

HOUSE BILL No. 2138

By Committee on Corrections and Juvenile Justice

1-27

1 AN ACT concerning criminal procedure; relating to municipal courts;
2 relating to appearance bonds; amending K.S.A. 12-4301 and 12-4303
3 and repealing the existing sections.
4

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

6 Section 1. K.S.A. 12-4301 is hereby amended to read as follows: 12-
7 4301. (a) A person having the right to post bond for appearance shall, in
8 order to do so, execute in writing a promise to appear at the municipal
9 court at a stated time and place. Such appearance bond shall be in an
10 amount as determined by the municipal judge, *and such amount shall be*
11 *the same regardless of the method of securing the appearance as*
12 *described in subsection (b).* Unless the judge makes a specific finding
13 otherwise, every bond for a person charged with an offense that would be a
14 person offense pursuant to state law shall have a condition of release
15 prohibiting the person from having contact with the alleged victim of such
16 offense for a period of at least 72 hours. Such bond may be secured by any
17 one of the following methods, and when so secured, such person shall be
18 released from custody. *The court shall not exclude the option of posting*
19 *bond pursuant to subsection (b)(2) or (b)(3).*

20 (b) The methods of securing the appearance of an accused person are
21 as follows:

22 ~~(a)(1)~~ *Payment* A deposit of cash in the full amount of the bond,
23 except that the municipal judge may permit negotiable securities or a
24 personal check in lieu of cash. *A deposit of cash in less than the full*
25 *amount of the bond shall not be permitted.*

26 ~~(b)(2)~~ The execution of an appearance bond by a ~~responsible~~
27 ~~individual residing within the state of Kansas, as surety with the approval~~
28 ~~of sufficient, solvent surety as approved by~~ the municipal judge.

29 ~~(c)(3)~~ A guaranteed arrest bond certificate issued by either a surety
30 company authorized to transact such business within the state of Kansas,
31 or an automobile club authorized to transact business in this state by the
32 commissioner of insurance, except that such "guaranteed arrest bond
33 certificate" must be signed by the person to whom it is issued and must
34 contain a printed statement that the surety guarantees the appearance of
35 such person and, in the event of failure of such person to appear in court at
36 the time of trial, will pay any fine or forfeiture imposed upon such person

1 not to exceed an amount to be stated on such certificate.

2 ~~(d)~~(c) In lieu of giving security in the manner provided by subsections
3 ~~(a), (b) and (c) above~~ *(b)(1) through (b)(3)*, if the arrest is for the violation
4 of a city ordinance relating to the operation of a motor vehicle the accused
5 person may deposit with the arresting law enforcement officer or the clerk
6 of the municipal court a valid Kansas driver's license in exchange for a
7 receipt therefor issued by the law enforcement officer or the clerk of the
8 municipal court, the form of which shall be approved by the division of
9 vehicles of the state department of revenue. Such receipt shall be
10 recognized as a valid temporary Kansas driver's license authorizing the
11 operation of a motor vehicle by the accused person to the date of the
12 hearing stated on the receipt. Such driver's license and written copy of the
13 notice to appear shall be delivered by the law enforcement officer to the
14 municipal court as soon as reasonably possible. If the hearing on any such
15 charge is continued for any reason, the municipal judge may note on the
16 receipt the date to which such hearing has been continued, and such receipt
17 shall be recognized as a valid temporary Kansas driver's license until such
18 date, but in no event shall such receipt be recognized as a valid Kansas
19 driver's license for a period longer than 30 days from the date for the
20 original hearing. Any person who deposited a driver's license to secure
21 such person's appearance, in lieu of giving a bond as provided in
22 subsections ~~(a), (b) and (c) above~~ *(b)(1) through (b)(3)*, shall have such
23 driver's license returned upon the giving of the required bond pursuant to
24 ~~(a), (b) and (c) above~~ *subsections (b)(1) through (b)(3)* or upon final
25 determination of the charge.

26 *(1)* In the event the accused person deposits a valid Kansas driver's
27 license with the municipal court and fails to appear in court on the date set
28 for appearance, or any continuance thereof, and in any event within 30
29 days from the date set for the original hearing, the municipal judge shall
30 forward the driver's license of such person to the division of vehicles with
31 an appropriate explanation attached thereto. Upon receipt of the driver's
32 license of such person the division of vehicles shall suspend such person's
33 privilege to operate a motor vehicle in this state until such person appears
34 before the municipal court, or the municipal court makes a final
35 disposition thereof, and notice of such disposition is given by the
36 municipal court to the division, or for a period not exceeding six months
37 from the date such person's driver's license is received by the division,
38 whichever is earlier.

39 *(2)* Any person who applies for a replacement or new driver's license
40 prior to the return of such person's original license, when such license has
41 been deposited in lieu of the giving of a bond as provided in this section,
42 shall be guilty of a misdemeanor punishable as set forth in K.S.A. 8-2116,
43 and amendments thereto.

1 Sec. 2. K.S.A. 12-4303 is hereby amended to read as follows: 12-
2 4303. In the event the accused person fails to appear at the time designated
3 in the appearance bond, or at any subsequent time to which the appearance
4 has been continued, the municipal judge shall declare the bond forfeited,
5 except that, if it appears to the court that justice does not require the
6 enforcement of the forfeiture, the court may set the same aside upon such
7 conditions as the court may impose. Where the forfeiture of a bond has
8 become final ~~not been set aside~~, the court shall direct ~~the application of the~~
9 ~~funds or~~ that suitable action be instituted for the collection from the
10 ~~sureties obligors thereon or from the accused person pursuant to K.S.A.~~
11 ~~22-2807, and amendments thereto.~~

12 Sec. 3. K.S.A. 12-4301 and 12-4303 are hereby repealed.

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