

HOUSE BILL No. 2479

By Committee on Judiciary

Requested by Representative Resman

1-20

1 AN ACT concerning crimes, punishment and criminal procedure; relating
2 to release of persons prior to trial; authorizing electronic monitoring
3 with victim notification as a condition of release for certain offenders
4 charged with a domestic violence offense, domestic battery, stalking or
5 violation of a protective order; amending K.S.A. 2025 Supp. 22-2802
6 and repealing the existing section.
7

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

9 New Section 1. (a) (1) If a magistrate is required to consider ordering
10 electronic monitoring with victim notification pursuant to K.S.A. 22-2802,
11 and amendments thereto, the magistrate may order such electronic
12 monitoring pursuant to this section as a condition of release.

13 (2) Nothing in this section shall be construed as limiting a
14 magistrate's authority to order electronic monitoring of a person without
15 victim notification pursuant to K.S.A. 22-2802, and amendments thereto.

16 (b) In determining whether to order electronic monitoring of a person
17 with victim notification, a magistrate may hold a hearing to consider the
18 likelihood that the person's participation in electronic monitoring will deter
19 the person from injuring a protected person. The magistrate shall consider
20 the following factors:

21 (1) The gravity and seriousness of harm that the person inflicted on
22 another person in the commission of any act of domestic violence;

23 (2) the person's previous history of domestic violence;

24 (3) the person's history of other criminal acts, if any;

25 (4) the person has access to a weapon;

26 (5) whether the person has threatened suicide or homicide;

27 (6) the person has a history of mental illness or has been civilly
28 committed; and

29 (7) whether the person has a history of alcohol or substance abuse.

30 (c) Electronic monitoring with victim notification shall be ordered
31 only with the protected person's informed consent after such person is
32 given the following information:

33 (1) The protected person's right to refuse to participate in such

1 monitoring and the process for requesting that the magistrate terminate
2 such participation after monitoring has been ordered;

3 (2) the manner in which the electronic monitoring technology
4 functions and the risks and limitations of such technology;

5 (3) the boundaries imposed on the person being monitored during the
6 electronic monitoring;

7 (4) the sanctions that the magistrate may impose for violations of the
8 magistrate's orders;

9 (5) the procedure that the protected person is to follow if the person
10 being monitored violates an order or the electronic monitoring equipment
11 fails;

12 (6) identification of support services available to assist the protected
13 person in developing a safety plan to use if the person being monitored
14 violates an order or the electronic monitoring equipment fails;

15 (7) identification of community services available to assist the
16 protected person in obtaining shelter, counseling, education, child care,
17 legal representation and other help in addressing the consequences and
18 effects of domestic violence; and

19 (8) the nonconfidential nature of the protected person's
20 communications with the magistrate concerning electronic monitoring and
21 the restrictions to be imposed upon the monitored person's movements.

22 (d) Before ordering electronic monitoring of a person with victim
23 notification, the magistrate shall afford an alleged victim ~~an opportunity~~ **48**
24 **hours** to provide the magistrate with a list of areas from which the victim
25 would like the person excluded and shall consider the victim's request, if
26 any, in determining the locations that the person will be ordered to refrain
27 from going to or from being in close proximity. If the magistrate orders
28 electronic monitoring of the person with victim notification, the magistrate
29 shall specifically describe the locations that the person has been ordered to
30 refrain from going to or from being in close proximity and the minimum
31 distances, if any, that the person shall maintain from such locations.

32 (e) A person ordered to be placed on electronic monitoring with
33 victim notification shall be ordered to pay the related costs and expenses.

34 (f) An alert from an electronic monitoring device shall be probable
35 cause to arrest the monitored person for a violation of a protective order.

36 (g) The courts and state and local law enforcement agencies shall
37 share information obtained via electronic monitoring conducted pursuant
38 to this section.

39 ~~(h) A supplier of a product, system or service used for electronic~~
40 ~~monitoring with victim notification shall not be liable, directly or~~
41 ~~indirectly, for damages arising from any injury or death associated with the~~
42 ~~use of the product, system or service unless and only to the extent that~~
43 ~~such action is based on a claim that the injury or death was proximately~~

1 ~~caused by a manufacturing defect in the product or system.~~

2 ~~(i)~~—As used in this section:

3 (1) "Electronic monitoring with victim notification" means an
4 electronic monitoring system that has the capability to track and monitor
5 the movement of a person and immediately transmit the monitored
6 person's location to the protected person ~~and the local law enforcement~~
7 ~~agency with jurisdiction over the protected premises~~ through an
8 appropriate means, including, but not limited to, the telephone, an
9 electronic beeper or paging device, whenever the monitored person enters
10 or is near the protected premises; and

11 (2) "protected premises" means a location that the magistrate has
12 ordered the monitored person to refrain from going to or from being in
13 close proximity pursuant to this section.

14 ~~(j)~~(i) This section shall be a part of and supplemental to the Kansas
15 code of criminal procedure.

16 Sec. 2. K.S.A. 2025 Supp. 22-2802 is hereby amended to read as
17 follows: 22-2802. (a) Any person charged with a crime shall, at the
18 person's first appearance before a magistrate, be ordered released pending
19 preliminary examination or trial upon the execution of an appearance bond
20 in an amount specified by the magistrate and sufficient to assure the
21 appearance of such person before the magistrate when ordered and to
22 assure the public safety. If the person is being bound over for a felony, the
23 bond shall also be conditioned on the person's appearance in the district
24 court or by way of a two-way electronic audio-video communication as
25 provided in subsection (n) at the time required by the court to answer the
26 charge against such person and at any time thereafter that the court
27 requires. Unless the magistrate makes a specific finding otherwise, if the
28 person is being bonded out for a person felony or a person misdemeanor,
29 the bond shall be conditioned on the person being prohibited from having
30 any contact with the alleged victim of such offense for a period of at least
31 72 hours. The magistrate may impose such of the following additional
32 conditions of release as will reasonably assure the appearance of the
33 person for preliminary examination or trial:

34 (1) Place the person in the custody of a designated person or
35 organization agreeing to supervise such person;

36 (2) place restrictions on the travel, association or place of abode of
37 the person during the period of release;

38 (3) impose any other condition deemed reasonably necessary to
39 assure appearance as required, including a condition requiring that the
40 person return to custody during specified hours;

41 (4) place the person under a house arrest program pursuant to K.S.A.
42 21-6609, and amendments thereto; or

43 (5) place the person under the supervision of a court services officer

1 responsible for monitoring the person's compliance with any conditions of
2 release ordered by the magistrate. The magistrate may order the person to
3 pay for any costs associated with the supervision provided by the court
4 services department in an amount not to exceed \$15 per week of such
5 supervision. The magistrate may also order the person to pay for all other
6 costs associated with the supervision and conditions for compliance in
7 addition to the \$15 per week.

8 (b) In addition to any conditions of release provided in subsection (a),
9 for any person charged with:

10 (1) A felony, the magistrate may order such person to submit to a
11 drug and alcohol abuse examination and evaluation in a public or private
12 treatment facility or state institution and, if determined by the head of such
13 facility or institution that such person is a drug or alcohol abuser or is
14 incapacitated by drugs or alcohol, to submit to treatment for such drug or
15 alcohol abuse, as a condition of release; *and*

16 (2) *a domestic violence offense, as defined in K.S.A. 21-5111, and*
17 *amendments thereto, domestic battery or aggravated domestic battery, as*
18 *described in K.S.A. 21-5414, and amendments thereto, stalking, as*
19 *described in K.S.A. 21-5427, and amendments thereto, or violation of a*
20 *protective order as described in K.S.A. 21-5924, and amendments thereto,*
21 *the magistrate shall consider ordering electronic monitoring of the person*
22 *with victim notification pursuant to section 1, and amendments thereto, as*
23 *a condition of release.*

24 (c) The appearance bond shall be executed with sufficient solvent
25 sureties who are residents of the state of Kansas, unless the magistrate
26 determines, in the exercise of such magistrate's discretion, that requiring
27 sureties is not necessary to assure the appearance of the person at the time
28 ordered.

29 (d) A deposit of cash in the amount of the bond may be made in lieu
30 of the execution of the bond pursuant to subsection (c). Except as provided
31 in subsection (e), such deposit shall be in the full amount of the bond and
32 in no event shall a deposit of cash in less than the full amount of bond be
33 permitted. Any person charged with a crime who is released on a cash
34 bond shall be entitled to a refund of all moneys paid for the cash bond,
35 after deduction of any outstanding restitution, costs, fines and fees, after
36 the final disposition of the criminal case if the person complies with all
37 requirements to appear in court. The court may not exclude the option of
38 posting bond pursuant to subsection (c).

39 (e) Except as provided further, the amount of the appearance bond
40 shall be the same whether executed as described in subsection (c) or
41 posted with a deposit of cash as described in subsection (d). When the
42 appearance bond has been set at \$2,500 or less and the most serious charge
43 against the person is a misdemeanor, a severity level 8, 9 or 10 nonperson

1 felony, a drug severity level 4 felony committed prior to July 1, 2012, a
2 drug severity level 5 felony committed on or after July 1, 2012, or a
3 violation of K.S.A. 8-1567, and amendments thereto, the magistrate may
4 allow the person to deposit cash with the clerk in the amount of 10% of the
5 bond, provided the person meets at least the following qualifications:

6 (1) Is a resident of the state of Kansas;
7 (2) has a criminal history score category of G, H or I;
8 (3) has no prior history of failure to appear for any court appearances;
9 (4) has no detainer or hold from any other jurisdiction;
10 (5) has not been extradited from, and is not awaiting extradition to,
11 another state; and

12 (6) has not been detained for an alleged violation of probation.

13 (f) In the discretion of the court, a person charged with a crime may
14 be released upon the person's own recognizance by guaranteeing payment
15 of the amount of the bond for the person's failure to comply with all
16 requirements to appear in court. The release of a person charged with a
17 crime upon the person's own recognizance shall not require the deposit of
18 any cash by the person.

19 (g) The court shall not impose any administrative fee.

20 (h) In determining which conditions of release will reasonably assure
21 appearance and the public safety, the magistrate shall, on the basis of
22 available information, take into account the nature and circumstances of
23 the crime charged; the weight of the evidence against the defendant;
24 whether the defendant is lawfully present in the United States; the
25 defendant's family ties, employment, financial resources, character, mental
26 condition, length of residence in the community, record of convictions,
27 record of appearance or failure to appear at court proceedings or of flight
28 to avoid prosecution; the likelihood or propensity of the defendant to
29 commit crimes while on release, including whether the defendant will be
30 likely to threaten, harass or cause injury to the victim of the crime or any
31 witnesses thereto; and whether the defendant is on probation or parole
32 from a previous offense at the time of the alleged commission of the
33 subsequent offense.

34 (i) The appearance bond shall set forth all of the conditions of release.

35 (j) A person for whom conditions of release are imposed and who
36 continues to be detained as a result of the person's inability to meet the
37 conditions of release shall be entitled, upon application, to have the
38 conditions reviewed without unnecessary delay by the magistrate who
39 imposed them. If the magistrate who imposed conditions of release is not
40 available, any other magistrate in the county may review such conditions.

41 (k) A magistrate ordering the release of a person on any conditions
42 specified in this section may at any time amend the order to impose
43 additional or different conditions of release. If the imposition of additional

1 or different conditions results in the detention of the person, the provisions
2 of subsection (j) shall apply.

3 (l) Statements or information offered in determining the conditions of
4 release need not conform to the rules of evidence. No statement or
5 admission of the defendant made at such a proceeding shall be received as
6 evidence in any subsequent proceeding against the defendant.

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

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

24 (o) The magistrate may order the person to pay for any costs
25 associated with the supervision of the conditions of release of the
26 appearance bond in an amount not to exceed \$15 per week of such
27 supervision *except as provided in section 1, and amendments thereto*. As a
28 condition of sentencing under K.S.A. 21-6604, and amendments thereto,
29 the court may impose the full amount of any such costs in addition to the
30 \$15 per week, including, but not limited to, costs for treatment and
31 evaluation under subsection (b).

32 (p) (1) If a defendant is charged with rape, as described in K.S.A. 21-
33 5503, and amendments thereto, criminal sodomy or aggravated criminal
34 sodomy, as described in K.S.A. 21-5504, and amendments thereto,
35 aggravated sexual battery, as described in K.S.A. 21-5505, and
36 amendments thereto, or indecent liberties with a child or aggravated
37 indecent liberties with a child, as described in K.S.A. 21-5506, and
38 amendments thereto, the magistrate shall determine prior convictions of
39 such offenses or comparable out-of-state convictions upon available
40 evidence.

41 (2) If the magistrate determines that such defendant has a prior
42 conviction of any crime that constitutes a sexually violent crime as defined
43 in K.S.A. 22-4902, and amendments thereto, bond shall be at least

1 \$750,000 cash or surety and have at least minimum conditions of no
2 contact with any victims or witnesses and the magistrate shall place the
3 person under a house arrest program pursuant to subsection (a)(4). Such
4 bond shall not be reduced or modified downward unless the magistrate
5 determines by a preponderance of the evidence at an evidentiary hearing
6 and makes a written finding on the record that the defendant is not a public
7 safety risk and not a flight risk. At such evidentiary hearing, there shall be
8 a presumption that the defendant is both a public safety risk and a flight
9 risk.

10 Sec. 3. K.S.A. 2025 Supp. 22-2802 is hereby repealed.

11 Sec. 4. This act shall take effect and be in force from and after its
12 publication in the statute book.