

HOUSE BILL No. 2674

By Committee on Judiciary

2-9

1 AN ACT concerning crimes, punishment and criminal procedure; relating
2 to conditions of release prior to trial; requiring a forfeiture of an
3 appearance bond to be set aside in certain circumstances; amending
4 K.S.A. 2021 Supp. 22-2807 and repealing the existing section.

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

7 Section 1. K.S.A. 2021 Supp. 22-2807 is hereby amended to read as
8 follows: 22-2807. ~~(1)(a)~~ If a defendant fails to appear as directed by the
9 court and guaranteed by an appearance bond, the court in which the bond
10 is deposited shall declare a forfeiture of the bail *and issue a warrant for*
11 *the defendant's arrest.*

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

19 ~~(3)(c) (1)~~ The court may direct that a forfeiture be set aside, upon
20 such conditions as the court may impose, if it appears that justice does not
21 require the enforcement of the forfeiture. ~~If the surety can prove that the~~
22 ~~defendant is incarcerated somewhere within the United States prior to~~
23 ~~judgment of default by providing to the court a written statement, signed~~
24 ~~by the surety under penalty of perjury, setting forth details of such~~
25 ~~incarceration, then the court shall set aside the forfeiture. Upon the~~
26 ~~defendant's return, the surety may be ordered to pay the costs of that~~
27 ~~return.~~

28 (2) *The court shall direct that a forfeiture be set aside, upon such*
29 *conditions as the court may impose, if:*

30 (A) *The surety can prove that the defendant is incarcerated*
31 *somewhere within the United States prior to judgment of default by*
32 *providing to the court a written statement, signed by the surety under*
33 *penalty of perjury, setting forth details of such incarceration;*

34 (B) *the warrant required to be issued by subsection (a) was not*
35 *issued within 14 days of the forfeiture;*

36 (C) *the surety has submitted a written request to the sheriff in the*

1 *county where the forfeiture occurred to enter the warrant for the defendant*
2 *into the national crime information center's index, and such warrant was*
3 *not entered within 14 days of receipt of such request; or*

4 *(D) the defendant has been arrested outside of this state and the*
5 *prosecuting attorney has declined to proceed with extradition.*

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

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

25 ~~(5)~~(e) After entry of ~~such~~ judgment pursuant to subsection (d), the
26 court may remit ~~it~~ such judgment in whole or in part under the conditions
27 applying to the setting aside of forfeiture in subsection ~~(3)~~ (c).

28 Sec. 2. K.S.A. 2021 Supp. 22-2807 is hereby repealed.

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