

KANSAS OFFICE *of*  
**REVISOR *of* STATUTES**

LEGISLATURE *of* THE STATE *of* KANSAS  
*Legislative Attorneys transforming ideas into legislation.*

---

300 SW TENTH AVENUE ■ SUITE 24-E ■ TOPEKA, KS 66612 ■ (785) 296-2321

---

**MEMORANDUM**

To: House Committee on Corrections and Juvenile Justice  
From: Office of Revisor of Statutes  
Date: March 8, 2023  
Subject: Bill Brief for SB 228

Senate Bill 228, As Amended by Senate Committee of the Whole, modernizes statutes concerning county jails, removes the requirement that every county shall have a jail, modifies procedures used when district courts commit prisoners to jail in another county and when counties contract with city jails to keep prisoners and requires a medical examination before certain United States prisoners or city prisoners are taken into custody of a county jail.

Section 1 creates a new section of law that was added by the Senate Committee of the Whole. It provides that whenever a person is in the custody of a sheriff and confined in county jail awaiting examination, evaluation or treatment, the county that maintain the jail shall be reimbursed by the secretary for aging and disability services for the costs of such custody at the rate of \$100 per day. The county shall be compensated for each day (1) if the person is awaiting examination or evaluation, from the date the request is made until the person is taken from confinement for such examination or evaluation or the examination or evaluation is completed and (2) if the person is awaiting treatment, from the date of return to confinement from or completion of examination and evaluation until the date the person is taken for treatment or treatment is complete. On and after July 1, 2022, if a county has a claim for reimbursement, the county shall notify and provide documentation to the secretary. The secretary shall certify the amount to the director of accounts and reports who shall transfer such amount from the state general fund to the county competency expense fund, which is created in subsection (e). The secretary shall develop and implement a procedure to provide payments to counties on a quarterly basis. If there is no money available in the county competency expense fund, the county may file a claim against the state.

Section 2 K.S.A. 19-1901, which requires every county to have a jail at the county seat. The bill removes this requirement and provides that every county shall provide jail services, at the expense of the county.

Section 3 amends K.S.A. 19-1903, which requires the sheriff of the county or a deputy to keep the jail. The bill retains this requirement. Current law also requires the sheriff to “keep separate rooms for the sexes, except where they are lawfully married” and to “supply proper bread, meat, drink and fuel for the prisoners.” The bill retains the requirement for separate rooms for the sexes but eliminates the marriage exception, and requires the sheriff to supply proper food, drink and medical care for the prisoners. The Senate Committee on Judiciary amended the bill to change “the sexes” to “each sex, female and male” and also added a subsection to provide that “sex” means the biological state of being female or male based on the individual’s organs, chromosomes and endogenous hormone profiles.

Sections 4 and 5 amend K.S.A. 19-1904 and 19-1905, which require the sheriff to keep a true and exact calendar of all prisoners committed to the county jail and report certain information to the courts. The bill modernizes the language to reflect release or escape from the jail and allows the sheriff to provide the district court in the sheriff’s county with a physical or electronic copy of the calendar or access to an electronic record of the calendar.

Section 6 amends K.S.A. 19-1910, which provides that when a prisoner is committed to a county jail in a criminal action, the board of county commissioners shall allow the sheriff reasonable charges for maintaining such prisoner. The bill changes the word “charges” to “funding” and makes technical corrections in the statute.

Section 7 amends K.S.A. 19-1911, which requires the sheriff to keep any process and return that is related to a prisoner’s custody. The bill modernizes the language and adds the provisions from current law in K.S.A. 19-1912 and 19-1913, with modernized language that allows for paper or electronic records.

Section 8 amends K.S.A. 19-1916, which authorizes any committing judge of the district court of any county in which there is no sufficient jail to order any person whom they may lawfully order to be committed to prison to be sent to the jail of the county nearest having a sufficient jail. The bill changes that authorization to allow commitment to the jail of the nearest county that has sufficient space and means to care for the inmate as determined by the sheriff or keeper of the jail

of such nearest county. The bill also provides that the sheriff of the county ordering commitment is responsible for transportation of the prisoner.

Section 9 amends K.S.A. 19-1917, which provides that any county jail may be used for the safekeeping of any fugitive from justice from another state or territory and that the jailer is entitled to reasonable compensation for the support and custody of such fugitive. The bill does not change this substantive law but does update the word “jailer” to reference the sheriff or the keeper of the jail of such county.

Section 10 amends K.S.A. 19-1927, which provides for disposition of real estate and abandoned jails. Current law is retained to allow the property to be sold at auction or to be conveyed to a historical society for preservation. The bill adds an option to demolish or repurpose such jail or repurpose such site as the board of county commissioners of such county deems to be in the best interests of the county.

Section 11 amends K.S.A. 19-1929, which authorizes a county that is without a sufficient jail to contract with any city in such county for the use of the city jail. The bill changes that authorization to allow a county to contract with any city in the state or any county in the state that has an adequate jail. The bill also provides that the sheriff of the county ordering commitment is responsible for transportation of the prisoner.

Section 12 amends K.S.A. 19-1930, which requires the sheriff or the keeper of the jail in any county of the state to receive all prisoners committed to the sheriff's or jailer's custody by the authority of the United States or by the authority of any city located in such county. The bill provides that the sheriff and the keeper of the jail shall not be required to receive or detain a prisoner who is in the custody of an arresting agency until the prisoner has been examined by a medical care facility or healthcare provider if the prisoner appears to be: (1) Unconscious or having been unconscious at any time during custody or during the events leading to the person's custody; (2) suffering from a serious illness; (3) suffering from a serious injury; or (4) seriously impaired by alcohol or drugs or combination thereof. The bill defines these terms in new subsection (h). The bill also provides that the cost of the examination and resulting treatment is the financial responsibility of the prisoner receiving the examination or treatment. The Senate Committee on Judiciary amended the bill to provide that except as provided K.S.A. 22-4612 (healthcare provider reimbursement for healthcare services rendered) and 22-4613 (prohibition against releasing a

person to avoid medical cost), the prisoner shall remain in the custody of the arresting agency during the examination required in paragraph (2).

Finally, in addition to the amendments discussed above, the bill repeals K.S.A. 19-1906, 19-1907, 19-1908, 19-1912, 19-1913, 19-1914 and 19-1915.