

SENATE BILL No. 448

By Committee on Judiciary

2-5

1 AN ACT concerning competency to stand trial; establishing procedures in
2 the Kansas code of procedure for municipal courts related to
3 determination of an accused person's competency to stand trial;
4 authorizing a municipal judge to order an examination; requiring
5 dismissal of criminal charges if the examination shows that an accused
6 person is incompetent to stand trial; requiring the secretary for aging
7 and disability services to reimburse counties for the costs of keeping
8 such persons in the custody of a county jail awaiting examination,
9 evaluation or treatment; amending K.S.A. 19-1936 and repealing the
10 existing section.

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

13 New Section 1. (a) (1) At any time after the defendant has been served
14 with the complaint and before the pronouncement of sentence, if the
15 municipal judge before whom the complaint is pending finds that there is
16 reason to believe that the accused person is incompetent to stand trial, the
17 municipal judge may order an examination to determine the defendant's
18 competency.

19 (2) To facilitate the examination, the court may:

20 (A) Order that an evaluation be completed by an appropriate state,
21 county or private institution or facility;

22 (B) appoint a licensed physician who is qualified through training or
23 experience or a licensed psychologist to examine the defendant and report
24 to the court; or

25 (C) order an evaluation or appoint an examiner from a list of
26 competency evaluators and examiners in use by the district court where the
27 municipal court is located.

28 (3) The costs for an examination or evaluation ordered pursuant to
29 this section shall be paid from municipal court funds or the general fund of
30 the municipality.

31 (b) If the examination or evaluation shows that the accused person is
32 incompetent to stand trial, the city attorney shall request that the district
33 attorney or county attorney review the case for the filing of a complaint in
34 the district court. If the case is accepted and filed in the district court, the
35 municipal court shall dismiss the criminal charges filed against the
36 defendant and the district court shall proceed in accordance with K.S.A.

1 22-3302, and amendments thereto. If the case is not accepted by the
2 district attorney or county attorney for filing in the district court, the
3 municipal court shall dismiss the criminal charges filed against the
4 defendant.

5 (c) As used in this section, a person is "incompetent to stand trial"
6 when such person is charged with a crime and, because of mental illness or
7 defect, unable to:

8 (1) Understand the nature and purpose of the proceedings against
9 such person; or

10 (2) make or assist in making such person's defense.

11 (d) This section shall be a part of and supplemental to the Kansas
12 code of procedure for municipal courts.

13 Sec. 2. K.S.A. 19-1936 is hereby amended to read as follows: 19-
14 1936. (a) Whenever a person is in the custody of a county jail awaiting
15 examination, evaluation or treatment pursuant to K.S.A. 22 - 3219, 22 -
16 3302, 22 - 3303, 22 - 3428, 22 - 3429 or 22 - 3430, and amendments
17 thereto, *or section 1, and amendments thereto*, the county that maintains
18 such county jail shall be reimbursed by the secretary for aging and
19 disability services for the costs related to such custody at the rate of \$100
20 per day. The county shall be compensated at such rate for each day that a
21 person is in custody and confined as described in this subsection:

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

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

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

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

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

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

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

18 Sec. 3. K.S.A. 19-1936 is hereby repealed.

19 Sec. 4. This act shall take effect and be in force from and after its
20 publication in the statute book.