

## HOUSE BILL No. 2814

By Committee on Judiciary

2-11

---

9 AN ACT concerning criminal procedure; relating to appearance bonds;  
10 amending K.S.A. 12-4303 and 22-2807 and repealing the existing  
11 sections.  
12

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

14 Section 1. K.S.A. 12-4303 is hereby amended to read as follows: 12-  
15 4303. *Except as provided further*, in the event the accused person fails  
16 to appear at the time designated in the appearance bond, or at any sub-  
17 sequent time to which the appearance has been continued, the municipal  
18 judge shall declare the bond forfeited, ~~except that, if~~ *If* it appears to the  
19 court that justice does not require the enforcement of the forfeiture, the  
20 court may set the same aside upon such conditions as the court may  
21 impose. *Judgment shall not be executed unless a motion for judgment is*  
22 *filed within one year from the date the bond was declared forfeited.* Where  
23 *the motion has been filed and* the forfeiture of a bond has become final,  
24 the court shall direct the application of the funds or that suitable action  
25 be instituted for the collection from the sureties thereon or from the  
26 accused person.

27 Sec. 2. K.S.A. 22-2807 is hereby amended to read as follows: 22-  
28 2807. (1) If a defendant fails to appear as directed by the court and  
29 guaranteed by an appearance bond, the court in which the bond is de-  
30 posited shall declare a forfeiture of the bail.

31 (2) An appearance bond may only be forfeited by the court upon a  
32 failure to appear. If a defendant violates any other condition of bond, the  
33 bond may be revoked and the defendant remanded to custody. The mag-  
34 istrate shall forthwith set a new bond pursuant to requirements of K.S.A.  
35 22-2802, and amendments thereto.

36 (3) The court may direct that a forfeiture be set aside, upon such  
37 conditions as the court may impose, if it appears that justice does not  
38 require the enforcement of the forfeiture. If the surety can prove that  
39 the defendant is incarcerated somewhere within the United States prior  
40 to judgment of default then the court shall set aside the forfeiture. Upon  
41 the defendant's return, the surety may be ordered to pay the costs of that  
42 return.

43 (4) When a forfeiture has not been set aside, the court shall on motion

1 enter a judgment of default and execution may issue thereon. If the for-  
2 feiture has been decreed by a district magistrate judge and the amount  
3 of the bond exceeds the limits of the civil jurisdiction prescribed by law  
4 for a district magistrate judge, the judge shall notify the chief judge in  
5 writing of the forfeiture and the matter shall be assigned to a district  
6 judge who, on motion, shall enter a judgment of default. By entering into  
7 a bond the obligors submit to the jurisdiction of any court having power  
8 to enter judgment upon default and irrevocably appoint the clerk of that  
9 court as their agent upon whom any papers affecting their liability may  
10 be served. Their liability may be enforced on motion without the necessity  
11 of an independent action. The motion and notice thereof may be served  
12 on the clerk of the court, who shall forthwith mail copies to the obligors  
13 to their last known addresses. No default judgment shall be entered  
14 against the obligor in an appearance bond until more than ~~10~~ 90 days  
15 after notice is served as provided herein. *Judgment shall not be executed*  
16 *unless a motion for judgment is filed within one year from the date the*  
17 *bond was declared forfeited.*

18 (5) After entry of such judgment, the court may remit it in whole or  
19 in part under the conditions applying to the setting aside of forfeiture in  
20 subsection (3).

21 Sec. 3. K.S.A. 12-4303 and 22-2807 are hereby repealed.

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