



Kansas Sheriffs' Association

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Testimony to Senate Judiciary Committee Proponent Testimony on SB 228 February 16, 2023

Chairwoman Warren and Committee Members,

The KSA is providing proponent testimony on SB 228.

Most of the statutes in Chapter 19, Article 19 were last amended in 1923 and some of the law is antiquated and out of date. Some of the requirements are impractical, inefficient, and in some cases not consistent with case law.

In Sec. 2. K.S.A. 19-1903 (b) currently requires the sheriff to allow lawfully married people to be kept in the same room. The proposed language requires inmates to be separated by sex. This follows current jail standards. In sub-section (c), we are proposing a change to statute that reads: "supply proper food, drink and medical care for the prisoners." The proposed language would strike "bread, meat and fuel."

In Sec. 3 and 4. K.S.A. 19-1904 and 19-1905 are provisions about the jail "calendar." A calendar is the roster of prisoners. The amendments propose that sheriffs are allowed to provide an electronic copy of such calendar or access to an electronic record of such calendar. In current practices, almost all records are now electronic, and these statutes are procedurally very outdated. Also in this current law, the sheriff shall be punished by a fine not exceeding five-hundred dollars for failing to deliver a copy of the Calendar. Due to the records all being electronic and accessible, we believe the punishment and fine should be stricken.

In Sec. 5. K.S.A. 19-1910 are technical wording changes and do not substantively change the law.

In Sec. 6. K.S.A. 19-1911, Kansas Sheriffs' Association is proposing combining K.S.A. 19-1911, 19-1912 and 19-1913. These all deal with the document process for prisoner commitment to the jail. Subsection (b) contains the modernized version of K.S.A. 19-1912 and subsection (c) contains the modernized version of K.S.A. 19-1913. The proposed language change provides for current practice to include electronic form and where documents will be delivered.

In Sec. 7. K.S.A. 19-1916 we are asking for the change in language from "county nearest having a sufficient jail" to "nearest county that has sufficient space and means to care for the inmate as determined by the sheriff or keeper of the jail." This is a practical matter that avoids the court in another county mandating a prisoner be sent to a different county where the jail is full or does not have the ability to provide the care required for a prisoner.

In Sec. 8. K.S.A. 19-1917 is amended to modernize the language and to accommodate for the two county jails that are not operated by a sheriff. There is no substantive change to the requirements.

In Sec. 9. K.S.A. 19-1927 speaks to the county's options when a jail is decommissioned. Current law only allows the property to be sold or preserved by the historical society. It provides no other option if the site is no longer going to be a jail. The amendment adds an option to allow demolishing such jail or repurposing the jail structure or site as the board of county commissioners deems to be the best interests of the county.

In Sec. 10. K.S.A. 19-1929 is amended to add the option of using other county jails when needed to the current law only allowing the use of a city jail. There currently is no city in the state operating a jail. However, we leave that language in the statute in the event a city later decides to operate their own jail.

In Sec. 11. This section is the most important amendment in the bill. The amendments to K.S.A. 19-1930 makes a change to cover a gap in current law. Currently this law requires a sheriff to accept all prisoners including those arrested by other agencies without any clarity on medical clearance. The Kansas Sheriff's Association has worked with our partners, the Kansas Association of Chiefs of Police, to develop new language directing the requirement for medical clearance and treatment prior to the prisoner being transferred into jail custody. This requirement establishes guidelines for when that is required.

The proposed language in subsection (2) directs medical clearance is required 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, drugs, or combination thereof.

Working together with our partner association this language was drafted and agreed upon. On page 7, lines 15-42, new subsection (h) are the definitions of "Serious Injury", "Serious Illness" and Seriously Impaired by Alcohol or Drugs or Combination Thereof." The definitions will assist sheriffs and law enforcement agencies in deciding when a prisoner should be transported for medical attention prior to arriving at the jail.

In subsection (a)(3) on page 5, lines 24-26, we clarify that the prisoner, either personally or through the prisoner's insurance, is responsible for the cost of the required medical clearance and treatment prior to admission to the jail. Our intent is for the prisoner to be responsible for medical treatment costs for medical conditions or injuries they already have when arrested. This is consistent with existing law in K.S.A. 22-4612 and existing case law.

In conversations with the Kansas Hospital Association, we have agreed to clarify the language of subsection (3). We are asking to amend this subsection to the following:

Recommended amendment to Section 11 Subsection (a)(3): "The cost of the examination and resulting treatment under paragraph (2) is the financial responsibility of the prisoner receiving the examination or treatment. *If, subsequent to being billed, the prisoner or the prisoner's health insurance does not pay the cost of the treatment under paragraph (2), the cost may be billed by the medical provider as provided in K.S.A. 22-4612. Any payment as provided under K.S.A. 22-4612, will be reduced by any amount paid to the treatment provider by the prisoner or the prisoner's insurance.*"

This amendment will clarify that hospitals will not be required to bear these costs if the prisoners cannot pay or do not have insurance coverage by transferring the billing to the arresting law enforcement agency. This is consistent with current case law and practices under K.S.A. 22-4612.

The Association of Chiefs and Police and the Kansas Sheriffs Association have agreed to work together to develop and provide training for the jail staff and law enforcement about these changes.

The bill also repeals several statutes that cover things such as language from the alcohol prohibition period, provisions requiring a single religion mandate that is not constitutional, and several statutes combined with other statutes in the bill.

The Kansas Sheriff's Association believes the proposed language updates the statute to current practices, current case law, and the need for immediate medical treatment for the prisoner at time they are first contacted by law enforcement.

On behalf of the Kansas Sheriffs' Association thank you for taking the time to allow us to present our testimony and for your consideration.

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