {4.} K.S.A. 19-1904 is hereby amended to read as follows: 19-
 10 1904. The sheriff of each county ~~must~~ shall keep a true and exact calendar
 11 of all prisoners committed to the county jail, ~~which.~~ Such calendar ~~must~~
 12 shall contain the names of all persons who are committed, their place of
 13 abode, the time of their commitment, the time of their discharge, the cause
 14 of their commitment, the authority that committed them, and the
 15 description of their persons; ~~and.~~ When any person is ~~liberated~~ released
 16 from the county jail, such calendar ~~must~~ shall state the time when and the
 17 authority by which such liberation took place; ~~and authority for such~~
 18 release and the time when such release occurred. If any person ~~escape~~
 19 escapes from the county jail, it ~~must~~ such calendar shall state particularly
 20 the time and manner of such escape.

21 Sec. ~~4.~~ {5.} K.S.A. 19-1905 is hereby amended to read as follows: 19-
 22 1905. At the opening of each term of the district or criminal court ~~within~~
 23 his in the sheriff's county, the sheriff ~~must~~ return a copy of such calendar;
 24 under his hand shall provide a record of the calendar maintained pursuant
 25 to K.S.A. 19-1904, and amendments thereto, to the judge of such court;
 26 and if any sheriff neglect or refuse so to do, he shall be punished by fine
 27 not exceeding five hundred dollars by providing a physical or electronic
 28 copy of such calendar or access to an electronic record of such calendar.
 29 The record provided to the court shall include all information added to
 30 such calendar since the last report was submitted.

31 Sec. ~~5.~~ {6.} K.S.A. 19-1910 is hereby amended to read as follows: 19-
 32 1910. (a) When a prisoner is committed to a county jail in a criminal
 33 action, the board of county commissioners shall allow the sheriff
 34 reasonable charges funding for maintaining such prisoner.

35 (b) (1) If a person is stopped by or is in the custody of a law
 36 enforcement officer, as defined in K.S.A. 22-2202, and amendments
 37 thereto, who is an employee of the state and such person is injured by the
 38 officer while acting within the scope of such officer's authority, costs
 39 incurred for medical care and treatment of the person shall be paid by the
 40 state if such care and treatment is required due to the injury and a
 41 determination has been made that the person has no other resources. When
 42 such medical expenses have been paid by the state, the state may seek
 43 reimbursement of such expenses from the prisoner. If the state determines

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

9 (2) All other costs incurred by the county for medical care and
10 treatment of prisoners held within the county shall be paid from the county
11 general fund when a determination has been made that the prisoner has no
12 other resources. When medical expenses have been paid out of the county
13 general fund of any county in this state for a prisoner held within such
14 county, the county may seek reimbursement of such expenses from the
15 prisoner. If the county determines that a prisoner of the county jail is
16 covered under a current individual or group accident and health insurance
17 policy, medical service plan contract, hospital service corporation contract,
18 hospital and medical service corporation contract, fraternal benefit society
19 or health maintenance organization contract, then the county may require
20 the prisoner of such county jail or the provider rendering health care
21 services to the prisoner to submit a claim for such health care services
22 rendered in accordance with the prisoner's policy or contract.

23 (c) When a prisoner is delivered to a county jail pursuant to K.S.A.
24 75-5217, and amendments thereto, the costs of holding such prisoner shall
25 be paid as provided in K.S.A. 19-1930, and amendments thereto.

26 ~~Sec. 6. {7.}~~ K.S.A. 19-1911 is hereby amended to read as follows: 19-
27 1911. (a) When a prisoner is confined by virtue of any process directed to
28 the sheriff; and ~~which shall require such process is required~~ to be returned
29 to the *issuing court whence it issued*, such sheriff shall keep a copy of ~~the~~
30 ~~same, together with his return made thereon, which such process and~~
31 *return. Such* copy, duly certified by such sheriff, shall be presumptive
32 evidence of ~~his~~ *such sheriff's* right to retain such prisoner in custody.

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

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

40 ~~Sec. 7. {8.}~~ K.S.A. 19-1916 is hereby amended to read as follows: 19-
41 1916. Any committing judge of the district court of any county ~~in which~~
42 *where* there is no sufficient jail may order any person whom they may
43 lawfully order to be committed to prison to be sent to the jail of the ~~county~~

1 ~~nearest having a sufficient jail; and nearest county that has sufficient space~~
 2 ~~and means to care for the inmate as determined by the sheriff or keeper of~~
 3 ~~the jail of such nearest county. The sheriff of such nearest county shall, on~~
 4 ~~exhibit of the order of such judge, which order shall have endorsed thereon~~
 5 ~~that contains a statement that there is no sufficient jail in the such judge's~~
 6 ~~county from whence it issued, receive and keep in custody in the jail of his~~
 7 ~~or her such sheriff's county the prisoner ordered to be committed as~~
 8 ~~afforesaid, at the expense of the county from which such person was sent;~~
 9 ~~and the said sheriff shall, upon the order of the committing judge of the~~
 10 ~~district court, redeliver such person when demanded. The sheriff of the~~
 11 ~~county ordering commitment is responsible for transportation of the~~
 12 ~~prisoner.~~

13 Sec. ~~8.~~ **{9.}** K.S.A. 19-1917 is hereby amended to read as follows: 19-
 14 1917. Any county jail may be used for the safekeeping of any fugitive
 15 from justice from another state or territory, ~~and~~. The ~~jailer~~ *sheriff or the*
 16 *keeper of the jail of such county* shall ~~in such case~~ be entitled to reasonable
 17 compensation for the support and custody of such fugitive from justice, to
 18 be paid by the officer demanding the custody of ~~the same~~ *such fugitive*.

19 Sec. ~~9.~~ **{10.}** K.S.A. 19-1927 is hereby amended to read as follows:
 20 19-1927. Whenever any county or board of county commissioners in this
 21 state owns a tract of real estate formerly the site for its county jail, ~~and the~~
 22 ~~same such real estate~~ is no longer used for that purpose, ~~and a new county~~
 23 ~~jail has been built elsewhere in such county,~~ and such abandoned jail and
 24 its site is no longer in the judgment of the board of county commissioners
 25 of such county needed for county jail purposes, the board of county
 26 commissioners of such county, without a vote of the people or of the
 27 electors of such county, may:

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

32 (b) convey by deed, without consideration, such jail and site to a
 33 historical society incorporated under the laws of Kansas as a charitable or
 34 benevolent corporation for the purposes of a historical society, if the board
 35 finds that such jail and site should be preserved as a historical site or
 36 monument. ~~Provided,~~ Such conveyance shall be upon the condition that
 37 the title shall revert to the county when the property is no longer
 38 maintained and used by such historical society for the purpose for which it
 39 was conveyed; *or*

40 (c) *demolish or repurpose such jail or repurpose such site as the*
 41 *board of county commissioners of such county deems to be in the best*
 42 *interests of the county.*

43 Sec. ~~10.~~ **{11.}** K.S.A. 19-1929 is hereby amended to read as follows:

1 19-1929. (a) Any county in the state, ~~which~~ *that* is without a sufficient jail
 2 by reason of the remodeling of its jail or the construction of a new jail or
 3 for any other reason, may contract with:

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

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

10 (b) Any committing judge of the district court of any such county
 11 may order any person whom they may lawfully order to be committed to
 12 prison; to be committed to such *other county or* city jail, and the ~~officer~~
 13 ~~having charge of such keeper of the jail~~ shall receive and keep in custody
 14 ~~therein~~ any prisoner ordered to be committed as aforesaid, and shall upon
 15 ~~the order of the committing court~~ redeliver such person when demanded.
 16 *The sheriff of the county ordering commitment is responsible for*
 17 *transportation of the prisoner.*

18 Sec. ~~11.~~ {12.} K.S.A. 19-1930 is hereby amended to read as follows:
 19 19-1930. (a) (1) The sheriff or the keeper of the jail in any county of the
 20 state shall receive all prisoners committed to the sheriff's or jailer's custody
 21 by the authority of the United States or by the authority of any city located
 22 in such county and shall keep them safely in the same manner as prisoners
 23 of the county until discharged in accordance with law. The county
 24 maintaining such prisoners shall receive from the United States or such
 25 city compensation for the maintenance of such prisoners in an amount
 26 equal to that provided by the county for maintenance of county prisoners
 27 and provision shall be made for the maintenance of such prisoners in the
 28 same manner as prisoners of the county. The governing body of any city
 29 committing prisoners to the county jail shall provide for the payment of
 30 such compensation upon receipt of a statement from the sheriff of such
 31 county as to the amount due therefor from such city.

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

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

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

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

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

43 (3) ~~*Except as provided in K.S.A. 22-4612 and 22-4613, and*~~

1 ~~amendments thereto, the prisoner shall remain in the custody of the~~
2 ~~arresting agency during the examination required under paragraph (2):~~
3 ~~and the cost of the examination and resulting treatment under paragraph~~
4 ~~(2) is the financial responsibility of the prisoner receiving the examination~~
5 ~~or treatment.~~ Except as provided in K.S.A. 22-4613, and amendments
6 thereto, the prisoner shall remain in the custody of the arresting
7 agency during the examination required under paragraph (2).

8 (4) The cost of the examination and resulting treatment under
9 paragraph (2) is the financial responsibility of the prisoner receiving
10 the examination or treatment in accordance with K.S.A. 19-4444 and
11 22-4612, and amendments thereto.

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

20 (c) In lieu of charging city authorities for the cost of maintenance of
21 prisoners as provided by subsections (a) and (b), the board of county
22 commissioners of Sedgwick county may levy a tax not to exceed one mill
23 upon all tangible taxable property of the county to pay such costs and the
24 costs of maintaining county prisoners. No revenue derived from such levy
25 shall be used to pay the costs of maintenance of prisoners committed to the
26 jail by federal or state authorities, or authorities of other counties or cities
27 in other counties. For the purpose of this subsection, if any portion of a
28 city is located within a county levying a tax hereunder, all prisoners of
29 such city shall be deemed prisoners of such county.

30 (d) The board of county commissioners of a county may provide by
31 resolution that any inmate of the county jail who participates in a work
32 release or job training program for which the inmate receives
33 compensation or a subsistence allowance shall be required to pay to the
34 county an amount not exceeding \$20 per day to defray costs of
35 maintaining such inmate in the county jail. Such resolution shall provide
36 for reduction or waiver of such amount in instances in which payment
37 would create undue hardship for an inmate. The inmate shall pay any
38 amount charged pursuant to such resolution, in cash or by money order, to
39 the county treasurer, who shall deposit the entire amount in the county
40 treasury and credit it to the county general fund. If payment is made in
41 cash, the county treasurer shall provide the inmate with a written receipt
42 for such payment. If the county is otherwise entitled to receive
43 reimbursement or compensation for the maintenance of an inmate who is

1 required to pay an amount pursuant to such resolution, the amount paid by
2 such inmate shall be deducted from the amount of the other reimbursement
3 or compensation to which the county is entitled.

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

11 (2) Such resolution shall provide:

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

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

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

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

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

29 (5) If the county is otherwise entitled to receive reimbursement or
30 compensation for the maintenance of an inmate who is required to pay an
31 amount pursuant to such resolution, and such reimbursement or
32 compensation constitutes the entirety of the costs of maintaining such
33 inmate in the county jail, the amount paid by such inmate shall be
34 deducted from the amount of the other reimbursement or compensation to
35 which the county is entitled.

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

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

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

1 (1) "Arresting agency" does not include a surety, bail agent or
2 bail enforcement agent who arrests a person who was released on an
3 appearance bond pursuant to K.S.A. 22-2809, and amendments
4 thereto.

5 (2) "Serious injury" means any injury with a substantial risk of death
6 or resulting in:

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

10 (B) a reasonable belief a bone fracture may exist;

11 (C) laceration with an appearance it needs sutures;

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

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

16 (F) any similar condition reasonably indicating immediate
17 assessment by a medical care provider is prudent.

18 ~~(2)~~(3) "Serious illness" includes, but is not limited to:

19 (A) Any illness or ailment resulting in loss of consciousness or
20 responsiveness or affecting a person's level of consciousness to a degree
21 immediate intervention is prudent;

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

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

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

25 ~~(3)~~(4) "Seriously impaired by alcohol or drugs or combination
26 thereof" means the loss of consciousness, inability to stand without
27 assistance or inability to move from one location to another without
28 assistance reasonably believed to be induced by the consumption of
29 alcohol, a controlled substance as defined in chapter 65 of the Kansas
30 Statutes Annotated, and amendments thereto, a drug other than a
31 controlled substance or a combination of alcohol, controlled substances or
32 drugs.

33 Sec. ~~12~~: {13.} K.S.A. 19-1901, 19-1903, 19-1904, 19-1905, 19-1906,
34 19-1907, 19-1908, 19-1910, 19-1911, 19-1912, 19-1913, 19-1914, 19-
35 1915, 19-1916, 19-1917, 19-1927, 19-1929 and 19-1930 are hereby
36 repealed.

37 Sec. ~~13~~: {14.} This act shall take effect and be in force from and after
38 its publication in the statute book.