

SENATE BILL No. 40

By Committee on Judiciary

1-19

1 AN ACT concerning criminal procedure; relating to appearance bonds;
2 **arrest**; revocation; amending K.S.A. 2016 Supp. 22-2807 and repealing
3 the existing section.
4

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

6 Section 1. K.S.A. 2016 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) (1)~~ An appearance bond may only be forfeited by the court
11 upon a failure to appear. If a defendant violates any other condition of
12 bond, the bond may be revoked and the defendant remanded to custody.
13 An appearance bond **is may be** revoked by the execution of a warrant for a
14 defendant's arrest for a violation of a bond condition ~~or by an arrest~~
15 ~~without a warrant for a violation of a bond condition as provided in this~~
16 ~~subsection. Any pretrial services supervision officer may arrest the~~
17 ~~defendant without a warrant or may deputize any other officer with power~~
18 ~~of arrest to do so by giving the officer a written or verbal statement setting~~
19 ~~forth that the defendant has, in the judgment of the pretrial services~~
20 ~~supervision officer, violated the conditions of the defendant's bond. A~~
21 ~~written statement delivered to the official in charge of a county jail or~~
22 ~~other place of detention shall be sufficient warrant for the detention of the~~
23 ~~defendant. After making an arrest, the pretrial supervision officer shall~~
24 ~~present to the detaining authorities a similar statement of the~~
25 ~~circumstances of the violation.~~

26 **(2)** *When the magistrate sets a bond, such magistrate may authorize*
27 *a pretrial services supervision officer to arrest a defendant without a*
28 *warrant pursuant to this paragraph, and such magistrate may authorize*
29 *a pretrial services supervision officer to deputize any other officer with*
30 *power of arrest to arrest a defendant without a warrant pursuant to this*
31 *paragraph. If authorized, a pretrial services supervision officer may*
32 *arrest a defendant without a warrant if the defendant has, in the*
33 *judgment of the pretrial services supervision officer, violated the*
34 *conditions of the defendant's bond. If authorized, a pretrial services*
35 *supervision officer may deputize any other officer with power of arrest to*
36 *arrest a defendant without a warrant if the pretrial services supervision*

1 *officer gives such other officer a written or verbal statement setting forth*
2 *that the defendant has, in the judgment of the pretrial services*
3 *supervision officer, violated the conditions of the defendant's bond. If a*
4 *magistrate has authorized an arrest without a warrant pursuant to this*
5 *paragraph, a written statement delivered to the official in charge of a*
6 *county jail or other place of detention shall be sufficient warrant for the*
7 *detention of the defendant. After making an arrest, the pretrial services*
8 *supervision officer shall present to the detaining authorities a similar*
9 *statement of the circumstances of the violation. The defendant shall be*
10 *detained for an arrest pursuant to this section only until a magistrate is*
11 *available to consider whether the defendant's bond will be revoked.*

12 (3) *If an appearance bond is revoked, the magistrate shall forthwith*
13 *promptly set a new bond pursuant to requirements of K.S.A. 22-2802, and*
14 *amendments thereto.*

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

24 (4)(d) When a forfeiture has not been set aside, the court shall on
25 motion enter a judgment of default and execution may issue thereon. If the
26 forfeiture has been decreed by a district magistrate judge and the amount
27 of the bond exceeds the limits of the civil jurisdiction prescribed by law
28 for a district magistrate judge, the judge shall notify the chief judge in
29 writing of the forfeiture and the matter shall be assigned to a district judge
30 who, on motion, shall enter a judgment of default. By entering into a bond
31 the obligors submit to the jurisdiction of any court having power to enter
32 judgment upon default and irrevocably appoint the clerk of that court as
33 their agent upon whom any papers affecting their liability may be served.
34 Their liability may be enforced on motion without the necessity of an
35 independent action. The motion and notice thereof may be served on the
36 clerk of the court, who shall forthwith mail copies to the obligors to their
37 last known addresses. No judgment may be entered against the obligor in
38 an appearance bond until more than 60 days after notice is served as
39 provided herein. No judgment may be entered against the obligor in an
40 appearance bond more than two years after a defendant's failure to appear.

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

1 Sec. 2. K.S.A. 2016 Supp. 22-2807 is hereby repealed.

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