

Primary Jail Statutes K.S.A. Chapter 19 Article 19 Jails And Related Statutes

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Updates Located at https://kansasleo.com/uploads/jail_statutes.pdf

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- limitations inapplicable. [Omitted]
- 19-1932 Same; authority of board not limited; means of site acquisition. [Omitted]
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19-811. Charge and custody of jail; liability for acts.

The sheriff shall have the charge and custody of the jail of his county, and all the prisoners in the same, and shall keep such jail himself, or by his deputy or jailer, for whose acts he and his sureties shall be liable.

History: G.S. 1868, ch. 25, § 105; Oct. 31; R.S. 1923, 19-811.

19-1901. Jail at county seat.

Every county shall provide jail services at the expense of the county for the safekeeping of prisoners lawfully committed.

History: G.S. 1868, ch. 53, § 1; Oct. 31; R.S. 1923, 19-1901; L 2023 SB228, § 1, July 1.

19-1903. Sheriff to keep jail; separation of sexes; meals and fuel for prisoners.

- (a) The sheriff of the county or such sheriff's deputy shall:
- (1) Keep the jail and be responsible for the manner in which the jail is kept;
 - (2) keep separate rooms for each sex, female and male; and
 - (3) supply proper food, drink and 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. [See Note Below.]

History: G.S. 1868, ch. 53, § 3; Oct. 31; R.S. 1923, 19-1903; L 2023 SB228, § 2, July 1.

NOTE: On July 1, 2023, KSA 77-207 also became law. It changes the definition of "sex" applicable to KSA 19-1903 as amended in 2023. We believe that definition will apply rather than the one in subsection (b) of the statute above. You can see [KSA 77-207 at this link](#).

19-1904. Calendar.

The sheriff of each county shall keep a true and exact calendar of all prisoners committed to the county jail. Such calendar 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. When any person is released from the county jail, such calendar shall state the authority for such release and the time when such release occurred. If any person escapes from the county jail, such calendar shall state particularly the time and manner of such escape.

History: G.S. 1868, ch. 53, § 4; Oct. 31; R.S. 1923, 19-1904; L 2023 SB228, § 3, July 1.

19-1905. Copies of calendar for judges.

At the opening of each term of the district court in the sheriff's county, the sheriff shall provide a record of the calendar maintained pursuant to K.S.A. 19-1904, and amendments thereto, to the judge of such court 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.

History: G.S. 1868, ch. 53, § 5; Oct. 31; R.S. 1923, 19-1905; L 2023 SB228, § 5, July 1.

19-1906. Bibles for prisoners; ministers to have access to jail.

History: G.S. 1868, ch. 53, § 6; Oct. 31; R.S. 1923, 19-1906; Repealed L 2023 SB228, § 13, July 1.

19-1907. Intoxicating liquors; penalty.

History: G.S. 1868, ch. 53, § 7; Oct. 31; R.S. 1923, 19-1907; Repealed L 2023 SB228, § 13, July 1.

19-1908. Same; penalty for others furnishing liquor.

History: G.S. 1868, ch. 53, § 8; Oct. 31; R.S. 1923, 19-1908; Repealed L 2023 SB228, § 13, July 1.

19-1909. Cost of keeping civil prisoner.

The cost of keeping a defendant imprisoned by civil process shall be taxed as costs in the action in an amount equal to that provided by the county for maintenance of other county prisoners, and provision shall be made for the maintenance of such prisoners in the same manner as other prisoners of the county.

History: G.S. 1868, ch. 53, § 9; R.S. 1923, 19-1909; L. 1963, ch. 173, § 1; L. 2019, ch. 10, § 1; July 1.

19-1910. Cost of keeping prisoner under criminal process; costs paid by the state; reimbursement from prisoner.

- (a) When a prisoner is committed to a county jail in a criminal action, the board of county commissioners shall allow the sheriff reasonable 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 healthcare services to the prisoner to submit a claim for such 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.

History: G.S. 1868, ch. 53, § 10; R.S. 1923, 19-1910; L. 1981, ch. 350, § 1; L. 2002, ch. 117, § 2; L. 2005, ch. 150, § 4; L 2023 SB228, § 6, July 1.

19-1911. Process.

- (a) When a prisoner is confined by virtue of any process directed to the sheriff, and such process is required to be returned to the issuing court, such sheriff shall keep a copy of such process and return. Such copy, duly certified by such sheriff, shall be presumptive evidence of 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.

History: G.S. 1868, ch. 53, § 11; Oct. 31; R.S. 1923, 19-1911; L 2023 SB228, § 7, July 1.

19-1912. Preservation of same.

History: G.S. 1868, ch. 53, § 12; Oct. 31; R.S. 1923, 19-1912; Repealed L 2023 SB228, § 13, July 1.

19-1913. Delivery thereof to successor of officers.

History: G.S. 1868, ch. 53, § 13; Oct. 31; R.S. 1923, 19-1913; Repealed L 2023 SB228, § 13, July 1.

19-1914. Escape of prisoner confined on civil process; liability of sheriff.

History: G.S. 1868, ch. 53, § 14; Oct. 31; R.S. 1923, 19-1914; Repealed L 2023 SB228, § 13, July 1.

19-1915. Judgment for escape satisfied by recommitment; costs.

History: G.S. 1868, ch. 53, § 15; Oct. 31; R.S. 1923, 19-1915; Repealed L 2023 SB228, § 13, July 1.

19-1916. Prisoner sent to jail of nearest county.

Any committing judge of the district court of any county 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 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 that contains a statement that there is no sufficient jail in such judge's county, receive and keep in custody in the jail of such sheriff's county the prisoner ordered to be committed, at the expense of the county from which such person was sent. The sheriff of the county ordering commitment is responsible for transportation of the prisoner.

History: G.S. 1868, ch. 53, § 16; L. 1876, ch. 85, § 1; R.S. 1923, 19-1916; L. 1976, ch. 145, § 76; L 2023 SB228, § 8, July 1.

19-1917. Fugitives from other states; compensation for custody.

Any county jail may be used for the safekeeping of any fugitive from justice from another state or territory. The sheriff or the keeper of the jail of such county shall 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 such fugitive.

History: G.S. 1868, ch. 53, § 17; Oct. 31; R.S. 1923, 19-1917; L 2023 SB228, § 9, July 1.

19-1919. Treatment of prisoners; juvenile prisoners; visits of parents and friends.

All prisoners shall be treated with humanity, and in a manner which promotes their reform. Juveniles shall be kept in quarters separate from adult criminals. The visits of parents and friends shall at all reasonable times be permitted.

History: G.S. 1868, ch. 53, § 19; R.S. 1923, 19-1919; L. 1982, ch. 182, § 122; Jan. 1, 1983.

19-1923. Jails in certain areas other than county seat; cooperation by city.

The county commissioners of any county shall have the power to appropriate any sum out of the county treasury not otherwise appropriated, for the purpose of erecting or building in such area other than the county seat of such county, a jail or holdover, for the use of such county and area cities in which such jail shall be erected. Nothing in this act shall be construed as preventing the area cities from joining and cooperating with such county in the erection thereof, nor to exclude the authorities of any area city in such county which any jail that shall be so built from

the use of such jail for the use of the cities.

History: L. 1911, ch. 76, § 1; R.S. 1923, 19-1923; L. 1995, ch. 246, § 3; May 18.

19-1924. Sale of old jail or jailer's residence; procedure; construction of new.

Whenever any county jail or jailer's residence, or both, has been condemned as unfit for county jail purposes, or whenever any county has built a new jail or jailer's residence, and has not disposed of the old one, the board of county commissioners of said county be and they are hereby authorized to sell and dispose of said old jail or jailer's residence or both and the real estate thereto belonging at not less than three-fourths of its appraised value, without an election being held for such purpose, such value to be ascertained and determined as hereinafter provided upon such terms and conditions as said board of county commissioners shall deem proper and just, upon first giving thirty days' notice in the official paper of said county of the time, place, manner and terms and conditions of said sale; and the said board of county commissioners are hereby authorized and empowered to use the funds derived from such sale in the construction, furnishing and equipping of such new jail or jailer's residence or both, whether built as separate buildings or in conjunction with or as a part of a county courthouse.

History: L. 1909, ch. 104, § 1; R.S. 1923, 19-1924; L. 1927, ch. 158, § 1; L. 1947, ch. 198, § 1; Feb. 27.

19-1925. Same; appraisement.

Before said sale, and to determine the value of said property, the district judge of the district court of said county, upon application in writing of the board of county commissioners, shall appoint three appraisers who, before entering upon the discharge of their duties and within five days after notice of their appointment, shall take an oath in substance as follows: That they will support the constitution of the state of Kansas and faithfully discharge their duties as appraisers of the old jail or jailer's residence of _____ county, Kansas; that immediately upon taking said oath said appraisers shall view said property and appraise the same and file their report with the clerk of the district court; and on the filing of said report the clerk of said court shall give thirty (30) days' notice in the official paper of said county, which notice shall state the day and hour when said report of said commissioners shall come on for hearing before said court for confirmation; that if twenty-five (25) or more resident taxpayers shall, within twenty (20) days after the return of the appraisement hereinbefore provided for, have filed their objections thereto in writing attacking the correctness of said appraisement, stating wherein the same is incorrect, duly verified by one or more of such taxpayers, it shall be the duty of the court to pass upon such objections, and for that purpose the court may hear testimony for or against said confirmation, and upon a full hearing shall approve said appraisement if the same is fair and just; and if in the judgment of the said court said appraisement is unfair, then said court shall make a finding as to

the actual value of said property, which finding shall be conclusive. Said hearing may be held at chambers.

History: L. 1909, ch. 104, § 2; R.S. 1923, 19-1925; L. 1976, ch. 145, § 77; Jan. 10, 1977.

19-1927. Abandoned jail and site; sale; conveyance to historical society, when; conditions.

Whenever any county or board of county commissioners in this state owns a tract of real estate formerly the site for its county jail, such real estate is no longer used for that purpose 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 the best interests of the county;
- (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. 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.

History: L. 1937, ch. 199, § 1; L. 1957, ch. 174, § 1; L 2023 SB228, § 10, July 1.

19-1928. Same; deed.

Upon arranging for such disposition of such real estate, the board of county commissioners of such county shall convey such real estate by proper deed of conveyance, and such deed shall transfer and convey to the grantee therein all the interests of the said county and the board of county commissioners in such real estate so formerly used as a county jail.

History: L. 1937, ch. 199, § 2; March 24.

19-1928a. Same; use of funds derived from sale.

Whenever in any county having a population of more than one hundred twenty-five thousand the board of county commissioners shall sell any jail site under the provisions of K.S.A. 19-1927, said county and the board of county commissioners thereof are hereby authorized and empowered to use not to exceed thirty-five thousand dollars of the proceeds or funds derived from such sale for the purchasing of, or the purchase of a site and construction of, a garage, implement house and material yard for such county. Any funds or proceeds remaining after

such expenditure shall be applied and credited to the bonded debt fund of such county.

History: L. 1945, ch. 176, § 1; March 14.

19-1929. Commitment of prisoners in city jails in counties not having a sufficient jail.

- (a) Any county in the state 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 the state having an adequate jail for the use of such jail 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 keeper of the jail shall receive and keep in custody any prisoner ordered to be committed. The sheriff of the county ordering commitment is responsible for transportation of the prisoner.

History: L. 1941, ch. 205, § 1; L. 1976, ch. 145, § 78; L 2023 SB228, § 11, July 1.

19-1930. County jails; U.S. prisoners, city prisoners and inmates on parole or conditional release; compensation for maintenance; payments by inmates to defray maintenance cost; Sedgwick county, tax levy; failure of sheriff or jailer to perform duties; attorney visitation.

- (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 keeper of the jail neglects or refuses to perform the services and duties required by the provisions of this act, the sheriff or 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.

History: L. 1963, ch. 174, § 1; L. 1981, ch. 350, § 2; L. 1984, ch. 101, § 1; L. 1988, ch. 104, § 1; L. 1990, ch. 66, § 25; L. 2003, ch. 69, § 1; L. 2004, ch. 33, § 1; L. 2023 SB228, § 12, July 1.

19-1935. Death of prisoner in custody of city or county; investigation by Kansas bureau of investigation.

On and after July 1, 2004, whenever the death of a prisoner in the custody of a city or county and residing in jail or in a facility contracted through the city or county, or both, occurs, an investigation regarding the circumstances of the death shall be initiated by the Kansas bureau of investigation. A report of the findings of the investigation shall be made available to the chairperson of the senate judiciary

committee and the house corrections and juvenile justice committee of the Kansas legislature and shall be subject to the open records act, K.S.A. 45-215, and amendments thereto. No such investigation by the Kansas bureau of investigation shall be required if the cause of death is determined to be natural, by a qualified autopsy, preliminary autopsy report or death certificate or the prisoner was regularly attended by a licensed physician.

History: L. 2004, ch. 160, § 5; L. 2005, ch. 150, § 1; July 1.

19-1936 Reimbursement of cost for holding prisoners awaiting competency evaluation or treatment

- (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.

History: L 2023 SB228, § 1, July 1.

19-4444. Approval of expenditures and claims; cost of medical care of prisoners paid from county general fund or by the state; reimbursement from prisoner.

- (a) Except as provided by subsection (b), the agency shall approve all expenditures to be made by and claims to be paid on behalf of such agency and the law enforcement department and shall certify the same to the board of county commissioners of the county to be allowed from the funds provided for the operation of such agency and department.
- (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 services to the prisoner to submit a claim for such health care services rendered in accordance with the prisoner's policy or contract.
 - (2) All other costs incurred by the agency or department 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 adopting the provisions of K.S.A. 19-4424 et seq., and amendments thereto, 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.

History: L. 1972, ch. 91, § 21; L. 1975, ch. 172, § 6; L. 1986, ch. 112, § 1; L. 200, ch. 117, § 1; L. 2005, ch. 150, § 3; July 1.

22-2202 Definition of “law enforcement officer” used in Chapter 19 Article 19.

- (n) "Law enforcement officer" means any person who by virtue of office or public employment is vested by law with a duty to maintain public order or to make arrests for violation of the laws of the state of Kansas or ordinances of any municipality thereof or with a duty to maintain or assert custody or supervision over persons accused or convicted of crime, and includes court services officers, community corrections officers, parole officers and directors, security personnel and keepers of correctional institutions, jails or other institutions for the detention of persons accused or convicted of crime, while acting within the scope of their authority.

22-4612. Payment rate county, city or law enforcement agency liable to pay health care provider for person in custody; exceptions.

- (a) Except as otherwise provided in this section, a county, a city, a county or city law enforcement agency, a county department of corrections or the Kansas highway patrol shall be liable to pay a health care provider for health care services rendered to persons in the custody of such agencies the lesser of the actual amount billed by such health care provider or the medicaid rate. The provisions of this section shall not apply if a person in the custody of a county or city law enforcement agency, a county department of corrections or the Kansas highway patrol 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.
- (b) Nothing in this section shall prevent a county or city law enforcement agency, a county department of corrections, the Kansas highway patrol or such agencies' authorized vendors from entering into agreements with health care providers for the provision of health care services at terms, conditions and amounts that are different than the medicaid rate.

- (c) It shall be the responsibility of the custodial county or city law enforcement agency, county department of corrections or the Kansas highway patrol or such agencies' agents, to determine, under agreement with the secretary of health and environment, the amount payable for the services provided and to communicate that determination along with the remittance advice and payment for the services provided.
- (d) Nothing in this section shall be construed to create a duty on the part of a health care provider to render health care services to a person in the custody of a county or city law enforcement agency, a county department of corrections or the Kansas highway patrol.
- (e) As used in this section:
 - (1) "County or city law enforcement agency" means a city police department, a county sheriff's department, a county law enforcement department as defined in K.S.A. 19-4401, and amendments thereto, or a law enforcement agency established pursuant to the consolidated city-county powers in K.S.A. 12-345, and amendments thereto.
 - (2) "Health care provider" means a person licensed to practice any branch of the healing arts by the state board of healing arts, a person who holds a temporary permit to practice any branch of the healing arts issued by the state board of healing arts, a person engaged in a postgraduate training program approved by the state board of healing arts, a licensed physician assistant, a person licensed by the behavioral sciences regulatory board, a medical care facility licensed by the department of health and environment, a podiatrist licensed by the state board of healing arts, an optometrist licensed by the board of examiners in optometry, a registered nurse, and* advanced nurse practitioner, a licensed professional nurse who is authorized to practice as a registered nurse anesthetist, a licensed practical nurse, a licensed physical therapist, a professional corporation organized pursuant to the professional corporation law of Kansas by persons who are authorized by such law to form such a corporation and who are health care providers as defined by this subsection, a Kansas limited liability company organized for the purpose of rendering professional services by its members who are health care providers as defined by this subsection and who are legally authorized to render the professional services for which the limited liability company is organized, a partnership of persons who are health care providers under this subsection, a Kansas not-for-profit corporation organized for the purpose of rendering professional services by persons who are health care providers as defined by this subsection, a dentist certified by the state board of healing arts to administer anesthetics under K.S.A. 65-2899, and amendments thereto, a psychiatric hospital licensed under K.S.A. 39-2001 et seq., and amendments thereto, a licensed social worker or a mental health center or mental health clinic licensed by the secretary for aging

and disability services and any health care provider licensed by the appropriate regulatory body in another state that has a current approved provider agreement with the secretary of health and environment.

- (3) "Medicaid rate" means the terms, conditions and amounts a health care provider would be paid for health care services rendered pursuant to a contract or provider agreement with the secretary of health and environment.

History: L. 2006, ch. 183, § 1; L. 2012, ch. 102, § 2; L. 2014, ch. 115, § 28; L. 2018, ch. 71, § 5; July 1.

22-4613. Prohibition against releasing person from custody to avoid cost of medical treatment; court order.

- (a) A law enforcement officer having custody of a person shall not release such person from custody merely to avoid the cost of necessary medical treatment while the person is receiving treatment from a health care provider unless the health care provider consents to such release, or unless the release is ordered by a court of competent jurisdiction. When the law enforcement officer is satisfied that probable cause no longer exists to believe the suspect committed a crime based upon the ongoing investigation, or the prosecuting attorney gives notice that no prosecution will be forthcoming at this time, the law enforcement officer may release such person from custody. Upon the date of notification to the health care provider that the person is being released from custody because the ongoing investigation indicates that probable cause no longer exists or a decision by the prosecuting attorney that no charges will be filed, the law enforcement agency shall no longer be responsible for the cost of such person's medical treatment.
- (b) As used in this section:
- (1) "Law enforcement officer" has the meaning ascribed thereto in K.S.A. 22-2202, and amendments thereto.
 - (2) "Health care provider" has the meaning ascribed thereto in K.S.A. 22-4612, and amendments thereto.

History: L. 2006, ch. 183, § 2; July 1.

38-2276. Prohibiting detainment or placement of child in jail.

No child under 18 years of age shall be detained or placed in any jail pursuant to the code [for care of children].

History: L. 2006, ch. 200, § 71; January 1, 2007.

NOTE: This references a child in need of care.

38-2330. Juvenile taken into custody, when; procedure; release; detention in jail; notice to appear.

- (a) A law enforcement officer may take a juvenile into custody when:
- (1) Any offense has been or is being committed in the officer's view;

- (2) the officer has a warrant commanding that the juvenile be taken into custody;
 - (3) the officer has probable cause to believe that a warrant or order commanding that the juvenile be taken into custody has been issued in this state or in another jurisdiction for an act committed therein;
 - (4) the officer has probable cause to believe that the juvenile is committing or has committed an act which, if committed by an adult, would constitute:
 - (A) A felony; or
 - (B) a misdemeanor and: (i) The juvenile will not be apprehended or evidence of the offense will be irretrievably lost unless the juvenile is immediately taken into custody; or (ii) the juvenile may cause injury to self or others or damage to property or may be injured unless immediately taken into custody;
 - (5) the officer has probable cause to believe that the juvenile has violated an order for electronic monitoring as a term of probation; or
 - (6) the officer receives a written statement pursuant to subsection (c).
- (b) A court services officer, juvenile community corrections officer or other person authorized to supervise juveniles subject to this code, may take a juvenile into custody when: (1) There is a warrant commanding that the juvenile be taken into custody; or (2) the officer has probable cause to believe that a warrant or order commanding that the juvenile be taken into custody has been issued in this state or in another jurisdiction for an act committed therein.
- (c) Any court services officer, juvenile community corrections officer or other person authorized to supervise juveniles subject to this code, may request a warrant by giving the court a written statement setting forth that the juvenile, in the judgment of the court services officer, juvenile community corrections officer or other person authorized to supervise juveniles subject to this code:
- (1) (A) Has violated the condition of the juvenile's conditional release from detention or probation, for the third or subsequent time; and
 - (B) poses a significant risk of physical harm to another or damage to property; or
 - (2) has absconded from supervision.
- (d) (1) A juvenile taken into custody by a law enforcement officer or other person authorized pursuant to subsection (b) shall be brought without unnecessary delay to the custody of the juvenile's parent or other custodian, unless there are reasonable grounds to believe that such action would not be in the best interests of the child or would pose a risk to public safety or property.
- (2) If the juvenile cannot be delivered to the juvenile's parent or custodian, the officer may:
- (A) Issue a notice to appear pursuant to subsection (g);
 - (B) contact or deliver the juvenile to an intake and assessment worker

for completion of the intake and assessment process pursuant to K.S.A. 75-7023, and amendments thereto; or

- (C) if the juvenile is determined to not be detention eligible based on a standardized detention risk assessment tool and is experiencing a behavioral health crisis, deliver a juvenile to a juvenile crisis intervention center, as described in K.S.A. 65-536, and amendments thereto, after written authorization by a community mental health center.
- (3) It shall be the duty of the officer to furnish the county or district attorney and the juvenile intake and assessment worker if the officer has delivered the juvenile to the worker or issued a notice to appear consistent with subsection (g), with all of the information in the officer's possession pertaining to the juvenile, the juvenile's parent or other persons interested in or likely to be interested in the juvenile and all other facts and circumstances which caused the juvenile to be arrested or taken into custody.
- (e) In the absence of a court order to the contrary, the court or officials designated by the court, the county or district attorney or the law enforcement agency taking a juvenile into custody shall direct the release prior to the time specified by K.S.A. 38-2343(a), and amendments thereto. In addition, pursuant to K.S.A. 75-7023 and K.S.A. 38-2346, and amendments thereto, a juvenile intake and assessment worker shall direct the release of a juvenile prior to a detention hearing after the completion of the intake and assessment process.
- (f) Whenever a person 18 years of age or more is taken into custody by a law enforcement officer for an alleged offense which was committed prior to the time the person reached the age of 18, the officer shall notify and refer the matter to the court for proceedings pursuant to this code, except that the provisions of this code relating to detention hearings shall not apply to that person. If such person is eligible for detention, and all suitable alternatives to detention have been exhausted, the person shall be detained in jail. Unless the law enforcement officer took the person into custody pursuant to a warrant issued by the court and the warrant specifies the amount of bond or indicates that the person may be released on personal recognizance, the person shall be taken before the court of the county where the alleged act took place or, at the request of the person, the person shall be taken, without delay, before the nearest court. The court shall fix the terms and conditions of an appearance bond upon which the person may be released from custody. The provisions of article 28 of chapter 22 of the Kansas Statutes Annotated and K.S.A. 22-2901, and amendments thereto, relating to appearance bonds and review of conditions and release shall be applicable to appearance bonds provided for in this section.
- (g) (1) Whenever a law enforcement officer detains any juvenile and such juvenile is not immediately taken to juvenile intake and assessment

- services, the officer may serve upon such juvenile a written notice to appear. Such notice to appear shall contain the name and address of the juvenile detained, the crime charged and the location and phone number of the juvenile intake and assessment services office where the juvenile will need to appear with a parent or guardian.
- (2) The juvenile intake and assessment services office specified in such notice to appear must be contacted by the juvenile or a parent or guardian no more than 48 hours after such notice is given, excluding weekends and holidays.
 - (3) The juvenile detained, in order to secure release as provided in this section, must give a written promise to call within the time specified by signing the written notice prepared by the officer. The original notice shall be retained by the officer and a copy shall be delivered to the juvenile detained and that juvenile's parent or guardian if such juvenile is under 18 years of age. The officer shall then release the juvenile.
 - (4) The law enforcement officer shall cause to be filed, without unnecessary delay, a complaint with juvenile intake and assessment services in which a juvenile released pursuant to paragraph (3) is given notice to appear, charging the crime stated in such notice. A copy shall also be provided to the district or county attorney. If the juvenile released fails to contact juvenile intake and assessment services as required in the notice to appear, juvenile intake and assessment services shall notify the district or county attorney.
 - (5) The notice to appear served pursuant to paragraph (1) and the complaint filed pursuant to paragraph (4) may be provided to the juvenile in a single citation.

History: L. 2006, ch. 169, § 30; L. 2016, ch. 46, § 33; L. 2017, ch. 90, § 3; L. 2018, ch. 107, § 6; L. 2023, ch. 96, § 9; July 1.

38-2331. Criteria for detention of juvenile in detention facility.

- (a) The court shall not enter an order removing a juvenile from the custody of a parent pursuant to this section unless the court first finds that a detention risk assessment conducted pursuant to K.S.A. 75-7023(d), and amendments thereto, has assessed the juvenile as detention-eligible or there are grounds to override the results of a detention risk assessment tool and the court finds probable cause that:
 - (1) Community-based alternatives to detention are insufficient to:
 - (A) Secure the presence of the juvenile at the next hearing as evidenced by a demonstrable record of recent failures to appear at juvenile court proceedings and an exhaustion of detention alternatives; or
 - (B) protect the physical safety of another person or property from serious threat if the juvenile is not detained; and
 - (2) The court shall state the basis for each finding in writing.

- (b) Community-based alternatives to detention shall include, but not be limited to:
 - (1) Release on the youth's promise to appear;
 - (2) release to a parent, guardian or custodian upon the youth's assurance to secure such youth's appearance;
 - (3) release with the imposition of reasonable restrictions on activities, associations, movements and residence specifically related to securing the youth's appearance at the next court hearing;
 - (4) release to a voluntary community supervision program;
 - (5) release to a mandatory, court-ordered community supervision program;
 - (6) release with mandatory participation in an electronic monitoring program with minimal restrictions on the youth's movement; or
 - (7) release with mandatory participation in an electronic monitoring program allowing the youth to leave home only to attend school, work, court hearings or other court-approved activities.
- (c) No juvenile shall be placed in a juvenile detention center solely due to:
 - (1) A lack of supervision alternatives or service options;
 - (2) a parent avoiding legal responsibility;
 - (3) a risk of self-harm;
 - (4) contempt of court;
 - (5) a violation of a valid court order; or
 - (6) technical violations of conditional release unless there is probable cause that the juvenile poses a significant risk of harm to others or damage to property or the applicable graduated responses or sanctions protocol allows such placement.
- (d) No person 18 years of age or more shall be placed in a juvenile detention center.

History: L. 2006, ch. 169, § 31; L. 2011, ch. 30, § 165; L. 2012, ch. 69, § 1; L. 2016, ch. 46, § 34; January 1, 2017.

38-2332. Prohibiting placement or detention of juvenile in jail; exceptions; review of records and determination of compliance by the department of corrections.

- (a) No juvenile shall be detained or placed in any jail pursuant to the revised Kansas juvenile justice code except as provided by subsections (b), (c) and (d) and subject to K.S.A. 38-2330 and 38-2331, and amendments thereto.
- (b) Upon being taken into custody, a juvenile may be detained temporarily in a jail, in quarters with sight and sound separation from adult prisoners, for the purpose of identifying and processing the juvenile and transferring the juvenile to a juvenile detention facility. If a juvenile is detained in jail under this subsection, the juvenile shall be detained only for the minimum time necessary, not to exceed six hours, and in no case overnight.
- (c) The provisions of this section shall not apply to detention of a juvenile:
 - (1) (A) Against whom a motion has been filed requesting prosecution as an

adult pursuant to K.S.A. 38-2347(a)(2), and amendments thereto;
and (B) who has received the benefit of a detention hearing pursuant
to K.S.A. 38-2331, and amendments thereto;

- (2) whose prosecution as an adult or classification as an extended jurisdiction juvenile has been authorized pursuant to K.S.A. 38-2347, and amendments thereto; or
- (3) who has been convicted previously as an adult under the code of criminal procedure or the criminal laws of another state or foreign jurisdiction.
- (d) The provisions of this section shall not apply to the detention of any person 18 years of age or more who is taken into custody and is being prosecuted in accordance with the provisions of the revised Kansas juvenile justice code.
- (e) The department of corrections or the department's contractor shall have authority to review jail records to determine compliance with the provisions of this section.

History: L. 2006, ch. 169, § 32; L. 2016, ch. 46, § 35; January 1, 2017.

77-207. Biological sex; application thereof to any state law or rule or regulation; application of intermediate constitutional scrutiny standard of review; important governmental objectives; collection of vital statistics.

- (a) Notwithstanding any provision of state law to the contrary, with respect to the application of an individual's biological sex pursuant to any state law or rules and regulations, the following shall apply:
 - (1) An individual's "sex" means such individual's biological sex, either male or female, at birth;
 - (2) 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;
 - (3) the terms "woman" and "girl" refer to human females, and the terms "man" and "boy" refer to human males;
 - (4) the term "mother" means a parent of the female sex, and the term "father" means a parent of the male sex;
 - (5) with respect to biological sex, the term "equal" does not mean "same" or "identical";
 - (6) with respect to biological sex, separate accommodations are not inherently unequal; and
 - (7) an individual born with a medically verifiable diagnosis of "disorder/differences in sex development" shall be provided legal protections and accommodations afforded under the Americans with disabilities act and applicable Kansas statutes.
- (b) Laws and rules and regulations that distinguish between the sexes are subject to intermediate constitutional scrutiny. Intermediate constitutional scrutiny forbids unfair discrimination against similarly situated male and female

individuals but allows the law to distinguish between the sexes where such distinctions are substantially related to important governmental objectives. Notwithstanding any provision of state law to the contrary, distinctions between the sexes with respect to athletics, prisons or other detention facilities, domestic violence shelters, rape crisis centers, locker rooms, restrooms and other areas where biology, safety or privacy are implicated that result in separate accommodations are substantially related to the important governmental objectives of protecting the health, safety and privacy of individuals in such circumstances.

- (c) Any school district, or public school thereof, and any state agency, department or office or political subdivision that collects vital statistics for the purpose of complying with anti-discrimination laws or for the purpose of gathering accurate public health, crime, economic or other data shall identify each individual who is part of the collected data set as either male or female at birth.

History: L. 2023, ch. 84, § 1; July 1.

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