

22-3604. Release of defendant pending appeal by prosecution. (1) Except as provided in subsection (3), a defendant shall not be held in jail nor subject to an appearance bond during the pendency of an appeal by the prosecution.

(2) The time during which an appeal by the prosecution is pending shall not be counted for the purpose of determining whether a defendant is entitled to discharge under K.S.A. 22-3402, and amendments thereto. For purposes of this section, "an appeal by the prosecution" includes, but is not limited to, appeals authorized by subsection (b) of K.S.A. 22-3602, and amendments thereto, appeals authorized by K.S.A. 22-3603, and amendments thereto, and any appeal by the prosecution which seeks discretionary review in the supreme court of Kansas or the United States supreme court. Such an appeal remains "pending" until final resolution by the court of last resort.

(3) A defendant charged with a class A, B or C felony or, if the felony was committed on or after July 1, 1993, an off-grid felony, a nondrug severity level 1 through 5 felony or a drug severity level 1 through 4 felony crime shall not be released from jail or the conditions of such person's appearance bond during the pendency of an appeal by the prosecution. The time during which an appeal by the prosecution is pending in a class A, B or C felony or, if the felony was committed on or after July 1, 1993, an off-grid felony, a nondrug severity level 1 through 5 felony or a drug severity level 1 through 4 felony case shall not be counted for the purpose of determining whether the defendant is entitled to discharge under K.S.A. 22-3402, and amendments thereto.

History: L. 1970, ch. 129, § 22-3604; L. 1990, ch. 111, § 1; L. 1994, ch. 291, § 64; L. 2009, ch. 61, § 3; L. 2012, ch. 150, § 42; July 1.