

MEMORANDUM

To: Chairperson Burgess and members of the Committee on Government Efficiency
From: Jim Wilson, First Assistant Revisor
Date: February 16, 2012
Subject: HB 2672 – Repealing K.S.A. 19-825; concerning the vacating and reinstating of a sheriff for failing to perform certain duties

HB 2672 would repeal K.S.A. 19-825 which was enacted during the 1903 Session. The statute was last amended during the 1988 session, as part of the bill enacting the Administrative Procedure Act.

This section was recommended for repeal by the Office of Repealer and Dennis Taylor, Office of Repealer, is listed as resource contact.

The act would take effect upon publication in the statute book.

19-825. Office of sheriff vacated when prisoner taken and lynched; reinstatement. If any person taken from the hands of a sheriff or such sheriff's deputy having such person in custody is lynched, such lynching shall be evidence of failure on the part of such sheriff to do such sheriff's duty, such sheriff's office shall immediately be vacated, and the county clerk shall immediately succeed to and perform the duties of sheriff until the successor of such sheriff shall have been duly appointed, pursuant to existing law providing for the filling of vacancies in such office. Such sheriff shall not thereafter be eligible to either election or reappointment to the office of sheriff, except that such former sheriff may, within 10 days after such lynching occurs, file with the governor a petition for reinstatement to the office of sheriff. Such sheriff shall give 10 days' notice of the filing of such petition to the prosecuting attorney of the county in which such lynching occurred and to the attorney general. If the governor, upon a hearing conducted in accordance with the provisions of the Kansas administrative procedure act, finds that such sheriff used reasonable effort to protect the life of such prisoner and performed the duties required of such sheriff by existing laws respecting the protection of prisoners, then the governor shall reinstate such sheriff in office and shall issue to such sheriff a certificate of reinstatement. Such certificate shall be effective on the day of such order of reinstatement, and the decision of the governor shall be final. History: L. 1903, ch. 221, § 5; R.S. 1923, 21-1007; L. 1965, ch. 164, § 15; L. 1981, ch. 115, § 1; L. 1988, ch. 356, § 66; July 1, 1989.