



Kansas Sheriffs' Association

PO Box 1122, Pittsburg, KS 66762

Phone: (620) 687-1206 ★ Fax: (620) 230-0866

Sheriff Sandy Horton, Ret., Executive Director

www.kansassheriffs.org

Testimony to Committee on Judiciary Opposing Testimony on SB 157

Chairwoman Warren and Committee Members,

In SB 157, on page 1, starting on line 13, the current language of “the sheriff shall enter such warrant into the national crime information center’s index” is amended by adding “and make a copy of the warrant available to a compensated surety who deposited the bond on behalf of the defendant.” This adds a requirement for the sheriff to make the copy available. We oppose that requirement. This should be the court that makes the warrant available.

During the 2024 session KSA made the same argument that the Clerk of the District Court should be the entity that makes the copy for the compensated surety. Sheriffs are responsible for entering the information into the national crime information center’s index. However, the warrant is issued by a judge who then gives the warrant to the Clerk of the District Court. It is their warrant. We suggest this be amended.

On page 1, starting page 31 the current language in subsection (A) states: “The surety can prove that the defendant is incarcerated somewhere with the United States prior to judgment of default. . .’ The bill amends this to include “has left the country.” See line 31. This changes it to: “The surety can prove the defendant has left the county or is incarcerated somewhere with the United States prior to judgment of default. . .’

This addition is very problematic. This means that if the surety took the risk of bonding out a person who could be a flight risk to leave the country, the surety is not responsible and will not have to forfeit the bond. This also means whoever paid the 10% of the bond is out their money to the surety. In essence the surety assumes no risk for bonding someone out who has left the country but still is able to make money off the people that provided 10% of the original bond.

However, if the amendment is changed from “has left the country” to “***was deported from this country***” it would reflect a situation out of the control of the responsible the compensated surety, making the change acceptable.

The amendments on page 2 starting on line 3, are not an issue to the KSA, if the Clerk of the District Court is providing the copy as we propose.

I have attached a document showing our proposed amendments. Note these amendments have not been massaged by the revisor and we understand they may need to make adjustments to the wording. While we can’t support the bill as proposed, if these amendments are made, the KSA can support the bill.

Thank you for your consideration.

Sheriff Jeff Easter
KSA Legislative Chair

SENATE BILL No. 157

By Committee on Judiciary

2-3

AN ACT concerning criminal procedure; relating to release prior to trial; forfeiture of appearance bonds; requiring warrants for failure to appear to be given to sureties; allowing bond forfeiture to be set aside if surety can show defendant left the country; requiring remission in certain circumstances; 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. (a) 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 and issue a warrant for the defendant's arrest. If the defendant is charged with a felony offense, the sheriff shall enter such warrant into the national crime information center's index ~~and make a copy of the warrant available to a compensated surety who deposited the bond on behalf of the defendant~~ within 14 days of issuance of the warrant. ~~If such warrant is not entered into such index, the sheriff shall notify the court thereof.~~

the court shall

(b) 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 promptly set a new bond pursuant to requirements of K.S.A. 22-2802, and amendments thereto.

(c) (1) 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.

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

(A) The surety can prove that the defendant ~~has left the country~~ or 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 the facts substantiating such incarceration claim~~;

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

Delete:

"left the country"

insert:

"been deported from the United States"

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

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

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

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

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

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

32 (2) *shall remit 95% of the amount of the appearance bond to the*
33 *obligor if the defendant is returned to custody within 180 days after*
34 *judgment is entered.*

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

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