

HOUSE BILL No. 2203

By Committee on Federal and State Affairs

1-25

9 AN ACT concerning crimes, criminal procedure and punishment; relat-
10 ing to release prior to trial; conditions of release; amending K.S.A. 2006
11 Supp. 22-2802 and repealing the existing section.
12

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

14 Section 1. K.S.A. 2006 Supp. 22-2802 is hereby amended to read as
15 follows: 22-2802. (1) Any person charged with a crime shall, at the per-
16 son's first appearance before a magistrate, be ordered released pending
17 preliminary examination or trial upon the execution of an appearance
18 bond in an amount specified by the magistrate and sufficient to assure
19 the appearance of such person before the magistrate when ordered and
20 to assure the public safety. If the person is being bound over for a felony,
21 the bond shall also be conditioned on the person's appearance in the
22 district court or by way of a two-way electronic audio-video communi-
23 cation as provided in subsection (11) at the time required by the court to
24 answer the charge against such person and at any time thereafter that the
25 court requires. Unless the magistrate makes a specific finding otherwise,
26 if the person is being bonded out for a person felony or a person mis-
27 demeanor, the bond shall be conditioned on the person being prohibited
28 from having any contact with the alleged victim of such offense for a
29 period of at least 72 hours. The magistrate may impose such of the fol-
30 lowing additional conditions of release as will reasonably assure the ap-
31 pearance of the person for preliminary examination or trial:

- 32 (a) Place the person in the custody of a designated person or organ-
33 ization agreeing to supervise such person;
- 34 (b) place restrictions on the travel, association or place of abode of
35 the person during the period of release;
- 36 (c) impose any other condition deemed reasonably necessary to as-
37 sure appearance as required, including a condition requiring that the
38 person return to custody during specified hours;
- 39 (d) place the person under a house arrest program pursuant to K.S.A.
40 21-4603b, and amendments thereto; or
- 41 (e) place the person under the supervision of a court services officer
42 responsible for monitoring the person's compliance with any conditions
43 of release ordered by the magistrate.

- 1 (2) In addition to any conditions of release provided in subsection (1),
2 for any person charged with a felony, the magistrate may order such
3 person to submit to a drug abuse examination and evaluation in a public
4 or private treatment facility or state institution and, if determined by the
5 head of such facility or institution that such person is a drug abuser or
6 incapacitated by drugs, to submit to treatment for such drug abuse, as a
7 condition of release.
- 8 (3) The appearance bond shall be executed with sufficient solvent
9 sureties who are residents of the state of Kansas, unless the magistrate
10 determines, in the exercise of such magistrate's discretion, that requiring
11 sureties is not necessary to assure the appearance of the person at the
12 time ordered.
- 13 (4) A deposit of cash in the amount of the bond *or, as the magistrate*
14 *determines, in the exercise of such magistrate's discretion, a lesser amount*
15 *not less than 10 percent of the amount of the bond* may be made in lieu
16 of the execution of the bond by sureties.
- 17 (5) In determining which conditions of release will reasonably assure
18 appearance and the public safety, the magistrate shall, on the basis of
19 available information, take into account the nature and circumstances of
20 the crime charged; the weight of the evidence against the defendant; the
21 defendant's family ties, employment, financial resources, character, men-
22 tal condition, length of residence in the community, record of convictions,
23 record of appearance or failure to appear at court proceedings or of flight
24 to avoid prosecution; the likelihood or propensity of the defendant to
25 commit crimes while on release, including whether the defendant will be
26 likely to threaten, harass or cause injury to the victim of the crime or any
27 witnesses thereto; and whether the defendant is on probation or parole
28 from a previous offense at the time of the alleged commission of the
29 subsequent offense.
- 30 (6) The appearance bond shall set forth all of the conditions of
31 release.
- 32 (7) A person for whom conditions of release are imposed and who
33 continues to be detained as a result of the person's inability to meet the
34 conditions of release shall be entitled, upon application, to have the con-
35 ditions reviewed without unnecessary delay by the magistrate who im-
36 posed them. If the magistrate who imposed conditions of release is not
37 available, any other magistrate in the county may review such conditions.
- 38 (8) A magistrate ordering the release of a person on any conditions
39 specified in this section may at any time amend the order to impose
40 additional or different conditions of release. If the imposition of additional
41 or different conditions results in the detention of the person, the provi-
42 sions of subsection (7) shall apply.
- 43 (9) Statements or information offered in determining the conditions

1 of release need not conform to the rules of evidence. No statement or
2 admission of the defendant made at such a proceeding shall be received
3 as evidence in any subsequent proceeding against the defendant.

4 (10) The appearance bond and any security required as a condition
5 of the defendant's release shall be deposited in the office of the magistrate
6 or the clerk of the court where the release is ordered. If the defendant
7 is bound to appear before a magistrate or court other than the one or-
8 dering the release, the order of release, together with the bond and se-
9 curity shall be transmitted to the magistrate or clerk of the court before
10 whom the defendant is bound to appear.

11 (11) Proceedings before a magistrate as provided in this section to
12 determine the release conditions of a person charged with a crime in-
13 cluding release upon execution of an appearance bond may be conducted
14 by two-way electronic audio-video communication between the defend-
15 ant and the judge in lieu of personal presence of the defendant or de-
16 fendant's counsel in the courtroom in the discretion of the court. The
17 defendant may be accompanied by the defendant's counsel. The defend-
18 ant shall be informed of the defendant's right to be personally present in
19 the courtroom during such proceeding if the defendant so requests. Ex-
20 exercising the right to be present shall in no way prejudice the defendant.

21 (12) The magistrate may order the person to pay for any costs asso-
22 ciated with the supervision of the conditions of release of the appearance
23 bond in an amount not to exceed \$10 per week of such supervision.

24 Sec. 2. K.S.A. 2006 Supp. 22-2802 is hereby repealed.

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