

SESSION OF 2023

SUPPLEMENTAL NOTE ON SENATE BILL NO. 228

As Amended by Senate Committee on Judiciary

Brief*

SB 228, as amended, would update 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 would amend provisions relating to jails and prisoners.

Jails in Every County

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

Keeping and Managing Prisoners

The bill would amend a provision governing the manner in which the sheriff would keep the jail and manage prisoners to clarify males and females should always be kept in separate rooms, even if lawfully married, and would define the term “sex” for the purpose of the section to mean the biological state of being female or male based on the individual’s sex organs, chromosomes, and endogenous hormone profiles.

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

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

Calendar of Prisoners

The bill would amend 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 would amend 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 would be 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 would authorize 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 would amend a provision authorizing a county without a sufficient jail to contract with any city in the county for the use of housing county prisoners to allow a county to contract with any city or county in the state that has an adequate jail. The bill would also require the sheriff of the

county that has ordered commitment is responsible for transportation of the prisoner.

Medical Clearance of Persons Before Detention

The bill would amend 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 would state that the sheriff or keeper of the jail would not be 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 healthcare 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 would also provide that the cost of the examination and resulting treatment would be the financial responsibility of the prisoner receiving the examination or treatment and would clarify the prisoner receiving an examination would remain in the custody of the arresting agency during such examination.

Background

The bill was introduced by the Senate Committee on Judiciary at the request of a representative of the Kansas Association of Chiefs of Police, Kansas Peace Officers Association, and Kansas Sheriffs Association.

Senate Committee on Judiciary

In the Senate Committee hearing on February 16, 2023, representatives of the Kansas Association of Chiefs of Police and Kansas Peace Officers Association testified as **proponents** of the bill, generally stating the bill's modernizing language and clarification of procedure would provide clearer guidance for sheriffs and jailers and improve outcomes for prisoners and staff. No other testimony was provided.

The Senate Committee adopted amendments to define "sex" in the section governing the sheriff's keeping of prisoners and to further clarify the procedure to be followed when a prisoner to be detained needs a medical examination prior to detention.

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Office of Judicial Administration indicates enactment of the bill would have a negligible fiscal effect on Judicial Branch operations.

The Department of Corrections states the bill would not have a fiscal effect on agency operations. Any fiscal effect associated with the bill is not reflected in *The FY 2024 Governor's Budget Report*.

The Kansas Association of Counties states that enactment of the bill could increase expenditures for counties

to provide transportation and jail services. However, a precise fiscal effect cannot be estimated.

The League of Kansas Municipalities indicates enactment of the bill would not have a fiscal effect on cities.

County jails; medical care of prisoners