

Updates to County Jail Statutes; Reimbursement of Costs for Prisoners Awaiting Competency Determinations; SB 228

SB 228 updates language in Article 19 of Chapter 19 of the *Kansas Statutes Annotated* concerning county jails. In addition to changes made to modernize language throughout the Article, the bill amends provisions relating to jails and prisoners. The bill also creates law concerning reimbursement of costs when a person is confined in a county jail awaiting examination, evaluation, or treatment for competency to stand trial under the Kansas Code of Criminal Procedure.

Reimbursement of Costs Related to Determining Competency

The bill requires, whenever a person is in the custody of a county jail awaiting examination, evaluation, or treatment pursuant to the Kansas Code of Criminal Code of Procedure, the Secretary for Aging and Disability Services (Secretary) to reimburse such county for costs related to the custody at the rate of \$100 per day.

The bill defines “county jail” to mean a jail operated by a county or a consolidated law enforcement agency.

Calculation of Compensation

The bill specifies the time period that applies for the purpose of calculating the required compensation to a county as follows:

- If a 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 until the evaluation is completed at the county jail; and
- If a person is awaiting treatment, from the date of return for confinement in the county jail from examination or evaluation or the same is completed at the county jail until the date the person is taken from confinement in the county jail or until treatment is completed at the county jail.

Procedure for Reimbursement

The bill specifies that, on and after July 1, 2022, if a county has a claim for reimbursement of costs pursuant to the bill, the county is required to notify and provide documentation of such costs to the Secretary on a quarterly basis.

The bill requires the amount of moneys attributable to the costs to be certified by the Secretary. Upon certification, moneys are transferred from the State General Fund to the County Competency Expense Fund, which is created by the bill.

The bill also requires the Secretary to develop and implement a procedure to provide reimbursement payments to counties on a quarterly basis.

County Competency Expense Fund

The bill establishes in the State Treasury a County Competency Expense Fund, to be administered by the Secretary for the purpose of reimbursing counties for costs as provided by the bill. The bill specifies if no moneys are available in the Fund, a county may file a claim against the State to seek reimbursement.

Jails in Every County

The bill amends a provision requiring every county to have a jail at the county seat and instead requires every county to provide jail services at the expense of the county.

Keeping and Managing Prisoners

The bill amends a provision governing the manner in which the sheriff keeps the jail and manages prisoners to clarify each sex, female and male, is always to be kept in separate rooms, and defines the term “sex” for the purpose of the section to mean an individual’s biological sex, either male or female, at birth. The bill further defines a “female” as an individual whose biological reproductive system is developed to produce ova, and a “male” as an individual whose biological reproductive system is developed to fertilize the ova of a female.

The bill also clarifies the sheriff is required to supply food, drink, and medical care for prisoners.

Calendar of Prisoners

The bill amends provisions governing the requirement of a county sheriff to keep a true and exact calendar of all prisoners committed to the county by modernizing the language to reflect release or escape from the jail. The bill also adds a requirement that the sheriff provide a physical or electronic copy of the calendar or otherwise allow the court to access an electronic record of the calendar.

Prisoner Sent to Jail in Nearest County

The bill amends a provision which authorizes a district court judge in a county where there is not a sufficient jail in which to house a prisoner to clarify such authorization is to commit such prisoner to a jail of the nearest county that has sufficient space and the means to care for the inmate as determined by the sheriff or keeper of that jail. The bill also provides that the sheriff of the county that has ordered the commitment is responsible for transportation of the prisoner.

Demolition or Repurposing of County Jails

In a provision governing what a board of county commissioners may do with a jail in its county that is no longer needed for jail purposes, the bill authorizes the board to demolish or repurpose the jail or site as the board deems to be in the best interests of the county.

Commitment of Prisoners in City Jails

The bill amends a provision authorizing a county without a sufficient jail to contract with any city in the county for the use of the jail to house county prisoners to allow a county to contract with any city or county in the state that has an adequate jail. The bill also requires the sheriff of the county that has ordered commitment to be responsible for transportation of the prisoner.

Medical Clearance of Persons Before Detention

The bill amends a provision governing requirements related to a sheriff or keeper of a jail receipt of prisoners by proper authority with respect to requirements relating to medical care.

The bill states that the sheriff or keeper of the jail is not 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 health care provider if the prisoner appears to be:

- Unconscious or having been unconscious at any time during custody or during the events leading to the person's custody;
- Suffering from a serious illness, as defined by the bill;
- Suffering from a serious injury, as defined by the bill; or
- Seriously impaired by alcohol or drugs or combination thereof.

The bill clarifies the definition of "arresting agency" does not include a surety, bail agent, or bail enforcement agent who arrests a person who was released on an appearance bond.

The bill clarifies the prisoner receiving an examination remains in the custody of the arresting agency during such examination.

The bill provides the cost of the examination and resulting treatment is the financial responsibility of the prisoner receiving the examination or treatment in accordance with continuing law governing the payment of, and reimbursement for, medical costs of prisoners.