

SENATE BILL No. 140

By Committee on Judiciary

2-3

1 AN ACT concerning criminal procedure; relating to conditions of release;
2 forfeiture of appearance bonds; amending K.S.A. 2014 Supp. 22-2807
3 and repealing the existing section.
4

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

6 Section 1. K.S.A. 2014 Supp. 22-2807 is hereby amended to read as
7 follows: 22-2807. ~~(1)~~ (a) If a defendant fails to appear as directed by the
8 court and guaranteed by an appearance bond, the court in which the bond
9 is deposited shall declare a forfeiture of the bail.

10 ~~(2)~~ (b) An appearance bond may only be forfeited by the court upon a
11 failure to appear. If a defendant violates any other condition of bond, the
12 bond may be revoked and the defendant remanded to custody. An
13 appearance bond is revoked by the execution of a warrant for a defendant's
14 arrest for a violation of a bond condition. The magistrate shall forthwith
15 set a new bond pursuant to requirements of K.S.A. 22-2802, and
16 amendments thereto.

17 ~~(3)~~ (c) The court may direct that a forfeiture be set aside, upon such
18 conditions as the court may impose, if it appears that justice does not
19 require the enforcement of the forfeiture. If the surety can prove that the
20 defendant is incarcerated somewhere within the United States prior to
21 judgment of default by providing to the court a written statement, signed
22 by the surety under penalty of perjury, setting forth details of such
23 incarceration, then the court shall set aside the forfeiture. Upon the
24 defendant's return, the surety may be ordered to pay the costs of that
25 return.

26 ~~(4)~~ (d) When a forfeiture has not been set aside, the ~~county or district~~
27 ~~attorney shall file a motion for judgment of default. The~~ court shall ~~on~~
28 ~~motion~~ **on motion by the county attorney or district attorney** enter a
29 judgment of default and execution may issue thereon. If the forfeiture has
30 been decreed by a district magistrate judge and the amount of the bond
31 exceeds the limits of the civil jurisdiction prescribed by law for a district
32 magistrate judge, the judge shall notify the chief judge in writing of the
33 forfeiture and the matter shall be assigned to a district judge who, on
34 motion, shall enter a judgment of default. By entering into a bond the
35 obligors submit to the jurisdiction of any court having power to enter
36 judgment upon default and irrevocably appoint the clerk of that court as

1 their agent upon whom any papers affecting their liability may be served.
2 Their liability may be enforced on motion without the necessity of an
3 independent action. The motion and notice thereof may be served on the
4 clerk of the court, who shall forthwith mail copies to the obligors to their
5 last known addresses. No judgment may be entered against the obligor in
6 an appearance bond until more than 60 days after notice is served as
7 provided herein. No judgment may be entered against the obligor in an
8 appearance bond more than two years after a defendant's failure to appear.

9 ~~(5)~~ (e) After entry of such judgment, the court may remit it in whole
10 or in part under the conditions applying to the setting aside of forfeiture in
11 subsection ~~(3)~~ (c).

12 Sec. 2. K.S.A. 2014 Supp. 22-2807 is hereby repealed.

13 Sec. 3. This act shall take effect and be in force from and after its
14 publication in the statute book.