

STATE OF KANSAS



CAPITOL BUILDING, ROOM 241 SOUTH
TOPEKA, KS 66612

PHONE: (785) 296-3232
GOVERNOR.KANSAS.GOV

GOVERNOR LAURA KELLY

MESSAGE FROM THE GOVERNOR

REGARDING VETO OF SENATE BILL 26, SENATE BILL 180, SENATE BILL 228,
AND S. SUB FOR HOUSE BILL 2138

Companies have made it clear that they are not interested in doing business with states that discriminate against workers and their families. By stripping away rights from Kansans and opening the state up to expensive and unnecessary lawsuits, these bills would hurt our ability to continue breaking economic records and landing new business deals.

I'm focused on the economy. Anyone care to join me?

Therefore, under Article 2, Section 14(a) of the Constitution, I hereby veto Senate Bill 26, Senate Bill 180, Senate Bill 228, and S. Sub. For House Bill 2138.

THE GOVERNOR'S OFFICE

BY THE GOVERNOR

A handwritten signature in blue ink, appearing to read "Laura Kelly", written over a horizontal line.

DATED

A handwritten date in blue ink, "April 20, 2023", written over a horizontal line.

SENATE BILL No. 228

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

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

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

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

(2) if such person is awaiting treatment, from the date of return to confinement in the county jail from examination or evaluation or the examination or evaluation is completed at the county jail until the date the person is taken from confinement in the county jail for such treatment or treatment is completed at the county jail.

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

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

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

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

(f) For the purposes of this section, "county jail" means a jail

operated by a county or a consolidated law enforcement agency.

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

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

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

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

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

(b) *As used in this section, "sex" means an individual's biological sex, either male or female, at birth. A "female" is an individual whose biological reproductive system is developed to produce ova, and a "male" is an individual whose biological reproductive system is developed to fertilize the ova of a female.*

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

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

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

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

service plan contract, hospital service corporation contract, hospital and medical service corporation contract, fraternal benefit society or health maintenance organization contract, then the state may require the prisoner or the provider rendering ~~health care~~ *healthcare* services to the prisoner to submit a claim for such ~~health care~~ *healthcare* services rendered in accordance with the prisoner's policy or contract.

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

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

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

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

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

Sec. 8. K.S.A. 19-1916 is hereby amended to read as follows: 19-1916. Any committing judge of the district court of any county ~~in which~~ where there is no sufficient jail may 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; and 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 sheriff of such nearest county shall, on exhibit of the order of such judge, ~~which order shall have endorsed thereon that contains~~ a statement that there is no sufficient jail in ~~the such judge's county from whence it issued,~~ receive and keep in custody in the jail of ~~his or her such sheriff's~~ county the prisoner ordered to be committed ~~as aforesaid,~~ at the expense of the county from which such person was sent; ~~and the said sheriff shall, upon the order of the committing judge of the district court, redeliver such person when demanded. The sheriff of the county ordering commitment is responsible for transportation of the prisoner.~~

Sec. 9. K.S.A. 19-1917 is hereby amended to read as follows: 19-1917. Any county jail may be used for the safekeeping of any fugitive from justice from another state or territory, ~~and. The jailer sheriff or the~~

keeper of the jail of such county shall in such case be entitled to reasonable compensation for the support and custody of such fugitive from justice, to be paid by the officer demanding the custody of the same such fugitive.

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

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

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

(c) *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.*

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

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

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

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

Sec. 12. K.S.A. 19-1930 is hereby amended to read as follows: 19-1930. (a) (1) The sheriff or the keeper of the jail in any county of the state shall 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 and shall keep them safely in the same manner as prisoners of the county until discharged in accordance with law. The county maintaining such prisoners shall receive from the United States or such city compensation for the maintenance of such prisoners in an amount equal to that provided by the county for maintenance of county prisoners and provision shall be made for the maintenance of such prisoners in the same manner as prisoners of the county. The governing body of any city committing prisoners to the

county jail shall provide for the payment of such compensation upon receipt of a statement from the sheriff of such county as to the amount due therefor from such city.

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

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

(B) suffering from a serious illness;

(C) suffering from a serious injury; or

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

(3) Except as provided in K.S.A. 22-4613, and amendments thereto, the prisoner shall remain in the custody of the arresting agency during the examination required under paragraph (2).

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

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

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

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

county is entitled.

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

(2) Such resolution shall provide:

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

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

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

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

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

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

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

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

(h) *As used in this section:*

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

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

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

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

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

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

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

(F) *any similar condition reasonably indicating immediate*

assessment by a medical care provider is prudent.

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

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

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

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

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

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

Sec. 13. K.S.A. 19-1901, 19-1903, 19-1904, 19-1905, 19-1906, 19-1907, 19-1908, 19-1910, 19-1911, 19-1912, 19-1913, 19-1914, 19-1915, 19-1916, 19-1917, 19-1927, 19-1929 and 19-1930 are hereby repealed.

Sec. 14. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the SENATE, and passed that body

SENATE adopted

Conference Committee Report _____

President of the Senate.

Secretary of the Senate.

Passed the HOUSE

as amended _____

HOUSE adopted

Conference Committee Report _____

Speaker of the House.

Chief Clerk of the House.

APPROVED _____

Governor.