

STATE OF KANSAS

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Chairman Susan Humphries  
House Committee on Judiciary  
Kansas State Capitol  
300 SW 10<sup>th</sup> Ave.  
Topeka, KS 66612

March 5, 2025

RE: Testimony in **SUPPORT** of SB 157 – Access to warrants and remission creation

Chairman Humphries & Members of the Committee:

***In full disclosure, this is an industry I have operated for 25+ years and offer my expertise to answer questions and provide input***

This bill accomplishes three important things.

- When a fugitive recovery agent attempts to apprehend a fugitive, especially out of state, having a hard copy of the warrant is essential for validating their actions to local law enforcement. Current law requires the warrant be entered in NCIC within 14 days, but doesn't speak to the authority of a compensated surety / fugitive recovery agent to access the warrant.
- Changes the criteria for setting aside a bond forfeiture if the defendant is deported from the country. Language was amended in the Senate to clarify the deportation requirement. Fugitive recovery is not permitted out of country.
- Creates a remission requirement - Under current law, once a bond is paid on day 61, the compensated surety / fugitive recovery agent loses their authority to arrest a defendant, thus putting the burden back on law enforcement. This amendment continues the authority and motivates the surety to continue to do their job. Some counties in Kansas already have something similar in local policy and many states already allow this as well. This creates a statewide standard.

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- Please see the attached potential amendment. All interested parties worked together on language that allowed opponents to move to Neutral or Proponent. These changes include:
  - Added “Upon Request” to clarify the compensated surety must make the request.
  - Clarified the “deportation” language to ensure compensated sureties are not relieved from liability if they knew there was previously an immigration detainer. In addition, it identifies the process by which the relief can be expected.
  - Creates a stepped approach to remission like Sedgwick County currently operates.

Please let me know if you have any questions.

Thank you for your consideration.

Stephen Owens

**SENATE BILL No. 157**

By Committee on Judiciary

2-3

1 AN ACT concerning criminal procedure; relating to release prior to trial;  
2 forfeiture of appearance bonds; requiring warrants for failure to appear  
3 to be given to sureties; allowing bond forfeiture to be set aside if surety  
4 can show ~~that the defendant left the country~~ **was deported from the**  
5 **United States**; requiring remission in certain circumstances; amending  
6 K.S.A. 22-2807 and repealing the existing section.

7  
8 *Be it enacted by the Legislature of the State of Kansas:*

9 Section 1. K.S.A. 22-2807 is hereby amended to read as follows: 22-  
10 2807. (a) If a defendant fails to appear as directed by the court and  
11 guaranteed by an appearance bond, the court in which the bond is  
12 deposited shall declare a forfeiture of the bail and issue a warrant for the  
13 defendant's arrest. If the defendant is charged with a felony offense, the  
14 sheriff shall enter such warrant into the national crime information center's  
15 index **within 14 days of issuance of the warrant, and upon request, the**  
16 **court shall make a copy of the warrant available to a compensated**  
17 **surety who deposited the bond on behalf of the defendant** ~~within 14~~  
18 ~~days of issuance of the warrant. If such warrant is not entered into such~~  
19 ~~index, the sheriff shall notify the court thereof.~~

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

27 (c) (1) The court may direct that a forfeiture be set aside, upon such  
28 conditions as the court may impose, if it appears that justice does not  
29 require the enforcement of the forfeiture.

30 (2) The court shall direct that a forfeiture be set aside, ~~upon such~~  
31 ~~conditions as the court may impose, if:~~

32 (A) The surety can prove that the defendant ~~has left the country been~~  
33 ~~deported from the United States or~~ is incarcerated somewhere within the  
34 United States prior to judgment of default by providing to the court a  
35 written statement, signed by the surety under penalty of perjury, setting  
36 forth ~~the details of the facts substantiating such incarceration claim;~~

37 (B) the warrant required to be issued by subsection (a) was not issued

1 within 14 days of the forfeiture;

2 (C) a warrant that is required to be entered into the national crime  
3 information center's index ~~or provided to a compensated surety~~ pursuant to  
4 subsection (a) was not entered ~~or provided~~ within 14 days of issuance  
5 or provided by the court to the surety upon request pursuant to subsection (a),

6 unless there is good cause shown for the failure to enter such warrant into  
7 the index ~~or provide such warrant to the compensated surety~~; or

8 (D) ~~the defendant has been arrested outside of this state and the~~  
9 prosecuting attorney has declined to proceed with extradition.

10 (E) the defendant was not held subject to an immigration detainer when  
11 the bond was posted and the surety can prove that the defendant has been  
12 deported from the United States prior to judgment of default by providing  
13 to the court a written statement, signed by the surety under penalty of  
14 perjury, setting forth the facts substantiating the deportation.

15 (3) Upon the defendant's return, the surety may be ordered to pay the  
16 costs of such return.

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

35 (e) After entry of judgment pursuant to subsection (d), the court:

36 (1) May remit such judgment in whole or in part under the conditions  
37 applying to the setting aside of forfeiture in subsection (c); and

38 (2) ~~shall remit 95%~~ a portion of the amount of the appearance bond  
39 to the obligor if the defendant is returned to custody within 180 the  
40 following number of days after judgment is entered:

41 (i) 95% if the defendant is returned to custody within 90 days;

42 (ii) 75% if the defendant is returned to custody within 91 to 180 days;

43 (iii) 50% if the defendant is returned to custody within 181 and 270  
days.

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

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