

22-2805. Material witness; appearance bond; custody; release, when required; appointed counsel and other services for indigent.

(a) If it appears by affidavit that the testimony of a person is material in any criminal proceeding or in any proceeding under the revised Kansas juvenile justice code, K.S.A. 2007 Supp. 38-2301 et seq., and amendments thereto, and it is shown that it may become impracticable to secure the witness' presence by subpoena, the court or magistrate may require the witness to give bond in an amount fixed by the court or magistrate, or to comply with other conditions to assure the witness' appearance as a witness. If a person fails to comply with the conditions of release, the court or magistrate may, after hearing, commit the witness to the custody of the sheriff or marshal pending final disposition of the proceeding in which the testimony is needed. A material witness shall not be held in custody more than 30 days unless the court or magistrate, after hearing, determines that there is good cause to hold the witness for an additional period of not more than 30 days. No material witness shall be detained because of inability to comply with any condition of release if the testimony of the witness can be secured for use at trial or in any proceeding under the revised Kansas juvenile justice code, K.S.A. 2007 Supp. 38-2301 et seq., and amendments thereto by deposition, and further detention is not necessary to prevent a failure of justice. Release may be delayed for a reasonable time until the deposition of the witness can be taken pursuant to K.S.A. 22-3211, and amendments thereto.

(b) The court or magistrate shall appoint counsel to represent a witness committed to custody pursuant to this section when the court or magistrate determines that the witness is financially unable to employ counsel, based on the same standards as used to determine if a defendant is able to employ counsel. Such appointment shall be from the panel for indigents' defense services or as otherwise prescribed under the applicable system for providing legal defense services for indigent persons prescribed by the state board of indigents' defense services for the county or judicial district. In any proceeding under the revised Kansas juvenile justice code, K.S.A. 2007 Supp. 38-2301 et seq., and amendments thereto, such appointment shall be pursuant to K.S.A. 2007 Supp. 38-2306, and amendments thereto. The witness may obtain necessary investigative, expert and other services in the manner provided by K.S.A. 22-4508, and amendments thereto. Payment for the counsel and other services shall be made in the manner provided by K.S.A. 22-4507, and amendments thereto.

History: L. 1970, ch. 129, § 22-2805; L. 1982, ch. 141, § 1; L. 1982, ch. 142, § 27; L. 1996, ch. 211, § 1; L. 2006, ch. 169, § 100; Jan. 1, 2007.