

**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. The sheriff of the county ~~by himself,~~ or *such sheriff's* deputy, shall:

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

23 (b) ~~He shall keep separate rooms for the sexes, except where they are~~  
24 ~~lawfully married. He shall; and~~

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

27 Sec. 3. K.S.A. 19-1904 is hereby amended to read as follows: 19-  
28 1904. The sheriff of each county ~~must shall~~ keep a true and exact calendar  
29 of all prisoners committed to the county jail, ~~which.~~ *Such* calendar ~~must~~  
30 *shall* contain the names of all persons who are committed, their place of  
31 abode, the time of their commitment, the time of their discharge, the cause  
32 of their commitment, the authority that committed them, and the  
33 description of their persons; ~~and.~~ When any person is ~~liberated~~ *released*  
34 *from the county jail,* such calendar ~~must shall~~ state the time when and the  
35 ~~authority by which such liberation took place, and authority for such~~  
36 *release and the time when such release occurred.* If any person ~~escape~~

1 *escapes from the county jail, it must such calendar shall* state particularly  
2 the time and manner of such escape.

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

13 Sec. 5. K.S.A. 19-1910 is hereby amended to read as follows: 19-  
14 1910. (a) When a prisoner is committed to a county jail in a criminal  
15 action, the board of county commissioners shall allow the sheriff  
16 reasonable ~~charges~~ *funding* for maintaining such prisoner.

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

34 (2) All other costs incurred by the county for medical care and  
35 treatment of prisoners held within the county shall be paid from the county  
36 general fund when a determination has been made that the prisoner has no  
37 other resources. When medical expenses have been paid out of the county  
38 general fund of any county in this state for a prisoner held within such  
39 county, the county may seek reimbursement of such expenses from the  
40 prisoner. If the county determines that a prisoner of the county jail is  
41 covered under a current individual or group accident and health insurance  
42 policy, medical service plan contract, hospital service corporation contract,  
43 hospital and medical service corporation contract, fraternal benefit society

1 or health maintenance organization contract, then the county may require  
2 the prisoner of such county jail or the provider rendering health care  
3 services to the prisoner to submit a claim for such health care services  
4 rendered in accordance with the prisoner's policy or contract.

5 (c) When a prisoner is delivered to a county jail pursuant to K.S.A.  
6 75-5217, and amendments thereto, the costs of holding such prisoner shall  
7 be paid as provided in K.S.A. 19-1930, and amendments thereto.

8 Sec. 6. K.S.A. 19-1911 is hereby amended to read as follows: 19-

9 1911. (a) When a prisoner is confined by virtue of any process directed to  
10 the sheriff; ~~and which shall require such process is required~~ to be returned  
11 to the *issuing court whence it issued*, such sheriff shall keep a copy of ~~the~~  
12 ~~same, together with his return made thereon, which such process and~~  
13 ~~return.~~ *Such* copy, duly certified by such sheriff, shall be presumptive  
14 evidence of ~~his~~ *such sheriff's* right to retain such prisoner in custody.

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

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

22 Sec. 7. K.S.A. 19-1916 is hereby amended to read as follows: 19-  
23 1916. Any committing judge of the district court of any county ~~in which~~  
24 ~~where~~ there is no sufficient jail may order any person whom they may  
25 lawfully order to be committed to prison to be sent to the jail of the ~~county~~  
26 ~~nearest having a sufficient jail; and nearest county that has sufficient space~~  
27 ~~and means to care for the inmate as determined by the sheriff or keeper of~~  
28 ~~the jail~~ of such nearest county. The sheriff of such nearest county shall, on  
29 exhibit of the order of such judge, ~~which order shall have endorsed thereon~~  
30 ~~that contains~~ a statement that there is no sufficient jail ~~in the such judge's~~  
31 ~~county from whence it issued~~, receive and keep in custody in the jail of ~~his~~  
32 ~~or her~~ *such sheriff's* county the prisoner ordered to be committed ~~as~~  
33 ~~aforsaid~~, at the expense of the county from which such person was sent;  
34 ~~and the said sheriff shall, upon the order of the committing judge of the~~  
35 ~~district court, redeliver such person when demanded.~~ *The sheriff of the*  
36 *county ordering commitment is responsible for transportation of the*  
37 *prisoner.*

38 Sec. 8. K.S.A. 19-1917 is hereby amended to read as follows: 19-  
39 1917. Any county jail may be used for the safekeeping of any fugitive  
40 from justice from another state or territory, ~~and.~~ ~~The jailer~~ *sheriff or the*  
41 *keeper of the jail of such county shall in such case* be entitled to reasonable  
42 compensation for the support and custody of such fugitive from justice, to  
43 be paid by the officer demanding the custody of ~~the same~~ *such fugitive.*

1       Sec. 9. K.S.A. 19-1927 is hereby amended to read as follows: 19-  
 2       1927. Whenever any county or board of county commissioners in this state  
 3       owns a tract of real estate formerly the site for its county jail, ~~and the same~~  
 4       *such real estate* is no longer used for that purpose, ~~and a new county jail~~  
 5       ~~has been built elsewhere in such county~~, and such abandoned jail and its  
 6       site is no longer in the judgment of the board of county commissioners of  
 7       such county needed for county jail purposes, the board of county  
 8       commissioners of such county, without a vote of the people or of the  
 9       electors of such county, may:

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

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

22       (c) *demolish or repurpose such jail or repurpose such site as the*  
 23       *board of county commissioners of such county deems to be in the best*  
 24       *interests of the county.*

25       Sec. 10. K.S.A. 19-1929 is hereby amended to read as follows: 19-  
 26       1929. (a) Any county in the state, ~~which that~~ is without a sufficient jail by  
 27       reason of the remodeling of its jail or the construction of a new jail or for  
 28       any other reason, may contract with:

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

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

35       (b) Any committing judge of the district court of any such county  
 36       may order any person whom they may lawfully order to be committed to  
 37       prison; to be committed to such *other county or city jail*, and the ~~officer~~  
 38       ~~having charge of such keeper of the jail~~ shall receive and keep in custody  
 39       ~~therein~~ any prisoner ordered to be committed ~~as aforesaid~~, and ~~shall upon~~  
 40       ~~the order of the committing court redeliver such person when demanded.~~  
 41       *The sheriff of the county ordering commitment is responsible for*  
 42       *transportation of the prisoner.*

43       Sec. 11. K.S.A. 19-1930 is hereby amended to read as follows: 19-

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

14 (2) *The sheriff and the keeper of the jail shall not be required to*  
15 *receive or detain a prisoner in custody under paragraph (1) until the*  
16 *prisoner has been examined by a medical care facility as defined in K.S.A.*  
17 *65-425, and amendments thereto, or a healthcare provider as defined in*  
18 *K.S.A. 40-3401, and amendments thereto, if the prisoner appears to be:*

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

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

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

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

24 (3) *The cost of the examination and resulting treatment under*  
25 *paragraph (2) is the financial responsibility of the prisoner receiving the*  
26 *examination or treatment.*

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

35 (c) In lieu of charging city authorities for the cost of maintenance of  
36 prisoners as provided by subsections (a) and (b), the board of county  
37 commissioners of Sedgwick county may levy a tax not to exceed one mill  
38 upon all tangible taxable property of the county to pay such costs and the  
39 costs of maintaining county prisoners. No revenue derived from such levy  
40 shall be used to pay the costs of maintenance of prisoners committed to the  
41 jail by federal or state authorities, or authorities of other counties or cities  
42 in other counties. For the purpose of this subsection, if any portion of a  
43 city is located within a county levying a tax hereunder, all prisoners of

1 such city shall be deemed prisoners of such county.

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

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

26 (2) Such resolution shall provide:

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

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

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

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

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

1 (5) If the county is otherwise entitled to receive reimbursement or  
2 compensation for the maintenance of an inmate who is required to pay an  
3 amount pursuant to such resolution, and such reimbursement or  
4 compensation constitutes the entirety of the costs of maintaining such  
5 inmate in the county jail, the amount paid by such inmate shall be  
6 deducted from the amount of the other reimbursement or compensation to  
7 which the county is entitled.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

43 Sec. 12. K.S.A. 19-1901, 19-1903, 19-1904, 19-1905, 19-1906, 19-

1 1907, 19-1908, 19-1910, 19-1911, 19-1912, 19-1913, 19-1914, 19-1915,  
2 19-1916, 19-1917, 19-1927, 19-1929 and 19-1930 are hereby repealed.  
3 Sec. 13. This act shall take effect and be in force from and after its  
4 publication in the statute book.