

CHAPTER 132

Substitute for HOUSE BILL No. 2528

AN ACT concerning crimes, criminal procedure and punishment; relating to appearance bonds; amending K.S.A. 22-2807 and repealing the existing section.

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

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

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

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

(4) When a forfeiture has not been set aside, the court shall on motion enter a judgment of default and execution may issue thereon. If the forfeiture has been decreed by a district magistrate judge and the amount of the bond exceeds the limits of the civil jurisdiction prescribed by law for a district magistrate judge, the judge shall notify the chief judge in writing of the forfeiture and the matter shall be assigned to a district judge who, on motion, shall enter a judgment of default. By entering into a bond the obligors submit to the jurisdiction of any court having power to enter judgment upon default and irrevocably appoint the clerk of that court as their agent upon whom any papers affecting their liability may be served. Their liability may be enforced on motion without the necessity of an independent action. The motion and notice thereof may be served on the clerk of the court, who shall forthwith mail copies to the obligors to their last known addresses. ~~No default judgment shall~~ *may* be entered against the obligor in an appearance bond until more than ~~10~~ 60 days after notice is served as provided herein. *No judgment may be entered against the obligor in an appearance bond more than two years after a defendant's failure to appear.*

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

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

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

Approved May 13, 2010.

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