

*{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

Proposed Amendments to SB 228 - custody of the sheriff  
House Committee on Corrections and Juvenile Justice  
Prepared by the Office of Revisor of Statutes  
March 8, 2023

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*  
33 *examination or evaluation is completed at the county jail until the date*  
34 *the person is taken from confinement in the county jail for such*

strike

1 *treatment or treatment is completed at the county jail.*

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

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

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

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

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

35 ~~Sec. 2. {3.} K.S.A. 19-1903 is hereby amended to read as follows: 19-~~  
36 ~~1903. (a) The sheriff of the county by himself, or such sheriff's deputy,~~  
37 ~~shall:~~

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

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

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

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

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

4       ~~Sec. 3. {4.}~~ K.S.A. 19-1904 is hereby amended to read as follows: 19-  
5 1904. The sheriff of each county ~~must~~ shall keep a true and exact calendar  
6 of all prisoners committed to the county jail, ~~which~~. ~~Such~~ calendar ~~must~~  
7 shall contain the names of all persons who are committed, their place of  
8 abode, the time of their commitment, the time of their discharge, the cause  
9 of their commitment, the authority that committed them, and the  
10 description of their persons; ~~and~~. When any person is ~~liberated~~ released  
11 from the county jail, such calendar ~~must~~ shall state the time when and the  
12 authority by which such liberation took place; ~~and authority for such~~  
13 ~~release and the time when such release occurred.~~ If any person ~~escape~~  
14 escapes from the county jail, ~~it~~ must such calendar shall state particularly  
15 the time and manner of such escape.

16       ~~Sec. 4. {5.}~~ K.S.A. 19-1905 is hereby amended to read as follows: 19-  
17 1905. At the opening of each term of the district ~~or criminal~~ court ~~within~~  
18 ~~his~~ in the sheriff's county, the sheriff ~~must return a copy of such calendar,~~  
19 ~~under his hand~~ shall provide a record of the calendar maintained pursuant  
20 to K.S.A. 19-1904, and amendments thereto, to the judge of such court;  
21 and if any sheriff neglect or refuse so to do, he shall be punished by fine  
22 not exceeding five hundred dollars by providing a physical or electronic  
23 copy of such calendar or access to an electronic record of such calendar.  
24 The record provided to the court shall include all information added to  
25 such calendar since the last report was submitted.

26       ~~Sec. 5. {6.}~~ K.S.A. 19-1910 is hereby amended to read as follows: 19-  
27 1910. (a) When a prisoner is committed to a county jail in a criminal  
28 action, the board of county commissioners shall allow the sheriff  
29 reasonable ~~charges~~ funding for maintaining such prisoner.

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

1 ~~healthcare~~ services to the prisoner to submit a claim for such ~~health care~~  
2 ~~healthcare~~ services rendered in accordance with the prisoner's policy or  
3 contract.

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

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

21 ~~Sec. 6. {7.}~~ K.S.A. 19-1911 is hereby amended to read as follows: 19-  
22 1911. (a) When a prisoner is confined by virtue of any process directed to  
23 the sheriff; and ~~which shall require such process is required~~ to be returned  
24 to the ~~issuing court~~ ~~whence it issued~~, such sheriff shall keep a copy of ~~the~~  
25 ~~same, together with his return made thereon, which such process and~~  
26 ~~return.~~ Such copy, duly certified by such sheriff, shall be presumptive  
27 evidence of ~~his~~ ~~such sheriff's~~ right to retain such prisoner in custody.

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

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

35 ~~Sec. 7. {8.}~~ K.S.A. 19-1916 is hereby amended to read as follows: 19-  
36 1916. Any committing judge of the district court of any county ~~in which~~  
37 ~~where~~ there is no sufficient jail may order any person whom they may  
38 lawfully order to be committed to prison to be sent to the jail of the ~~county~~  
39 ~~nearest having a sufficient jail; and nearest county that has sufficient space~~  
40 ~~and means to care for the inmate as determined by the sheriff or keeper of~~  
41 ~~the jail~~ of such nearest county. The sheriff of such nearest county shall, on  
42 exhibit of the order of such judge, ~~which order shall have endorsed thereon~~  
43 ~~that contains~~ a statement that there is no sufficient jail in ~~the such judge's~~

1 county from whence it issued, receive and keep in custody in the jail of his  
 2 or her *such sheriff's* county the prisoner ordered to be committed as  
 3 aforesaid, at the expense of the county from which such person was sent;  
 4 and the said sheriff shall, upon the order of the committing judge of the  
 5 district court, redeliver such person when demanded. *The sheriff of the*  
 6 *county ordering commitment is responsible for transportation of the*  
 7 *prisoner.*

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

14 ~~Sec. 9.~~ **{10.}** K.S.A. 19-1927 is hereby amended to read as follows:  
 15 19-1927. Whenever any county or board of county commissioners in this  
 16 state owns a tract of real estate formerly the site for its county jail, ~~and the~~  
 17 ~~same such real estate~~ is no longer used for that purpose, ~~and a new county~~  
 18 ~~jail has been built elsewhere in such county~~, and such abandoned jail and  
 19 its site is no longer in the judgment of the board of county commissioners  
 20 of such county needed for county jail purposes, the board of county  
 21 commissioners of such county, without a vote of the people or of the  
 22 electors of such county, may:

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

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

35 (c) *demolish or repurpose such jail or repurpose such site as the*  
 36 *board of county commissioners of such county deems to be in the best*  
 37 *interests of the county.*

38 ~~Sec. 10.~~ **{11.}** K.S.A. 19-1929 is hereby amended to read as follows:  
 39 19-1929. (a) Any county in the state, ~~which~~ *that* is without a sufficient jail  
 40 by reason of the remodeling of its jail or the construction of a new jail or  
 41 for any other reason, may contract with:

42 (1) Any city in ~~such county~~ *the state* having an adequate jail for the  
 43 use of ~~the such jail of such city~~ upon such terms as the board of county

1 commissioners and the governing body of such city may agree; or

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

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

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

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

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

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

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

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

38 (3) ***Except as provided in K.S.A. 22-4612 and 22-4613, and***  
39 ***amendments thereto, the prisoner shall remain in the custody of the***  
40 ***arresting agency during the examination required under paragraph (2)***  
41 ***and the cost of the examination and resulting treatment under paragraph***  
42 ***(2) is the financial responsibility of the prisoner receiving the examination***  
43 ***or treatment.***

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

9 (c) In lieu of charging city authorities for the cost of maintenance of  
10 prisoners as provided by subsections (a) and (b), the board of county  
11 commissioners of Sedgwick county may levy a tax not to exceed one mill  
12 upon all tangible taxable property of the county to pay such costs and the  
13 costs of maintaining county prisoners. No revenue derived from such levy  
14 shall be used to pay the costs of maintenance of prisoners committed to the  
15 jail by federal or state authorities, or authorities of other counties or cities  
16 in other counties. For the purpose of this subsection, if any portion of a  
17 city is located within a county levying a tax hereunder, all prisoners of  
18 such city shall be deemed prisoners of such county.

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

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

43 (2) Such resolution shall provide:

- 1 (A) For the priority of restitution, child support, court costs or fines  
2 over such fee;
- 3 (B) for reduction or waiver of such amount in instances in which  
4 payment would create undue hardship for an inmate and for a procedure to  
5 provide for a reduction or waiver; and
- 6 (C) that if the inmate fails to pay such amount charged pursuant to  
7 such resolution, the county keeping such inmate may garnish such inmate's  
8 commissary account to recover such costs, upon notice and hearing given  
9 to such inmate as provided for in any such resolution contemplated herein.
- 10 (3) The inmate shall pay the amount charged pursuant to such  
11 resolution, in cash or by money order, or by release of funds in the  
12 inmate's jail commissary account, to the county treasurer, who shall  
13 deposit the entire amount in the county treasury and credit it to the county  
14 general fund.
- 15 (4) The sheriff shall forward any garnished commissary account  
16 payment to the county treasurer, who shall deposit the entire amount in the  
17 county treasury and credit it to the county general fund.
- 18 (5) If the county is otherwise entitled to receive reimbursement or  
19 compensation for the maintenance of an inmate who is required to pay an  
20 amount pursuant to such resolution, and such reimbursement or  
21 compensation constitutes the entirety of the costs of maintaining such  
22 inmate in the county jail, the amount paid by such inmate shall be  
23 deducted from the amount of the other reimbursement or compensation to  
24 which the county is entitled.
- 25 (f) If any sheriff or ~~jailer~~ *keeper of the jail* neglects or refuses to  
26 perform the services and duties required by the provisions of this act, the  
27 sheriff or ~~jailer~~ *keeper of the jail* shall be subject to the same penalties,  
28 forfeitures and actions as if the prisoners had been committed under the  
29 authority of this state.
- 30 (g) Attorneys of prisoners held in a county jail shall be permitted to  
31 visit them professionally at all reasonable hours.
- 32 (h) *As used in this section:*
- 33 (1) *"Serious injury" means any injury with a substantial risk of death*  
34 *or resulting in:*
- 35 (A) *Loss of orientation, loss of full movement of a limb or complaint*  
36 *of neck or spinal pain with an onset related to the incident leading to or*  
37 *during the person's custody;*
- 38 (B) *a reasonable belief a bone fracture may exist;*
- 39 (C) *laceration with an appearance it needs sutures;*
- 40 (D) *loss or serious impairment of vision with an onset during or*  
41 *subsequent to the events leading to the arrest;*
- 42 (E) *loss or fracture of any teeth with an onset during or subsequent to*  
43 *the events leading to the arrest; or*



1       (F) any similar condition reasonably indicating immediate  
2 assessment by a medical care provider is prudent.  
3       (2) "Serious illness" includes, but is not limited to:  
4       (A) Any illness or ailment resulting in loss of consciousness or  
5 responsiveness or affecting a person's level of consciousness to a degree  
6 immediate intervention is prudent;  
7       (B) a body temperature in excess of 101° F;  
8       (C) acute or chronic blood loss indicative of underlying illness; or  
9       (D) pain to a degree it affects the person's ability to function.  
10      (3) "Seriously impaired by alcohol or drugs or combination thereof"  
11 means the loss of consciousness, inability to stand without assistance or  
12 inability to move from one location to another without assistance  
13 reasonably believed to be induced by the consumption of alcohol, a  
14 controlled substance as defined in chapter 65 of the Kansas Statutes  
15 Annotated, and amendments thereto, a drug other than a controlled  
16 substance or a combination of alcohol, controlled substances or drugs.  
17      ~~Sec. 12. {13.}~~ K.S.A. 19-1901, 19-1903, 19-1904, 19-1905, 19-1906,  
18 19-1907, 19-1908, 19-1910, 19-1911, 19-1912, 19-1913, 19-1914, 19-  
19 1915, 19-1916, 19-1917, 19-1927, 19-1929 and 19-1930 are hereby  
20 repealed.  
21      ~~Sec. 13. {14.}~~ This act shall take effect and be in force from and after  
22 its publication in the statute book.