

SENATE BILL No. 416

By Committee on Ways and Means

2-20

1 AN ACT concerning criminal procedure; relating to entitlement of
2 defendants to counsel; amending K.S.A. 22-4503 and repealing the
3 existing section.
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5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 22-4503 is hereby amended to read as follows: 22-
7 4503. (a) A defendant charged by the state of Kansas in a complaint,
8 information or indictment with any felony is entitled to have the assistance
9 of counsel at every ~~stage of the proceedings~~ *hearing* against such
10 defendant *before a judge of the district court* and a defendant in an
11 extradition proceeding, or a habeas corpus proceeding pursuant to K.S.A.
12 22-2710, and amendments thereto, is entitled to have assistance of counsel
13 at such proceeding *before a judge of the district court*. A person subject to
14 an order or commitment pursuant to K.S.A. 22-3428 or K.S.A. 59-2965,
15 and amendments thereto, shall be entitled to the assistance of counsel at
16 every stage of a habeas corpus proceeding brought by such person and the
17 provisions of this section relating to defendants shall be applicable to such
18 persons.

19 (b) If such a defendant appears before any court without counsel to
20 assist and conduct the defendant's defense, it shall be the duty of the court
21 to inform the defendant that such defendant is entitled to counsel and that
22 counsel will be appointed to represent the defendant if the defendant is not
23 financially able to employ an attorney. The court shall give the defendant
24 an opportunity to employ counsel of the defendant's own choosing if the
25 defendant states the defendant is able to do so. If the defendant asks to
26 consult with counsel of the defendant's own choosing, the defendant shall
27 be given a reasonable opportunity to do so.

28 (c) If it is determined that the defendant is not able to employ
29 counsel, as provided in K.S.A. 22-4504, and amendments thereto, the
30 court shall appoint an attorney from the panel for indigents' defense
31 services or otherwise in accordance with the applicable system for
32 providing legal defense services for indigent persons prescribed by the
33 state board of indigents' defense services for the county or judicial district.
34 A record of the proceedings provided for by this section shall be entered in
35 the journal, and any order binding the defendant for trial or directing
36 further detention upon the charge and the journal entry of trial and

1 judgment shall recite the substance of such proceedings.

2 (d) Counsel employed by or appointed for the defendant shall have
3 free access to the defendant at all times for the purpose of conferring with
4 the defendant relative to the charge, for advising the defendant respecting
5 the defendant's plea and for the preparation of the defense, if a defense is
6 to be made. It is the duty of an attorney appointed by the court to represent
7 a defendant, without charge to such defendant, to inform the defendant
8 fully of the crime charged against the defendant and the penalty therefor,
9 and in all respects fully and fairly to represent the defendant in the action.

10 (e) If, after the attorney's appointment, the attorney learns that the
11 defendant has funds or other resources sufficient to enable the defendant to
12 employ counsel, the attorney shall report these facts to the court and ask
13 permission to withdraw from the case or to be permitted to accept
14 compensation for services.

15 Sec. 2. K.S.A. 22-4503 is hereby repealed.

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