

Substitute for HOUSE BILL No. 2017

By Committee on Judiciary

2-15

1 AN ACT concerning criminal procedure; relating to appeals from
2 municipal court; amending K.S.A. 12-4601 and K.S.A. 2012 Supp. 22-
3 3609 and 22-3609a and repealing the existing sections.
4

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

6 Section 1. K.S.A. 12-4601 is hereby amended to read as follows: 12-
7 4601. An appeal may be taken to the district court in the county in which
8 said municipal court is located:

- 9 (a) By the accused person in all cases; and
10 (b) By the city upon questions of law.

11 The appeal shall stay all further proceedings upon the judgment
12 appealed from. *No appeal shall be filed until after the sentence has been*
13 *imposed.*

14 Sec. 2. K.S.A. 2012 Supp. 22-3609 is hereby amended to read as
15 follows: 22-3609. (1) The defendant shall have the right to appeal to the
16 district court of the county from any judgment of a municipal court which
17 adjudges the defendant guilty of a violation of the ordinances of any
18 municipality of Kansas or any findings of contempt. The appeal shall be
19 assigned by the chief judge to a district judge. The appeal shall stay all
20 further proceedings upon the judgment appealed from.

21 (2) An appeal to the district court shall be taken by filing, in the
22 district court of the county in which the municipal court is located, a notice
23 of appeal and any appearance bond required by the municipal court.
24 Municipal court clerks are hereby authorized to accept notices of appeal
25 and appearance bonds under this subsection and shall forward such notices
26 and bonds to the district court. *No appeal shall be filed until after the*
27 *sentence has been imposed.* No appeal shall be taken more than 14 days
28 after the date of the judgment appealed from *the sentence is imposed.*

29 (3) The notice of appeal shall designate the judgment or part of the
30 judgment appealed from. The defendant shall cause notice of the appeal to
31 be served upon the city attorney prosecuting the case. The judge whose
32 judgment is appealed from or the clerk of the court, if there is one, shall
33 certify the complaint and warrant to the district court of the county, but
34 failure to do so shall not affect the validity of the appeal.

35 (4) Except as provided herein, the trial of municipal appeal cases
36 shall be to the court unless a jury trial is requested in writing by the

1 defendant not later than seven days after first notice of trial assignment is
2 given to the defendant or such defendant's counsel. The time requirement
3 provided in this subsection regarding when a jury trial shall be requested
4 may be waived in the discretion of the court upon a finding that imposing
5 such time requirement would cause undue hardship or prejudice to the
6 defendant. A jury in a municipal appeal case shall consist of six members.
7 All appeals taken by a defendant from a municipal judge in contempt
8 findings, cigarette or tobacco infraction or traffic infraction cases shall be
9 tried by the court.

10 (5) Notwithstanding the other provisions of this section, appeal from
11 a conviction rendered pursuant to subsection (b) of K.S.A. 12-4416, and
12 amendments thereto, shall be conducted only on the record of the
13 stipulation of facts relating to the complaint.

14 Sec. 3. K.S.A. 2012 Supp. 22-3609a is hereby amended to read as
15 follows: 22-3609a. (1) A defendant shall have the right to appeal from any
16 judgment of a district magistrate judge. The chief judge shall be
17 responsible for assigning a district judge for any such appeal. The appeal
18 shall stay all further proceedings upon the judgment appealed from.

19 (2) An appeal to a district judge shall be taken by filing a notice of
20 appeal with the clerk of the court. *No appeal shall be filed until after the*
21 *sentence has been imposed.* No appeal shall be taken more than 14 days
22 after the date of the judgment appealed from *the sentence is imposed.*

23 (3) The clerk of the district court shall deliver the complaint, warrant
24 and any appearance bond to the district judge to whom such appeal is
25 assigned. The case shall be tried de novo before the assigned district judge.

26 (4) No advance payment of a docket fee shall be required when the
27 appeal is taken.

28 (5) All appeals taken by a defendant from a district magistrate judge
29 in misdemeanor cases shall be tried by the court unless a jury trial is
30 requested in writing by the defendant. All appeals taken by a defendant
31 from a district magistrate judge in traffic infraction and cigarette or
32 tobacco infraction cases shall be to the court.

33 (6) Notwithstanding the other provisions of this section, appeal from
34 a conviction rendered pursuant to subsection (c) of K.S.A. 22-2909, and
35 amendments thereto, shall be conducted only on the record of the
36 stipulation of facts relating to the complaint.

37 Sec. 4. K.S.A. 12-4601 and K.S.A. 2012 Supp. 22-3609 and 22-
38 3609a are hereby repealed.

39 Sec. 5. This act shall take effect and be in force from and after its
40 publication in the statute book.