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6 **SENATE BILL No. 651**

7
8 By Committee on Ways and Means

9
10 3-21

11
12 AN ACT concerning courts; establishing an appearance bond surcharge
13 **fee and distribution thereof**; amending **K.S.A. 8-2107 and 22-2814**
14 **and** K.S.A. 2001 Supp. 22-2802 and repealing the existing ~~section~~
15 **sections**.

16
17 *Be it enacted by the Legislature of the State of Kansas:*

18 **Section. 1. K.S.A. 8-2107 is hereby amended to read as follows:**
19 **8-2107. (a) (1) Notwithstanding any other provisions of the uniform**
20 **act regulating traffic on highways, when a person is stopped by a**
21 **police officer for any of the offenses described in subsection (d) and**
22 **such person is not immediately taken before a judge of the district**
23 **court, the police officer may require the person stopped, subject to**
24 **the provisions of subsection (c), to deposit with the officer a valid**
25 **Kansas driver's license in exchange for a receipt therefor issued by**
26 **such police officer, the form of which shall be approved by the di-**
27 **vision of vehicles. Such receipt shall be recognized as a valid tem-**
28 **porary Kansas driver's license authorizing the operation of a motor**
29 **vehicle by the person stopped until the date of the hearing stated**
30 **on the receipt. The driver's license and a written copy of the notice**
31 **to appear shall be delivered by the police officer to the court having**
32 **jurisdiction of the offense charged as soon as reasonably possible.**
33 **If the hearing on such charge is continued for any reason, the judge**
34 **may note on the receipt the date to which such hearing has been**
35 **continued and such receipt shall be recognized as a valid temporary**
36 **Kansas driver's license until such date, but in no event shall such**
37 **receipt be recognized as a valid Kansas driver's license for a period**
38 **longer than 30 days from the date set for the original hearing. Any**
39 **person who has deposited a driver's license with a police officer**
40 **under this subsection (a) shall have such license returned upon final**
41 **determination of the charge against such person.**

42 **(2) In the event the person stopped deposits a valid Kansas**
43 **driver's license with the police officer and fails to appear in the**

1 *district court on the date set for appearance, or any continuance*
2 *thereof, and in any event within 30 days from the date set for the*
3 *original hearing, the court shall forward such person's driver's li-*
4 *cence to the division of vehicles with an appropriate explanation*
5 *attached thereto. Upon receipt of such person's driver's license, the*
6 *division shall suspend such person's privilege to operate a motor*
7 *vehicle in this state until such person appears before the court hav-*
8 *ing jurisdiction of the offense charged, the court makes a final dis-*
9 *position thereof and notice of such disposition is given by the court*
10 *to the division. No new or replacement license shall be issued to any*
11 *such person until such notice of disposition has been received by*
12 *the division. The provisions of K.S.A. 8-256, and amendments*
13 *thereto, limiting the suspension of a license to one year, shall not*
14 *apply to suspensions for failure to appear as provided in this sub-*
15 *section (a).*

16 *(b) No person shall apply for a replacement or new driver's li-*
17 *cence prior to the return of such person's original license which has*
18 *been deposited in lieu of bond under this section. Violation of this*
19 *subsection (b) is a class C misdemeanor. The division may suspend*
20 *such person's driver's license for a period of not to exceed one year*
21 *from the date the division receives notice of the disposition of the*
22 *person's charge as provided in subsection (a).*

23 *(c) (1) In lieu of depositing a valid Kansas driver's license with*
24 *the stopping police officer as provided in subsection (a), the person*
25 *stopped may elect to give bond in the amount specified in subsection*
26 *(d) for the offense for which the person was stopped. When such*
27 *person does not have a valid Kansas driver's license, such person*
28 *shall give such bond. Such bond shall be subject to forfeiture if the*
29 *person stopped does not appear at the court and at the time specified*
30 *in the written notice provided for in K.S.A. 8-2106, and amendments*
31 *thereto.*

32 *(2) Such bond may be a cash bond, a bank card draft from any*
33 *valid and unexpired credit card approved by the division of vehicles*
34 *or superintendent of the Kansas highway patrol or a guaranteed*
35 *arrest bond certificate issued by either a surety company author-*
36 *ized to transact such business in this state or an automobile club*
37 *authorized to transact business in this state by the commissioner of*
38 *insurance. If any of the approved bank card issuers redeem the bank*
39 *card draft at a discounted rate, such discount shall be charged*
40 *against the amount designated as the fine for the offense. If such*
41 *bond is not forfeited, the amount of the bond less the discount rate*
42 *shall be reimbursed to the person providing the bond by the use of*
43 *a bank card draft. Any such guaranteed arrest bond certificate shall*

1 *be signed by the person to whom it is issued and shall contain a*
2 *printed statement that such surety company or automobile club*
3 *guarantees the appearance of such person and will, in the event of*
4 *failure of such person to appear in court at the time of trial, pay*
5 *any fine or forfeiture imposed on such person not to exceed an*
6 *amount to be stated on such certificate.*

7 (3) *Such cash bond shall be taken in the following manner: The*
8 *police officer shall furnish the person stopped a stamped envelope*
9 *addressed to the judge or clerk of the court named in the written*
10 *notice to appear and the person shall place in such envelope the*
11 *amount of the bond, and in the presence of the police officer shall*
12 *deposit the same in the United States mail. After such cash payment,*
13 *the person stopped need not sign the written notice to appear, but*
14 *the police officer shall note the amount of the bond mailed on the*
15 *notice to appear form and shall give a copy of such form to the*
16 *person. If the person stopped furnishes the police officer with a*
17 *guaranteed arrest bond certificate or bank card draft, the police*
18 *officer shall give such person a receipt therefor and shall note the*
19 *amount of the bond on the notice to appear form and give a copy*
20 *of such form to the person stopped. Such person need not sign the*
21 *written notice to appear, and the police officer shall present the*
22 *notice to appear and the guaranteed arrest bond certificate or bank*
23 *card draft to the court having jurisdiction of the offense charged as*
24 *soon as reasonably possible.*

25 (4) *In addition to any other fees or fines prescribed by law, there is*
26 *hereby imposed a \$5 fee on each person who gives a bond pursuant to*
27 *this section. The district court shall administer, charge and collect such*
28 *bond fee imposed by this section. All persons who give such bond shall*
29 *remit the \$5 fee to the clerk of the district court at the time the bond is*
30 *filed. If it appears to the satisfaction of the court that payment of the bond*
31 *fee will impose manifest hardship on the person charged with a crime,*
32 *the court may waive payment of the bond fee. Each district court shall*
33 *remit the money received from such bond fee to the state treasurer in*
34 *accordance with the provisions of K.S.A. 75-4215, and amendments*
35 *thereto. Upon receipt of such remittance, the state treasurer shall deposit*
36 *the entire amount to the credit of the ~~state general fund~~ [indigents de-*
37 *fense services fund].*

38 (d) *The offenses for which appearance bonds may be required*
39 *as provided in subsection (c) and the amounts thereof shall be as*
40 *follows:*

41 **On and after July 1, 1996:**

42 <i>Reckless driving</i>	§82
43 <i>Driving when privilege is canceled, suspended or revoked.....</i>	82

1	<i>Failure to comply with lawful order of officer.....</i>	57
2	<i>Registration violation (registered for 12,000 pounds or less).....</i>	52
3	<i>Registration violation (registered for more than 12,000 pounds) ...</i>	92
4	<i>No driver's license for the class of vehicle operated or violation of</i>	
5	<i>restrictions.....</i>	52
6	<i>Spilling load on highway</i>	52
7	Overload:	
8	<i>Gross weight of vehicle or combina-</i>	
9	<i>tion of vehicles.....</i>	<i>an amount equal to the fine plus</i>
10		<i>docket fee to be imposed if convicted</i>
11	<i>Gross weight upon any axle or tan-</i>	
12	<i>dem, triple or quad axles.....</i>	<i>an amount equal to the fine plus</i>
13		<i>docket fee to be imposed if convicted</i>
14	<i>Failure to obtain proper registration, clearance or to have current</i>	
15	<i>certification as required by K.S.A. 66-1324, and amendments</i>	
16	<i>thereto.....</i>	272
17	<i>Insufficient liability insurance for motor carriers pursuant to K.S.A.</i>	
18	<i>66-1,128 or 66-1314, and amendments thereto</i>	122
19	<i>Failure to obtain interstate motor fuel tax authorization pursuant</i>	
20	<i>to K.S.A. 79-34,122, and amendments thereto</i>	122
21	<i>Improper equipment (glass or fire extinguishers)</i>	52
22	<i>No authority as private, contract or common carrier.....</i>	122
23	<i>No current driver's daily log</i>	52
24	<i>Invalid or no physical examination card.....</i>	52
25	<i>Transporting open container of alcoholic liquor or cereal malt bev-</i>	
26	<i>erage accessible while vehicle in motion.....</i>	223
27	<i>(e) In the event of forfeiture of any bond under this section, \$54</i>	
28	<i>of the amount forfeited shall be regarded as a docket fee in any</i>	
29	<i>court having jurisdiction over the violation of state law.</i>	
30	<i>(f) None of the provisions of this section shall be construed to</i>	
31	<i>conflict with the provisions of the nonresident violator compact.</i>	
32	<i>(g) When a person is stopped by a police officer for any traffic</i>	
33	<i>infraction and the person is a resident of a state which is not a</i>	
34	<i>member of the nonresident violator compact, K.S.A. 8-1219 et seq.,</i>	
35	<i>and amendments thereto, or the person is licensed to drive under</i>	
36	<i>the laws of a foreign country, the police officer may require a bond</i>	
37	<i>as provided for under subsection (c). The bond shall be in the</i>	
38	<i>amount specified in the uniform fine schedule in subsection (c) of</i>	
39	<i>K.S.A. 8-2118, and amendments thereto, plus \$54 which shall be</i>	
40	<i>regarded as a docket fee in any court having jurisdiction over the</i>	
41	<i>violation of state law.</i>	
42	<i>(h) When a person is stopped by a police officer for failure to</i>	
43	<i>provide proof of financial security pursuant to K.S.A. 40-3104, and</i>	

1 *amendments thereto, and the person is a resident of another state*
2 *or the person is licensed to drive under the laws of a foreign country,*
3 *the police officer may require a bond as provided for under sub-*
4 *section (c). The bond shall be in the amount of \$54, plus \$54 which*
5 *shall be regarded as a docket fee in any court having jurisdiction*
6 *over the violation of state law.*

7 Section ~~1~~ 2. K.S.A. 2001 Supp. 22-2802 is hereby amended to read
8 as follows: 22-2802. (1) Any person charged with a crime shall, at the
9 person's first appearance before a magistrate, be ordered released pend-
10 ing preliminary examination or trial upon the execution of an appearance
11 bond in an amount specified by the magistrate and sufficient to assure
12 the appearance of such person before the magistrate when ordered and
13 to assure the public safety. If the person is being bound over for a felony,
14 the bond shall also be conditioned on the person's appearance in the
15 district court or by way of a two-way electronic audio-video communi-
16 cation as provided in subsection (11) at the time required by the court to
17 answer the charge against such person and at any time thereafter that the
18 court requires. Unless the magistrate makes a specific finding otherwise,
19 if the person is being bonded out for a person felony or a person mis-
20 demeanor, the bond shall be conditioned on the person being prohibited
21 from having any contact with the alleged victim of such offense for a
22 period of at least 72 hours. The magistrate may impose such of the fol-
23 lowing additional conditions of release as will reasonably assure the ap-
24 pearance of the person for preliminary examination or trial:

25 (a) Place the person in the custody of a designated person or organ-
26 ization agreeing to supervise such person;

27 (b) place restrictions on the travel, association or place of abode of
28 the person during the period of release;

29 (c) impose any other condition deemed reasonably necessary to as-
30 sure appearance as required, including a condition requiring that the
31 person return to custody during specified hours;

32 (d) place the person under a house arrest program pursuant to K.S.A.
33 21-4603b, and amendments thereto; or

34 (e) place the person under the supervision of a court services officer
35 responsible for monitoring the person's compliance with any conditions
36 of release ordered by the magistrate.

37 (2) In addition to any conditions of release provided in subsection (1),
38 for any person charged with a felony, the magistrate may order such
39 person to submit to a drug abuse examination and evaluation in a public
40 or private treatment facility or state institution and, if determined by the
41 head of such facility or institution that such person is a drug abuser or
42 incapacitated by drugs, to submit to treatment for such drug abuse, as a
43 condition of release.

1 (3) The appearance bond shall be executed with sufficient solvent
2 sureties who are residents of the state of Kansas, unless the magistrate
3 determines, in the exercise of such magistrate's discretion, that requiring
4 sureties is not necessary to assure the appearance of the person at the
5 time ordered.

6 (4) A deposit of cash in the amount of the bond may be made in lieu
7 of the execution of the bond by sureties.

8 (5) In determining which conditions of release will reasonably assure
9 appearance and the public safety, the magistrate shall, on the basis of
10 available information, take into account the nature and circumstances of
11 the crime charged; the weight of the evidence against the defendant; the
12 defendant's family ties, employment, financial resources, character, men-
13 tal condition, length of residence in the community, record of convictions,
14 record of appearance or failure to appear at court proceedings or of flight
15 to avoid prosecution; the likelihood or propensity of the defendant to
16 commit crimes while on release, including whether the defendant will be
17 likely to threaten, harass or cause injury to the victim of the crime or any
18 witnesses thereto; and whether the defendant is on probation or parole
19 from a previous offense at the time of the alleged commission of the
20 subsequent offense.

21 (6) The appearance bond shall set forth all of the conditions of re-
22 lease.

23 (7) A person for whom conditions of release are imposed and who
24 continues to be detained as a result of the person's inability to meet the
25 conditions of release shall be entitled, upon application, to have the con-
26 ditions reviewed without unnecessary delay by the magistrate who im-
27 posed them. If the magistrate who imposed conditions of release is not
28 available, any other magistrate in the county may review such conditions.

29 (8) A magistrate ordering the release of a person on any conditions
30 specified in this section may at any time amend the order to impose
31 additional or different conditions of release. If the imposition of additional
32 or different conditions results in the detention of the person, the provi-
33 sions of subsection (7) shall apply.

34 (9) Statements or information offered in determining the conditions
35 of release need not conform to the rules of evidence. No statement or
36 admission of the defendant made at such a proceeding shall be received
37 as evidence in any subsequent proceeding against the defendant.

38 (10) The appearance bond and any security required as a condition
39 of the defendant's release shall be deposited in the office of the magistrate
40 or the clerk of the court where the release is ordered. If the defendant
41 is bound to appear before a magistrate or court other than the one or-
42 dering the release, the order of release, together with the bond and se-
43 curity shall be transmitted to the magistrate or clerk of the court before

1 whom the defendant is bound to appear.

2 (11) Proceedings before a magistrate as provided in this section to
3 determine the release conditions of a person charged with a crime in-
4 cluding release upon execution of an appearance bond may be conducted
5 by two-way electronic audio-video communication between the defend-
6 ant and the judge in lieu of personal presence of the defendant or de-
7 fendant's counsel in the courtroom in the discretion of the court. The
8 defendant may be accompanied by the defendant's counsel. The defend-
9 ant shall be informed of the defendant's right to be personally present in
10 the courtroom during such proceeding if the defendant so requests. Ex-
11 ercising the right to be present shall in no way prejudice the defendant.

12 (12) The magistrate may order the person to pay for any costs asso-
13 ciated with the supervision of the conditions of release of the appearance
14 bond in an amount not to exceed \$5 per week of such supervision.

15 (13) (a) *In addition to any other fees or fines prescribed by law, there*
16 *is hereby imposed a ~~surcharge~~ \$5 fee on each person who is ordered to*
17 *post an appearance bond of \$5. The ~~state district courts~~ **district court***
18 *shall administer, charge and collect the appearance bond fee imposed by*
19 *this section. **All persons who post such bond shall remit the \$5 fee to***
20 ***the clerk of the district court at the time the bond is filed. If it***
21 ***appears to the satisfaction of the court that payment of the bond***
22 ***fee will impose manifest hardship on the person charged with a***
23 ***crime, the court may waive payment of the bond fee.***

24 (b) *Each district court shall remit the money received from such ~~sur-~~*
25 *~~charges~~ **bond fee** to the state treasurer in accordance with the provisions*
26 *of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such*
27 *remittance, the state treasurer shall deposit the entire amount to the credit*
28 *of the ~~state general fund~~ **[indigents defense services fund]**.*

29 **Sec. 3. K.S.A. 22-2814 is hereby amended to read as follows:**
30 **22-2814. (a) Each district court may establish, operate and coordi-**
31 **minate release on recognizance programs and supervised release**
32 **programs which provide services to the court and to persons who**
33 **are, or are to be, charged with crimes. In addition to any other fees**
34 **or fines prescribed by law, there is hereby imposed a \$5 fee on each person**
35 **who participates in a release on recognizance program pursuant to this**
36 **section. The district court shall administer, charge and collect such fee**
37 **imposed by this section. All persons who participate in such program shall**
38 **remit the \$5 fee to the clerk of the district court at the time the person**
39 **participates in the program. If it appears to the satisfaction of the court**
40 **that the payment of the fee will impose manifest hardship on the person**
41 **charged with a crime, the court may waive payment of the fee. Each**
42 **district court shall remit the money received from such fees to the state**
43 **treasurer in accordance with the provisions of K.S.A. 75-4215, and**

1 *amendments thereto. Upon receipt of such remittance, the state treasurer*
2 *shall deposit the entire amount to the credit of the ~~state general fund~~*
3 *[indigents defense services fund].*

4 *(b) Release on recognizance programs and supervised release pro-*
5 *grams shall be administered by court services officers and other*
6 *personnel of the district court. Participation by defendants in such*
7 *programs shall be on a voluntary basis. Nothing in K.S.A. 22-2814*
8 *through 22-2817, and amendments thereto, shall affect the right of*
9 *any person to seek or obtain release under K.S.A. 22-2802 and*
10 *amendments thereto regardless of participation or nonparticipation*
11 *in release on recognizance programs or supervised release pro-*
12 *grams.*

13 ~~Sec. 4.~~ **K.S.A. 8-2107 and 22-2814 and** K.S.A. 2001 Supp. 22-
14 2802 ~~is~~ **are** hereby repealed.

15 ~~Sec. 5.~~ This act shall take effect and be in force from and after its
16 publication in the statute book.

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