

## MINUTES OF THE HOUSE CORRECTIONS AND JUVENILE JUSTICE COMMITTEE

The meeting was called to order by Chairman Pat Colloton at 1:30 p.m. on March 8, 2010, in Room 144-S of the Capitol.

All members were present.

## Committee staff present:

Sean Ostrow, Office of the Revisor of Statutes  
 Jason Thompson, Office of the Revisor of Statutes  
 Athena Andaya, Kansas Legislative Research Department  
 Lauren Douglass, Kansas Legislative Research Department

## Conferees appearing before the Committee:

Roger Werholtz, Secretary, Kansas Department of Corrections  
 Melissa A. Wangemann  
 Commissioner Mike Kerns, Chairman, Riley County  
 Clancey Holeman, Riley County Council  
 David Burger, Johnson County Undersheriff

## Others attending:

Roger Werholtz, Secretary, Kansas Department of Corrections  
 Melissa A. Wangemann, Kansas Associations of Counties  
 Commissioner Mike Kerns, Chairman, Riley County  
 Clancey Holeman, Riley County Council  
 David Burger, Johnson County Undersheriff

**SB 346 - No transfer of offenders with 10 or less days remaining on sentence to department of corrections custody**

Chairperson Colloton Called the meeting to order and opened the hearing on **SB 346**. She introduced Secretary Roger Werholtz, Kansas Department of Corrections, to give his testimony as a proponent of the bill. Secretary Werholtz presented written copy of his testimony. (Attachment 1) He stated the bill is a solution to the inefficient transfer of offenders whose prison sentence has or will shortly expire, that those offenders simply remain in the county jail. He explained the existing system and the bill. In closing, he offered an amendment to the bill.

A lengthy question and answer session followed.

Chairperson Colloton introduced Melissa A. Wangemann, Kansas Association of Counties, to give her testimony as a proponent of **SB 346**. Ms. Wangemann presented written copy of her testimony. (Attachment 2) She stated they had not supported the original bill but it was amended in the Senate and now they were in agreement of the compromises made between the Kansas Association of Counties and the Department of Corrections for the present bill. She went on to explain the changes made in the Senate. In closing, she stated they would appreciate the Committee's consideration of the bill.

Chairperson Colloton introduced Mike Kerns, Chairman, Board of Riley County Commissioners, to give his testimony as a proponent of the bill. Chairman Kerns presented written copy of his testimony (Attachment 3) He stated that Riley County requested a Senate floor amendment which clarifies all inmate medical costs of offenders, while in the legal custody of the secretary of corrections, are the responsibility of the Secretary of Corrections. He urged the Committee to leave that statement in the bill.

A question and answer session followed.

CONTINUATION SHEET

Minutes of the House Corrections and Juvenile Justice Committee at 1:30 p.m. on March 8, 2010, in Room 144-S of the Capitol.

Chairperson Colloton introduced Clancey Holeman, Riley County Council, to give his testimony as a proponent of **SB 346**. Mr. Holeman presented written copy of his testimony. (Attachment 4) Mr. Holeman stated that his client's only concern had been addressed when it had been clarified that the Secretary must assume responsibility for the medical care and treatment generated by any inmate who is sitting in the county jail only because the Secretary has not yet decided where that inmate will be place.

A short question and answer session followed.

Chairperson Colloton introduced Undersheriff David Burger, Johnson County Sheriff's Office, to give his testimony as a proponent of the bill. Undersheriff Burger presented written copy of his testimony. (Attachment 5) He stated the Johnson County Sheriff's Office was in support of the bill and that they had been discussing the provisions of the bill with the Department of Corrections for the last year. He also stated the bill offers cost saving for the counties and simplifies the process. He urged the Committee to pass the bill out favorably.

Chairperson Colloton called for others to testify, being none, she closed the hearing on **SB 346**.

**SB 26 - H Sub for S 26 by Committee on Corrections and Juvenile Justice- Increasing traffic fines to fund increases in alcohol and drug therapy program for DUI offenders**

**HB 2413 - Sub for H 2413 by Committee on Corrections and Juvenile Justice - Increasing traffic fines to fund increases in alcohol and drug therapy program for DUI offenders**

Chairperson Colloton opened the floor for consideration of **SB 26**.

**Representative Roth made a motion to take up SB 26 for reconsideration. Representative Frownfelter seconded. Motion carried.**

A discussion followed.

**Representative Roth made a motion to strike language in SB 26 and insert language from HB 2413. Representative McCray-Miller seconded.**

A discussion followed with Chairperson Colloton announcing they would hold the reconsideration on **SB 26** and finish it up tomorrow.

Chairperson Colloton opened the floor for consideration of **SB 386**. **Representative Brookens made a motion to take up SB 386 for reconsideration. Representative Moxley seconded.**

A discussion followed with Jason Thompson, Office of the Revisor of Statutes, explaining a balloon on the bill. (Attachment 6) He stated that on Page 2, line 8, the balloon amendment is striking "*the prosecuting attorney shall request and the court shall enter a protective order prohibiting the transmission of*" and replacing it with "*the defendant's counsel shall not further disclose*" the unredacted numbers or identifiers to the defendant or any other person directly or indirectly except as authorized by and on Page 2, line 11 striking "*further*" order of the court.

**Representative Pauls made a motion to amend SB 386 per Revisor balloon. Representative Spalding seconded. Motion carried to amend the bill.**

Chairperson Colloton opened the floor for consideration of **SB 458**. **Representative Moxley made a motion to insert SB 458 as amended by the Senate into SB 386. Representative Brookens seconded.**

A lengthy discussion followed.

**Chairperson Colloton called for a vote on the motion on the floor. Motion carried.**

CONTINUATION SHEET

Minutes of the House Corrections and Juvenile Justice Committee at 1:30 p.m. on March 8, 2010, in Room 144-S of the Capitol.

A discussion followed.

**Representative Kinzer made a conceptual motion to require prosecutor to provide affirmative notice of redaction.**

Chairperson Colloton called on Jason Thompson, Office of the Revisor, to incorporate all the points of the discussion today into a balloon and bring back to the Committee tomorrow. She announced to the Committee they would continue the work on the bills on tomorrow.

Chairperson Colloton introduced Dave Hutchings, KBI, to update the Committee on the DNA backlog. Mr. Hutchings stated the KBI just found out about a grant opportunity for the 2009 backlog convicted offender/arrestee program reduction program. They received a grant in the amount of \$736,867 last year and would ask for the same amount for this year's grant. He stated the grant covers the bulk of the supplies for the DNA process.

A question and answer session followed and it was noted the DNA backlog is 38,000 and it costs \$23.37 for each DNA submission.

Upon the completion of the question and answer session, Chairperson Colloton adjourned the meeting at 3:15 p.m. with the next scheduled meeting March 9, 2010, at 1:30 p.m. in room 144-S.

Testimony on SB 346  
to  
The House Corrections and Juvenile Justice Committee

By Roger Werholtz  
Secretary  
Kansas Department of Corrections  
March 8, 2010

SB 346 was introduced to address the transfer of offenders from county jails to the Department of Corrections when those offenders have 10 or fewer days remaining to be served on the prison portion of their sentence. The transfer of offenders from county jails to the Department of Corrections only to have those offenders immediately or within a matter of day, released by the Department due to the expiration of their sentence is a poor use of county and state resources recognized by both county and state corrections officials.<sup>1</sup>

The transfer of offenders who have little or no time remaining to be served on their prison sentence involves a significant number of offenders. Sheriffs, recognizing the inefficiency of transferring those offenders have voluntarily retained 142 offenders in county jails for the short balance of time remaining to be served in FY 2008; 194 offenders serving the balance of their sentence in county jails for FY 2009; and 127 inmates for the first half of FY 2010. Nonetheless, in FY 2009, 106 offenders were admitted into a KDOC facility with 10 or fewer days remaining to be served.

As introduced, SB 346 proposed as a solution to the inefficient transfer of offenders whose prison sentence has or will shortly expire, that those offenders simply remain in the county jail. While counties voluntarily hold inmates with a short balance of time remaining to be served to avoid their transportation costs and imposing an unnecessary burden on the Department's Reception and Diagnostic Units, their ability to do so depends on jail capacity and transportation costs.

The Sedgwick County Sheriff proposed to the Senate Judiciary Committee that this issue be addressed by granting to the secretary of corrections the authority to order the release of those offenders with 10 or fewer days remaining to be served at the time of their proposed transfer. This proposal serves to avoid transportation cost, the use of Reception and Diagnostic Unit resources and does not shift the cost of incarcerating those offenders to county jails. This proposal by the Sedgwick County Sheriff was supported

<sup>1</sup> The transfer of convicted offenders from sheriffs to the Department of Corrections entails a number of issues and costs. The physical transportation of the inmate to the Reception and Diagnostic Unit; the segregation, medical and custody evaluation of newly admitted offenders; the release of the offender into the community; and of course jail and prison capacity.

**DEPARTMENT OF CORRECTIONS**

by the Department of Corrections and the Kansas Association of Counties. SB 346 was passed by the Senate by a vote of 29 to 11.

Since the cost of incarcerating short term offenders in county jails for 10 or fewer days in lieu of transferring those offenders to the Department of Corrections would no longer be an issue if those offenders were discharged pursuant to SB 346, the amendments pertaining to the incarceration costs during that time period contained in the amendments to K.S.A. 19-4444 set out in section 1 and new paragraph "g" of K.S.A. 75-5220 would be a non sequitur and should be deleted. The option of the Secretary to either order the discharge of the offender or order the offender's delivery to a KDOC facility would negate the liability on the part of the county for the medical care for the offender, since the offender would not be serving the remaining balance of the sentence in the county jail.

While the Department supports the discharge from sentences of less than 10 days rather than transferring custody, it would like to take this opportunity to point out that if legislation were adopted that would instead have the offender remain in the county jail and the Department assume the medical costs during that period, the fiscal impact would be significant. Unlike, counties, the Department of Corrections does not have the advantage of having medical services provided at Medicaid rates. Additionally, the Department's medical care is provided through a managed care program whereby its vendor is able to utilize a combination of facility treatment, out patient treatment and hospitalization at selected hospitals in order to minimize costs. A provision for the Department to pay for the medical care arising out of all county jails is not provided for by either the Department's budget or vendor contract. Such a provision would negate any Medicaid rates enjoyed by the counties, and destroy the managed care provided for by the Department's medical provider.

The difference between Medicaid rates available to counties and the rates charged to the Department is significant. Recently, a county, in order to shift the medical costs for a prisoner to the Department, granted the offender probation attempting to have the Department pay for the medical care for the offender. The hospital billed the Department \$165,955 for the inmate's medical care while under the county's Medicaid rate the costs would have been approximately \$46,000. In 2009, Kansas Counties saved \$4.6 million through the ability to use the Medicaid rate opposed as to the full costs that the Department is susceptible to.

SB 346 also amends K.S.A. 21-4632 to required, in addition to the provision of sentencing journal entries; that the criminal complaint, supporting affidavits and the county or district attorney reports also be provided to the Department upon the transfer of the offender. SB 346 amends K.S.A. 75-5220 to increasing the processing time by the Department for receiving the offender for admission from 3 business days to 4 business days after receipt of the sentencing order.

The Department's Sentence Computation Unit receives journal entries of sentencing by fax and email, or in the case of Johnson and Shawnee Counties, which have provided to

the Department free access to online court records, so the Department can compute the balance of the sentence remaining to be served or advise the court of any sentencing concern which may require resentencing before the inmate is removed from the county jail. The additional business day in which to review the sentencing documents would allow the Department's Reception and Diagnostic Units to better manage the flow of inmates received at the Reception and Diagnostic Units over the course of a week and provide more time for communication between the Department, sheriffs and the sentencing courts regarding any anomaly that the Department finds in the sentencing documents. For example, the Department reviews the postrelease supervision provisions of sentencing orders and if it believes that an erroneous order has been issued, the court is contacted. That review and contact enables the court to issue a corrected order prior to the offender being moved out of the county and negates the offender having to be brought back to the county for resentencing. Finally, the additional day for processing the journal entry prior to admission would aid parole officers in establishing the release and supervision plan while the offender is still in the county of conviction.

The Department supports the provisions of SB 346 with the further amendment recommended by the Department.

[As Amended by Senate Committee of the Whole]

As Amended by Senate Committee

Session of 2010

SENATE BILL No. 346

By Joint Committee on Corrections and Juvenile Justice Oversight

1-8

12 AN ACT concerning the department [secretary] of corrections; relating  
13 to the [costs of offenders in custody;] transfer of certain offenders;  
14 amending K.S.A. [19-4444 and] 21-4632 and K.S.A. 2009 Supp. 75-  
15 5220 and repealing the existing section sections.  
16

17 Be it enacted by the Legislature of the State of Kansas:

18 ~~Section 1. K.S.A. 19-4444 is hereby amended to read as fol-~~  
19 ~~lows: 19-4444. (a) Except as provided by subsection (b), the agency~~  
20 ~~shall approve all expenditures to be made by and claims to be paid~~  
21 ~~on behalf of such agency and the law enforcement department and~~  
22 ~~shall certify the same to the board of county commissioners of the~~  
23 ~~county to be allowed from the funds provided for the operation of~~  
24 ~~such agency and department.~~

25 ~~[(b) (1) If a person is stopped by or is in the custody of a law~~  
26 ~~enforcement officer, as defined in K.S.A. 22-2202, and amendments~~  
27 ~~thereto, who is an employee of the state and such person is injured~~  
28 ~~by the officer while acting within the scope of such officer's au-~~  
29 ~~thority, costs incurred for medical care and treatment of the person~~  
30 ~~shall be paid by the state if such care and treatment is required due~~  
31 ~~to the injury and a determination has been made that the person~~  
32 ~~has no other resources. When such medical expenses have been paid~~  
33 ~~by the state, the state may seek reimbursement of such expenses~~  
34 ~~from the prisoner. If the state determines that the prisoner is cov-~~  
35 ~~ered under a current individual or group accident and health in-~~  
36 ~~surance policy, medical service plan contract, hospital service cor-~~  
37 ~~poration contract, hospital and medical service corporation~~  
38 ~~contract, fraternal benefit society or health maintenance organi-~~  
39 ~~zation contract, then the state may require the prisoner or the pro-~~  
40 ~~vider rendering health care services to the prisoner to submit a~~  
41 ~~claim for such health care services rendered in accordance with the~~  
42 ~~prisoner's policy or contract.~~

43 ~~(2) Except as provided in K.S.A. 75-5220, and amendments thereto,~~

Delete

1 ~~all other costs incurred by the agency or department for medical~~  
2 ~~care and treatment of prisoners held within the county shall be paid~~  
3 ~~from the county general fund when a determination has been made~~  
4 ~~that the prisoner has no other resources. When medical expenses~~  
5 ~~have been paid out of the county general fund of any county in this~~  
6 ~~state adopting the provisions of K.S.A. 19-4424 et seq., and amend-~~  
7 ~~ments thereto, for a prisoner held within such county, the county~~  
8 ~~may seek reimbursement of such expenses from the prisoner. If the~~  
9 ~~county determines that a prisoner of the county jail is covered under~~  
10 ~~a current individual or group accident and health insurance policy,~~  
11 ~~medical service plan contract, hospital service corporation con-~~  
12 ~~tract, hospital and medical service corporation contract, fraternal~~  
13 ~~benefit society or health maintenance organization contract, then~~  
14 ~~the county may require the prisoner of such county jail or the pro-~~  
15 ~~vider rendering health care services to the prisoner to submit a~~  
16 ~~claim for such health care services rendered in accordance with the~~  
17 ~~prisoner's policy or contract.]~~

Delete

18 Section 1. [Sec. 2.] K.S.A. 21-4632 is hereby amended to read  
19 as follows: 21-4632. (a) If the defendant is to be sentenced to the  
20 custody of the secretary of corrections, the court may prepare a  
21 judgment form which shall be signed by the court and filed with the  
22 clerk. If prepared, the judgment form shall reflect the conviction,  
23 the sentence and the commitment, and shall contain the following:  
24 (1) The pronouncement of guilt including:  
25 (A) The title of the crime;  
26 (B) the statute violated; and  
27 (C) the date the offense occurred.  
28 (2) The sentence imposed including:  
29 (A) The severity level of the crime of conviction, criminal his-  
30 tory designation and grid block or departure sentence;  
31 (B) if applicable, a description of any increase in sentence be-  
32 cause of departure criteria;  
33 (C) if applicable, a statement that this defendant has been con-  
34 victed of severity levels 1 through 5 by reason of aiding, abetting,  
35 advising or counseling another to commit a crime, or by reason of  
36 the principle provided in subsection (2) of K.S.A. 21-3205 and  
37 amendments thereto;  
38 (D) a statement of the effective date of the sentence indicating  
39 whether it is the date of imposition or some date earlier to give  
40 credit for time confined pending disposition of the case pursuant to  
41 K.S.A. 21-4614 and amendments thereto or credit for time on pro-  
42 bation or assignment to community corrections pursuant to K.S.A.  
43 21-4614a and amendments thereto.



1     **(3) The order of commitment to the custody of the secretary, if**  
2 **not issued as a separate order.**

3     **(b) The court may attach to or include in the judgment form**  
4 **any of the following:**

5         **(1) A statement of reasons for imposing a departure sentence;**

6         **(2) a description of aggravating or mitigating circumstances the**  
7 **court took into consideration when ordering the commitment;**

8         **(3) the copy of the evidence from trial or part thereof transmit-**  
9 **ted pursuant to K.S.A. 75-5219 and amendments thereto.**

10     **(c) The court shall forward a copy of all complaints, supporting**  
11 **affidavits, county and district attorney reports, presentence investiga-**  
12 **tion reports and other diagnostic reports on the offender received**  
13 **by the district court, including any reports received from the Topeka**  
14 **correctional facility—east or the state security hospital, to the officer**  
15 **having the offender in custody for delivery with the offender to the**  
16 **correctional institution.**

17     Section ~~1~~. Sec. ~~2~~. [3.] K.S.A. 2009 Supp. 75-5220 is hereby  
18 amended to read as follows: 75-5220. (a) Except as provided in subsection  
19 ~~(d)~~ subsections (d), (e) and (f), within ~~three~~ **four** business days of receipt  
20 of the notice provided for in K.S.A. 75-5218, and amendments thereto,  
21 the secretary of corrections shall notify the sheriff having such offender  
22 in custody to convey such offender immediately to the department of  
23 corrections reception and diagnostic unit or if space is not available at  
24 such facility, then to some other state correctional institution until space  
25 at the facility is available, except that, in the case of first offenders who  
26 are conveyed to a state correctional institution other than the reception  
27 and diagnostic unit, such offenders shall be segregated from the inmates  
28 of such correctional institution who are not being held in custody at such  
29 institution pending transfer to the reception and diagnostic unit when  
30 space is available therein. The expenses of any such conveyance shall be  
31 charged against and paid out of the general fund of the county whose  
32 sheriff conveys the offender to the institution as provided in this  
33 subsection.

34     (b) Any female offender sentenced according to the provisions of  
35 K.S.A. 75-5229, and amendments thereto, shall be conveyed by the sheriff  
36 having such offender in custody directly to a correctional institution des-  
37 ignated by the secretary of corrections, subject to the provisions of K.S.A.  
38 75-52,134, and amendments thereto. The expenses of such conveyance  
39 to the designated institution shall be charged against and paid out of the  
40 general fund of the county whose sheriff conveys such female offender  
41 to such institution.

42     (c) Each offender conveyed to a state correctional institution pursu-  
43 ant to this section shall be accompanied by the record of the offender's

1 trial and conviction as prepared by the clerk of the district court in ac-  
2 cordance with K.S.A. 75-5218, and amendments thereto.

3 (d) If the offender in the custody of the secretary is a juvenile, as  
4 described in K.S.A. 2009 Supp. 38-2366, and amendments thereto, such  
5 juvenile shall not be transferred to the state reception and diagnostic  
6 center until such time as such juvenile is to be transferred from a juvenile  
7 correctional facility to a department of corrections institution or facility.

8 (e) Any offender sentenced to a facility designated by the secretary  
9 of corrections to participate in an intensive substance abuse treatment  
10 program shall not be transferred to the state reception and diagnostic  
11 center but directly to such facility, unless otherwise directed by the sec-  
12 retary. The secretary may transfer the housing and confinement of any  
13 offender sentenced to a facility to participate in an intensive substance  
14 abuse treatment program to any institution or facility pursuant to K.S.A.  
15 75-5206, and amendments thereto.

16 (f) *If the offender has 10 or less days remaining to be served on the*  
17 *prison portion of the sentence at the time the notice provided for in K.S.A.*  
18 *75-5218, and amendments thereto, is received by the secretary of correc-*  
19 *tions, the offender shall remain in the custody of the sheriff until the*  
20 *completion of the prison portion of the sentence. The secretary shall in-*  
21 *form the sheriff of the date of the expiration of the prison portion of the*  
22 *offender's sentence if 10 or less days remain to be served secretary may*  
23 *order the offender discharged from the prison portion of the*  
24 *sentence.*

25 ~~[(g) All costs incurred for medical care and treatment of the~~  
26 ~~offender while in the custody of the secretary of corrections shall~~  
27 ~~be the responsibility of the secretary of corrections.] ^~~

Delete

28 Sec. 2-3 [4.] K.S.A. ~~[10-1444 and] 21-4632~~ and K.S.A. 2009  
29 Supp. 75-5220 ~~is~~ hereby repealed. ^

Delete

30 Sec. 2-4 [5.] This act shall take effect and be in force from and  
31 after its publication in the statute book.

TESTIMONY TO THE HOUSE CORRECTIONS AND JUVENILE JUSTICE COMMITTEE  
MARCH 8, 2010  
ON SB 346

Chairman Colloton and Members of the Committee:

I appreciate the opportunity to support SB 346.

SB 346 in its original form required any offender having 10 or fewer days to serve in prison to remain in the custody of the county sheriff until completion of the sentence. Counties were concerned about the impact of this legislation; some counties have overcrowded jails, and many cannot afford the costs of housing the inmates.

Secretary Roger Werholtz and his staff worked with the counties and together we offered the Senate Judiciary Committee a proposal that satisfied both our needs: release these inmates that have fewer than 10 days on their sentences. We also agreed to an amendment requiring the delivery of paperwork at the time the inmate is delivered to state custody.

Another issue we discussed was the time frame allowed for the Department of Corrections to take custody of the inmate being housed at the county jail. Current law requires that the Department pick up the person within three days. The Department would like to extend that time to five days; the counties would like to keep current law at three days. Obviously our concern is paying for more days of inmate housing and medical care. The Senate Judiciary Committee split the difference and amended the provision to four days. We would request that the House Committee return to three days.

The Senate Committee of the Whole added a floor amendment intending to shift medical expenses of these inmates from the county coffers to the Department of Corrections. One of the biggest concerns for county jails is the medical expenses incurred by inmates; thus, we appreciate any relief offered from these expenses. However, I am not sure this floor amendment achieves that purpose. We do not believe that the inmate is in the "custody" of the Department of Corrections during his stay at the county jail; therefore the language of the statute may not achieve its purpose.

I appreciate the committee's consideration of SB 346 and would be happy to answer questions.

Respectfully Submitted,

Melissa A. Wangemann

300 SW 8th Avenue  
3rd Floor  
Topeka, KS 66603-3912  
785•272•2585  
Fax 785•272•3585

Corrections and Juvenile Justice  
Date: 3-8-10  
Attachment # 2



BOARD OF COMMISSIONERS

115 N. 4<sup>th</sup> Street, 1<sup>st</sup> Floor  
Manhattan, Kansas 66502  
Phone: 785-565-6844  
Fax: 785-565-6847  
Email: adillon@rileycountyks.gov

March 8, 2010

The Honorable Joe Patton, Chairman  
House Committee on Corrections and Juvenile Justice  
Capitol Building, Rm. 144-S  
Topeka, KS 66612

Re: S.B. 346

Dear Chairman Patton and Members of the Committee:

On behalf of the Board of Riley County Commissioners, I would like to offer my support of S.B. 346, as amended.

Riley County requested the senate floor amendment which added to S.B. 346 Section 3 (g): **“All costs incurred for medical care and treatment of the offender while in the custody of the secretary of corrections shall be the responsibility of the secretary of corrections.”**

We requested that amendment specifically because, at the time of our request, the bill included the following now-stricken clause at Section 3 (f): **“the offender shall remain in the custody of the sheriff until the completion of the prison portion of the sentence.”** That now-deleted clause left every county with responsibility to pay medical care and treatment costs for inmates with 10 days or less on their **prison sentence**. But the amending language the Senate added on the floor remains necessary.

S.B. 346, as amended in Section 3 (a), now extends to the Secretary four business days from his receipt of the District Court’s “order of commitment” to “notify the sheriff... to convey such offender immediately to the department of corrections...”. If the Secretary fails to meet that deadline, it is fair to view that inmate as in the “legal” custody of the Secretary, after those four business days have passed. After those four days have passed, the County merely has “physical” custody of the inmate and is only holding that inmate for the Secretary’s decision about placement.

Responsibility for jail inmate medical costs must be clear, and that is not an academic exercise for Riley County, but a real world problem, with real world impact on Riley County and its taxpayers.

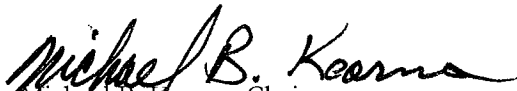
During the summer of 2009, Riley County had an inmate in its custody as a result of a probation violation hearing in the District Court. This inmate had serious medical issues unrelated to his confinement. The grand total of medical expenses billed for this single inmate between July 13, 2009 and August 12, 2009 was \$21,303.08. During a period of less than 10 days, \$6,794.86 in medical expenses was incurred. All of those costs during that single month for a single inmate fall upon Riley County and its taxpayers because the inmate was in the custody of Riley County and not the Secretary of Corrections.

S.B. 346 is better law if it is enacted with the final statement clarifying all inmate medical costs of offenders while in the legal custody of the secretary of corrections are the responsibility of the Secretary of Corrections. I urge this committee to leave that statement in the bill.

**Corrections and Juvenile Justice**  
Date: 3-8-10  
Attachment # 3

Thank you for providing us the opportunity to provide input on behalf of the taxpayers of Riley County.

Sincerely,



Michael B. Kearns, Chairman  
Board of Riley County Commissioners

cc: Riley County Commission:  
Karen McCulloh, Vice Chair  
Alvan D. Johnson, Member



COUNSELOR'S OFFICE

115 N. 4<sup>th</sup> Street, 1<sup>st</sup> Floor  
Manhattan, Kansas 66502  
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March 8, 2010

The Honorable Joe Patton, Chairman  
House Committee on Corrections and Juvenile Justice  
Capitol Building, Rm. 144-S  
Topeka, KS 66612

Re: S.B. 346

Dear Chairman Patton and Members of the Committee:

On behalf of my client, the Board of Riley County Commissioners, I ask this committee to pass S.B. 346 with the floor amendment in Section 3 (g).

Without that amendment, it can become ambiguous whether a particular inmate's medical expenses incurred while in custody are the responsibility of either the Secretary of Corrections or the County.

As the committee is aware, Section 3 (a) of S.B. 346, as it has been amended, extends to *four* business days the Secretary's deadline to notify the sheriff to deliver an inmate to a Corrections facility. Riley County's amended language at Section 3(g) will serve to clarify that, if the Secretary does not provide that notice, all medical costs incurred by the county from that point forward are the responsibility of the Secretary.

My client's amendment clarifies that the Secretary must assume responsibility for the medical care and treatment generated by any inmate who is sitting in the county jail only because the Secretary has not yet decided where that inmate will be placed.

Thank you for your time and attention, and I encourage this committee to leave Section 3(g) in S.B. 346.

Sincerely,

Clancy Holeman  
Riley County Counselor

cc: Michael B. Kearns, Chairman, Board of Riley County Commissioners  
Karen McCulloh, Vice-Chair, Board of Riley County Commissioners  
Alvan D. Johnson, Member, Board of Riley County Commissioners

**Corrections and Juvenile Justice**

Date: 3-8-10

Attachment # 4

FRANK P. DENNING  
SHERIFF

TELEPHONE  
913-791-5800

FAX  
913-791-5806



DUTY HONOR SERVICE

125 N. CHERRY  
OLATHE, KANSAS 66061  
WWW.JOCOSHERIFF.ORG

DAVID A. BURGER  
UNDERSHERIFF

KEVIN D. CAVANAUGH  
UNDERSHERIFF

TESTIMONY BEFORE THE HOUSE  
COMMITTEE ON CORRECTIONS AND JUVENILE JUSTICE  
IN SUPPORT OF SB 346

Presented By  
Undersheriff David Burger  
March 8, 2010

Members of the Committee,

I am pleased to present this brief statement of support for Senate Bill 346, on which you are holding a hearing today.

Coincidentally, this Bill addresses a change in inmate custody transfer that Sheriff Frank Denning and the Johnson County Sheriff's Office has been discussing with the Department of Corrections for about the past year. Those talks have centered on simplifying the release process and reducing costs to both entities.

Essentially, the process of transferring an inmate ordered from the custody of the Sheriff of the County in which the conviction was obtained to the custody of the Department of Corrections is simplified by this Bill. By this measure, the Secretary of Corrections is empowered to release DOC prisoners being held in County jails if 10 days or less remain on their sentence. Typically this situation results when credit for time served and good time credits are applied to a District Court sentence in combination with other conditions of that sentence.

The release directly from the county jail would eliminate the accumulation of per diem costs to the County as well as the costs for the transportation of the inmate to the state Reception Center. The measure further clarifies the responsibility of the DOC for medical care and treatment costs for DOC prisoners while being held at county jails.

Corrections and Juvenile Justice  
Date: 3-8-10  
Attachment # 5

If the described process functions as designed in this proposal, then the Kansas Sheriff's Association can support it. In that instance, the issue of who pays the cost of the county jail holding the DOC prisoner is moot, since the early release is provided for.

The Johnson County Sheriff's Office supports the cost saving features of the proposal and urges the Committee to pass it out favorably.



**SENATE BILL No. 386**

By Committee on Judiciary

1-19

10 AN ACT concerning criminal procedure; relating to discovery and in-  
11 spection; amending K.S.A. 22-3212 and repealing the existing section;  
12 also repealing K.S.A. 22-3433.  
13

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

15 Section 1. K.S.A. 22-3212 is hereby amended to read as follows: 22-  
16 3212. (a) Upon request, the prosecuting attorney shall permit the de-  
17 fendant to inspect and copy or photograph the following, if relevant: (1)  
18 Written or recorded statements or confessions made by the defendant,  
19 or copies thereof, which are or have been in the possession, custody or  
20 control of the prosecution, the existence of which is known, or by the  
21 exercise of due diligence may become known, to the prosecuting attorney;  
22 (2) results or reports of physical or mental examinations, and of scientific  
23 tests or experiments made in connection with the particular case, or cop-  
24 ies thereof, the existence of which is known, or by the exercise of due  
25 diligence may become known, to the prosecuting attorney; (3) recorded  
26 testimony of the defendant before a grand jury or at an inquisition; and  
27 (4) memoranda of any oral confession made by the defendant and a list  
28 of the witnesses to such confession, the existence of which is known, or  
29 by the exercise of due diligence may become known to the prosecuting  
30 attorney.

31 (b) Upon request, the prosecuting attorney shall permit the defend-  
32 ant to inspect and copy or photograph books, papers, documents, tangible  
33 objects, buildings or places, or copies, or portions thereof, which are or  
34 have been within the possession, custody or control of the prosecution,  
35 and which are material to the case and will not place an unreasonable  
36 burden upon the prosecution. Except as provided in subsections (a)(2)  
37 and (a)(4), this section does not authorize the discovery or inspection of  
38 reports, memoranda or other internal government documents made by  
39 officers in connection with the investigation or prosecution of the case,  
40 or of statements made by state witnesses or prospective state witnesses,  
41 other than the defendant, except as may be provided by law. *Except as*  
42 *provided in subsection (e), this section does not require the prosecuting*  
43 *attorney to provide unredacted vehicle identification numbers or personal*

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RS - JThompson - 03/08/10

6-1

1 identifiers of persons mentioned in such books, papers or documents. As  
 2 used in this subsection, personal identifiers include, but are not limited  
 3 to, birthdates, social security numbers, taxpayer identification numbers,  
 4 drivers license numbers, account numbers of active financial accounts,  
 5 home addresses and personal telephone numbers of any victims or ma-  
 6 terial witnesses. If the prosecuting attorney does provide the defendant's  
 7 counsel with unredacted vehicle identification numbers or personal iden-  
 8 tifiers, ~~(the prosecuting attorney shall request and the court shall enter~~  
 9 ~~a protective order prohibiting the transmission of the unredacted numbers~~  
 10 ~~or identifiers to the defendant or any other person, directly or indirectly,~~  
 11 ~~except as authorized by (further) order of the court.~~

the defendant's counsel  
 shall not further disclose

Strike "further"

12 (c) If the defendant seeks discovery and inspection under subsection  
 13 (a)(2) or subsection (b), the defendant shall permit the attorney for the  
 14 prosecution to inspect and copy or photograph scientific or medical re-  
 15 ports, books, papers, documents, tangible objects, or copies or portions  
 16 thereof, which the defendant intends to produce at any hearing, and  
 17 which are material to the case and will not place an unreasonable burden  
 18 on the defense. Except as to scientific or medical reports, this subsection  
 19 does not authorize the discovery or inspection of reports, memoranda or  
 20 other internal defense documents made by the defendant, or the defend-  
 21 ant's attorneys or agents in connection with the investigation or defense  
 22 of the case, or of statements made by the defendant, or by prosecution  
 23 or defense witnesses, or by prospective prosecution or defense witnesses,  
 24 to the defendant, the defendant's agents or attorneys.

25 (d) The prosecuting attorney and the defendant shall cooperate in  
 26 discovery and reach agreement on the time, place and manner of making  
 27 the discovery and inspection permitted, so as to avoid the necessity for  
 28 court intervention.

29 (e) Upon a sufficient showing the court may at any time order that  
 30 the discovery or inspection be denied, restricted, *enlarged* or deferred or  
 31 make such other order as is appropriate. Upon motion, the court may  
 32 permit either party to make such showing, in whole or in part, in the form  
 33 of a written statement to be inspected privately by the court. If the court  
 34 enters an order granting relief following such a private showing, the entire  
 35 text of the statement shall be sealed and preserved in the records of the  
 36 court to be made available to the appellate court in the event of an appeal.

37 (f) Discovery under this section must be completed no later than 20  
 38 days after arraignment or at such reasonable later time as the court may  
 39 permit.

40 (g) If, subsequent to compliance with an order issued pursuant to this  
 41 section, and prior to or during trial, a party discovers additional material  
 42 previously requested or ordered which is subject to discovery or inspec-  
 43 tion under this section, the party shall promptly notify the other party or