

As Amended by Senate Committee

Session of 2004

SENATE BILL No. 321

By Committee on Judiciary

1-20

10 AN ACT concerning municipal court judges; relating to contempt pow-
11 ers; amending K.S.A. 12-4106 and K.S.A. 2003 Supp. 22-3609 and
12 repealing the existing sections.

13
14 *Be it enacted by the Legislature of the State of Kansas:*

15 Section 1. K.S.A. 12-4106 is hereby amended to read as follows: 12-
16 4106. (a) The municipal judge shall have the power to administer the
17 oaths and enforce all orders, rules and judgments made by such municipal
18 judge, and may fine or imprison for contempt ~~committed in court or for~~
19 ~~failure to obey process issued by such municipal judge~~, in the same man-
20 ner and to the same extent as a judge of the district court.

21 (b) The municipal judge shall have the power to hear and determine
22 all cases properly brought before such municipal judge to: Grant contin-
23 uances; sentence those found guilty to a fine or confinement in jail, or
24 both; commit accused persons to jail in default of bond; determine ap-
25 plications for parole; release on probation; grant time in which a fine may
26 be paid; correct a sentence; suspend imposition of a sentence; set aside
27 a judgment; permit time for post trial motions; and discharge accused
28 persons.

29 (c) The municipal judge shall maintain a docket in which every cause
30 commenced before such municipal judge shall be entered. Such docket
31 shall contain the names of the accused persons and complainant, the
32 nature or character of the offense, the date of trial, the names of all
33 witnesses sworn and examined, the finding of the court, the judgment
34 and sentence, the date of payment, the date of issuing commitment, if
35 any, and every other fact necessary to show the full proceedings in each
36 case.

37 (d) The municipal judge shall promptly make such reports and fur-
38 nish the information requested by any departmental justice or the judicial
39 administrator, in the manner and form prescribed by the supreme court.

40 (e) The municipal judge shall ensure that information concerning dis-
41 positions of city ordinance violations that result in convictions comparable
42 to convictions for class A and B misdemeanors under Kansas criminal
43 statutes is forwarded to the Kansas bureau of investigation central repos-

1 itory. This information shall be transmitted, on a form or in a format
2 approved by the attorney general, within 30 days of final disposition.

3 Sec. 2. K.S.A. 2003 Supp. 22-3609 is hereby amended to read as
4 follows: 22-3609. (1) The defendant shall have the right to appeal to the
5 district court of the county from any judgment of a municipal court which
6 adjudges the defendant guilty of a violation of the ordinances of any mu-
7 nicipality of Kansas *or any findings of contempt*. The appeal shall be
8 assigned by the chief judge to a district judge. The appeal shall stay all
9 further proceedings upon the judgment appealed from.

10 (2) An appeal to the district court shall be taken by filing, in the
11 district court of the county in which the municipal court is located, a
12 notice of appeal and any appearance bond required by the municipal
13 court. Municipal court clerks are hereby authorized to accept notices of
14 appeal and appearance bonds under this subsection and shall forward
15 such notices and bonds to the district court. No appeal shall be taken
16 more than 10 days after the date of the judgment appealed from.

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

23 (4) Except as provided herein, the trial of municipal appeal cases shall
24 be to the court unless a jury trial is requested in writing by the defendant
25 not later than seven days after first notice of trial assignment is given to
26 the defendant or such defendant's counsel. The time requirement pro-
27 vided in this subsection regarding when a jury trial shall be requested
28 may be waived in the discretion of the court upon a finding that imposing
29 such time requirement would cause undue hardship or prejudice to the
30 defendant. A jury in a municipal appeal case shall consist of six members.
31 All appeals taken by a defendant from a municipal judge in ***contempt***
32 ***findings***, cigarette or tobacco infraction or traffic infraction cases shall
33 be tried by the court.

34 (5) Notwithstanding the other provisions of this section, appeal from
35 a conviction rendered pursuant to subsection (b) of K.S.A. 12-4416, and
36 amendments thereto, shall be conducted only on the record of the stip-
37 ulation of facts relating to the complaint.

38 Sec. 3. K.S.A. 12-4106 and K.S.A. 2003 Supp. 22-3609 are hereby
39 repealed.

40 Sec. 4. This act shall take effect and be in force from and after its
41 publication in the statute book.