

IN THE SUPREME COURT OF THE STATE OF KANSAS

Administrative Order No. 96

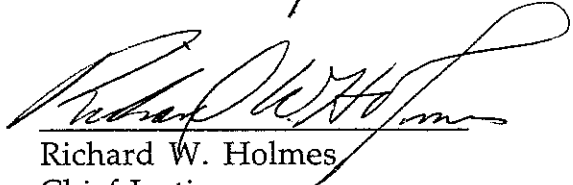
In re: Pretrial Release

1. Reference: Article 1, Section 3, Kansas Constitution, K.S.A. 20-101, and K.S.A. 20-342.

2. In addition to the current statutory pretrial release system, regulation of the conditions of and procedures for pretrial release of persons charged with crime in the district courts of Kansas may also be accomplished by promulgation of a local rule substantially as provided in the attached example. Examples of necessary supporting materials are also attached.

3. Judicial districts whose current own recognizance-cash deposit pretrial release programs are not substantially in compliance with the attached example have until July 1, 1995, to submit a local rule substantially in compliance with the attached example. All other districts may adopt a local rule for this purpose whenever the judges of the district court determine such a rule should be adopted. An information copy of any OR-cash deposit local rule adopted shall be forwarded to the office of judicial administration concurrently with filing with the clerk of the supreme court.

BY ORDER OF THE COURT this 17th day of January 1996.


Richard W. Holmes
Chief Justice

Attachments

*mailed
to Billings
1-10-96*

IN THE JUDICIAL DISTRICT OF KANSAS

DISTRICT COURT RULE NO.
PRETRIAL RELEASE

This District Court Rule establishes procedures and qualifications for release from custody in situations other than upon specific direction from a judge of the district court. (If applicable--This rule supersedes _____.)

1. Court Service Officers, Deputy Sheriffs and Correctional Officers who are sworn in as Deputy Clerks of the District Court are authorized to permit persons in custody to post bail bonds in accordance with the provisions of this rule.

2. The attached Automatic Bond Schedule (ABS) is approved for the amount of bail bonds for particular crimes. For those offenses where no bond is set or is designated "see judge," the accused shall be brought before a judge of the district court at the next court date to have a bond set. If a person has been in custody for 48 hours and no bail bond has been set, a judge of the district court shall be contacted.

3. Notwithstanding the ABS, persons in custody with any of the following conditions are not eligible for an ABS bond and shall be brought before a judge to have bond set:

- (a) Prior bond forfeitures,
- (b) Has been extradited or is awaiting extradition to another state,
- (c) Has a detainer or hold from other states or federal authorities,
- (d) Has a prior conviction of a felony classified as A, B, or C or level 5 or lower.
- (e) Has been detained for a violation of probation.
- (f) If a deputy clerk believes in good faith that the accused may flee, pose a danger to public safety or is not eligible for bond under the ABS, the matter of setting a bail bond shall be referred to a judge of the district court.

4. On bonds requiring \$1,000 surety or less, _____ County residents eligible for bond under the ABS may be released on the person's own recognizance bond (OR) if they meet one of the following criteria:

- (a) Own real estate located in _____ County in own name; or
- (b) Any three of the following five:
 - (1) Resident of _____ County- more than 6 months;
 - (2) Valid Kansas drivers license;
 - (3) Employment in _____ County-more than 3 months;
 - (4) Current telephone service-in own name;
 - (5) Is enrolled as a student in the State of Kansas; or
- (c) Active duty military and stationed at a military base in the State of Kansas.

All factors shall be determined upon a sworn statement made under penalty of perjury by the accused or the accused's private surety. Court service officers, deputy sheriffs or correctional officers who are sworn in as deputy clerks are authorized to require further verification of any item as they deem appropriate before permitting a person in custody to post bond. Victims reflected in an arrest report cannot act as private surety on a bail bond.

5. On bonds requiring \$1,000 surety or less _____ County residents eligible for bond under the ABS, but not meeting the criteria at paragraph 4, may be released on bond with a surety if the surety completes a sworn statement and qualifies under both items (a) and (b) of paragraph 4.

6. On bonds requiring surety of more than \$1,000 and up to \$2,500, _____ County residents eligible for bond under the ABS may be released by posting an OR cash deposit bond and meeting one of the criteria set forth in paragraph 4, sections (a), (b) or (c). A _____ County resident eligible for release under the ABS, but not meeting the criteria of paragraph 4 may be released by posting an OR-cash deposit bond and obtaining a private surety who qualifies under both items (a) and (b) of paragraph 4.

7. Persons may be admitted to personal recognizance cash deposit (OR-cash deposit) bail bonds who meet the criteria set forth in this rule or upon special screening and recommendation of a person authorized to permit posting of a bond in accordance with this rule. Any person determined eligible to be admitted to bail on an OR-cash deposit bond shall deposit with the clerk of the court cash equal to 10 percent of the amount of the bond and execute a bail bond in the total amount of the bond. All other conditions of the bond set by the court and this rule must be satisfied.

8. When an accused person qualifies for an OR-cash deposit bond, the cash deposit shall be held by the Clerk of the Court until such time as the accused has fully performed all conditions of the bond and is discharged from the person's obligation by the court. When an accused has been so discharged, 90% of the cash deposit shall be returned to the accused upon surrender of the cash deposit receipt previously issued by the clerk. Ten percent of the cash deposit shall be retained by the Clerk as an administrative fee. Cash deposit bonds shall be placed in an interest-bearing financial institution account by the clerk. No interest shall be paid to the person or surety posting a cash deposit bail bond. Annually the aggregate amount of administrative fees retained and interest earned on cash deposit bail bonds shall be turned over to the general fund of _____ County.

9. A cash receipt for an OR-cash deposit bail bond shall be issued only to the person being released on bond. Any person posting cash for another person shall be informed that any cash posted as a bail bond is the property of the accused person and may be subject to forfeiture, application to payment of fines, court costs and fees, and will be refunded only to the arrested party. Any arrangements to furnish bond money are between the lender and the accused person.

10. When an accused person who has posted a cash deposit bail bond is discharged from the person's obligation to the court and files the receipt for the cash deposit with the clerk at the conclusion of the proceedings, the refundable portion of the cash deposit may be allocated to restitution, court costs or to an attorney for payment of attorney fees, upon order of the court.

11. All OR-cash deposit bail bonds issued in this county shall be subject to the condition of forfeiture and the amount deposited will become the absolute and permanent property of the district court or of _____ County should one or more of the following occur:

- (a) Accused person or surety makes a false statement or representation regarding the criteria for OR-cash deposit as set forth in paragraphs 3 through 6, above.
- (b) Accused person fails to appear in court pursuant to court order at any stage of the proceedings.
- (c) Accused person fails to report as directed to CSO.
- (d) Accused person fails to perform any other condition of bail imposed by the court.

12. All persons admitted to bail on OR or OR-cash deposit bond shall be required to report as directed to a court service office (CSO).

13. Other special conditions may also be imposed by the court as a requirement of release on OR or OR cash deposit bonds.

14. All private or professional surety bonds in this district court shall have as a condition that sureties shall agree to remain liable on any bail bond until all proceedings arising out of the arrest or case for which the bond was posted are concluded or the surety is released by court order. No surety shall be released on an obligation on a bail bond without court approval. Either a surety or a person arrested and turned in on a bond by a surety may file a motion with the court for a determination of whether the bail bond should be revoked or continued in force.

15. Bail bonds designated as OR-Cash, Cash or Professional Surety shall be written only on terms specified by a judge of the district court. If an accused person requests release on a professional surety bond when cash or an OR-cash deposit bond has been specified, the deputy clerk shall contact the judge authorizing the bond for modification of the bond.

16. This rule shall not limit or restrict the right of any person to seek or obtain pretrial release under other statutory methods of admitting accused persons to bail or the authority of a judge of the district court to determine bail. The participation of an accused person in this program shall be on a voluntary basis.

17. This rule shall not apply to civil bench warrants.

18. Definitions:

- (a) The term "cash" as used in this rule means United States currency, a money order, or a bank draft or certified check drawn on a Kansas banking or savings and loan institution.
- (b) The term "court" as used in this rule refers to the _____ County District Court.
- (c) The term "accused person" as used in this rule means a person in custody by reason of an arrest report or a defendant in a criminal, driving under the influence of drugs or alcohol, or traffic case.

BY ORDER OF THE JUDGES OF THE DISTRICT COURT IN _____
COUNTY, KANSAS.

Dated this _____ day of _____ 19____.

Administrative Judge

IN THE DISTRICT COURT OF COUNTY, KANSAS
JUDICIAL DISTRICT

INFORMATION REGARDING OR - CASH DEPOSIT BONDS

1. Kansas residents who meet certain specified screening requirements may be eligible for release on their own recognizance by posting a cash deposit with the Clerk of District Court.
2. When a defendant qualifies for an OR - Cash Deposit bond, ten percent of the bond in cash shall be deposited with and held by the Clerk of District Court until such time as the defendant has fully performed all conditions of the bond and is discharged, ninety percent of the cash deposit shall be returned to the defendant upon filing the receipt with the Clerk. Ten percent shall be retained by the Clerk as an administrative fee. No interest will be paid on the cash deposit. The Court will only refund cash deposits to the defendant or persons in possession of the receipt and an assignment executed by the defendant.
3. The cash deposit shall be retained by the Clerk of the Court until the defendant has performed all conditions of the bond and has been discharged from all obligations by the Court, including fines, court costs, attorneys fees, child support or any other Court ordered obligation.
4. The cash deposit may be forfeited should one or more of the following events occur:
 - a. Defendant makes a false statement or provides false information in the written document entitled "SUPPLEMENTAL CONDITIONS" which is attached to and becomes a part of his/her OR-Cash Deposit bail bond;
 - b. Defendant fails to make any required court appearance;
 - c. Defendant fails to report as directed to a Court Services Officer;
 - d. Defendant fails to perform any other condition of bail imposed by the Court.
5. If the defendant's bond is forfeited, the defendant and any sureties will be obligated for the full amount of the bond. The cash deposit will be applied to such obligation and remain the absolute property of the Court or the State of Kansas.
6. An application for return of the refundable portion of the cash deposit must be made within one year after termination and final judgment in the case. If such application is not made within such period of time, the cash deposit shall become the absolute and permanent property of the Court or County.
7. The OR - Cash Deposit bail bond program is voluntary. If a defendant does not participate in this program he/she retains the right to seek or obtain pretrial release under any other statutory provision for admitting defendants to bail.
8. PERSONS POSTING BOND FOR ANOTHER ARE DEEMED BY THE COURT AS MAKING A LOAN TO THE ARRESTED PARTY. THE COURT IS NOT UNDER ANY OBLIGATION TO REFUND A CASH DEPOSIT TO ANYONE OTHER THAN THE ARRESTED PARTY AND CASH DEPOSITS ARE SUBJECT TO APPLICATION TO FINES, COSTS AND FEES.
9. This information sheet should be attached to every receipt for an OR - Cash Deposit.

I have read the foregoing and have received a copy of this information sheet.

(Defendant)

Date: _____

Name and Mailing Address (Please Print)

IN THE DISTRICT COURT OF COUNTY, KANSAS
JUDICIAL DISTRICT

STATEMENT FOR OBTAINING OR AND ORC BONDS

Date _____

1. Please print the following information:

NAME _____ AGE: _____ SEX _____ RACE _____
OFFENSE _____

2. Screening information to be furnished by defendant: (Check correct answers)

a. I am a Kansas resident. _____ Yes _____ No How long? _____ (months)(years).

b. Address: _____
How long at this address? _____ (months) (years)

c. Your home telephone number _____ Is this telephone listed in your name? _____ Yes _____ No

d. I have had prior bond forfeitures. _____ Yes _____ No

e. I have been extradited or waived extradition on pending charges. _____ Yes _____ No

f. I have detainers or holds from other state or federal authorities. _____ Yes _____ No

g. Are there other charges pending against you? _____ Yes _____ No

If yes, explain: _____

3. Additional screening information furnished by defendant:

a. I have not been previously convicted of an A, B or C felony or a level 5 or lower felony. _____ Yes _____ No

b. Closest relative or family member living in _____ County.

Name _____ Home telephone No. _____ Address _____

c. I am presently employed in Kansas. _____ Yes _____ No
(If the answer is "yes", write employer's name and address below)

Employer's Telephone No. _____

How long employed here? _____ (months)(years).

d. I own an interest in real property in the State of Kansas _____ Yes _____ No
(If the answer is "yes", list the address or the legal description of the property)

e. I am a student in Kansas. _____ Yes _____ No
(If the answer is "yes", state the school or institution, date of last enrollment and class)

4. An active member of military service _____ Yes _____ No
(If yes, state Service number, duty station and name of commanding officer and c.o. telephone number)

5. In addition to any special conditions required by the Court, I understand the following are conditions of this BOND:

a. That all of the foregoing statements are true.

b. That I will report as directed to Court Services Officer.

6. When this document is signed and sworn to by the defendant, it shall be attached to and become a part of the Recognizance
for Appearance in the District Court of _____ County, Kansas.

(DEFENDANT) (SURETY)

AFFIDAVIT OF DEFENDANT OR SURETY

I, the undersigned defendant, do solemnly swear under penalty of perjury that the foregoing statements are true, correct and complete. So Help Me God.

(DEFENDANT) (SURETY)

Subscribed and sworn to before me this _____ day of _____, 1993.

CLERK OF DISTRICT COURT

DEPUTY CLERK

RECOGNIZANCE FOR APPEARANCE IN THE DISTRICT COURT OF
COUNTY, KANSAS

(Pursuant to the provisions of Chapter 22, K.S.A., an Act entitled
Kansas Code of Criminal Procedure and County District Court Rule)

DATE _____, COUNTY OF _____, ss: _____ CASE NO. _____
WHEREAS, (_____) has been arrested and is now held in custody to answer the charge/charges of having committed
the offense(s) of _____

NOW, I (WE), THE UNDERSIGNED, resident/residents of _____ COUNTY, individually, jointly and severally, bind myself/ourselves to the
State of Kansas in the sum of _____ DOLLARS AND _____ CENTS. (\$ _____); Type of Surety _____
THE CONDITIONS of this obligation are that if defendant be now released that said defendant shall appear in the District Court of
County, _____ Judicial District of Kansas, to answer the charge or charges in the complaint or information at all docket calls,
hearings, arraignments and trials and at such other times and places (including reporting to jail, to commence serving any misdemeanor
felony sentence) as directed by said District Court, and on further conditions:

YOU ARE TO CALL _____ EXT. _____ AT LEAST 24 HOURS BEFORE THE COURT DATE SHOWN ABOVE TO CONFIRM COURT DATE AND TIME; _____

When this obligation shall be null and void; otherwise, to remain in full force and effect.

SURETIES WILL TAKE NOTE that the terms of this recognizance are subject to _____ County District Court Rule No. _____ and will serve
as an appearance bond throughout all District Court proceedings in this matter, and includes the bond required for appearance pending
trial, unless the Court otherwise directs, but does not include an appeals bond to the Court of Appeals or to the Supreme Court.
CASH DEPOSIT BONDS WILL ONLY BE REFUNDED TO THE DEFENDANT AND ARE SUBJECT TO APPLICATION TO COURT ORDERED OBLIGATIONS.

DEFENDANT WILL TAKE NOTE that he must keep him/herself advised of the soundings of the Criminal Docket and all settings of his/her case
and appear for same or be subject to forfeiture of his/her bond and re-arrest.

(Defendant Signature)

(Surety Signature)

(Address) (Telephone No.)

(Address) (Telephone No.)

Judge) _____

Clerk of the District Court

(Deputy Clerk Signature)

AFFIDAVIT OF SURETIES

I (WE), THE UNDERSIGNED, SURETIES, Do solemnly swear that I (We) are residents of the State of Kansas and that I (We) am (are) worth
_____ dollars (\$ _____) over and above all
exceptions, debt and liabilities, and the I (We) have no outstanding recognizance or bonds forfeited in Courts of this state on which
payments have not been paid, and further that I (We) have never been convicted of a felony.

described and sworn to before me this _____

(Surety Signature)

of _____, 199 _____.

Any pretrial release of any defendant, whether on bail
or under another form of recognizance shall be considered
as _____ of law to include a condition that the defend-
ant _____ not commit, cause to be committed or knowingly
permit to be committed, on the defendant's behalf, the
crime of intimidation of a witness or aggravated intimi-
dation of a witness as provided by KSA.1983 Supp.21-3301.

Clerk of the District Court

(Deputy Clerk Signature)

DESCRIPTION	STATUTE/ORDINANCE	CS	P	LV	CASH-BOND	* SURTY-BOND	TYPE
COF CON JUROR, CON	21-3817C	F		EF N 10	100 *	1,000	WS
COF CON JUROR, SOL	21-3817S	F		EF N 10	100 *	1,000	WS
CORRUPT CONDUCT/JUR, AT	21-3817AT	F		EF N 10	100 *	1,000	WS
CORRUPT/INFLU/WITNES	21-3805			EF	100 *	1,000	WS
CORRUPT CONDUCT/JUROR	21-3817			EF N 9	100 *	1,000	WS
COURT ORDER	CTO-CO						NON
COURTESY HOLD	HOLD						NON
COVERED MALL	UFC ART 35				100 C	500	
CREATING A HAZARD	21-4212			BM		1,000	OR
CRED/CARD UNLAW-<25K	21-3729	A		DF N 7	250 *	2,500	WS
CRED/CARD UNLAW-<500	21-3729			AM N	100	100	C
CRED/CARD UNLAW->500	21-3729	B		EF N 9	100 *	1,000	WS
CRI.DAM TO PRO.<\$500	21-3720			BM N 10	100	100	C
CRI.DAM TO PRO.>\$500	21-3720	B		EF N 9	100 *	1,000	WS
CRI.DAM TO PRO.>25K	21-3720	A		DF N 7	J		NON
CRI.DAM TO PRO.OVR, ATT	21-3720AT	O		EF N 10	100 *	1,000	WS
CRI.DAM TO PRO.OVR, CON	21-3720CU	O		EF N 10	100 *	1,000	WS
CRI.DAM TO PRO.OVR, SOL	21-3720SO	O		EF	100 *	1,000	WS
CRI.DAM TO PRO.UOR, ATT	21-3720AT	U		BM		1,000	OR
CRI.DAM TO PRO.UOR, CON	21-3720CU	U		CM		500	OR
CRIM DESECR >500<25K	21-4111	B3		EF N 9	250 *	2,500	WS
CRIM DESECRATE	21-4111	B1		AM N	100 *	1,000	WS
CRIM DESECRATE <500	21-4111	A		AM N	100 *	1,000	WS
CRIM DESECRATE >25K	21-4111	B2		DF N 7	250 *	2,500	WS
CRIM DESECRATE-PUBL	21-4111	B2A		AM N	100 *	1,000	WS
CRIM RESPASS/ORDER	ST015-26	(A)(1)			100 C	500	
CRIM POSS.FIRARM10YR	21-4204	A3		DF N 8		1,500	WS
CRIM POSS.FIRARM5YRS	21-4204	A2		DF N 8		2,500	WS
CRIM USE/WEAP.BULLET	21-4201	A8		EF N 9	100 *	1,000	WS
CRIM USE/WEAP.SHOTGU	21-4201	A7		EF N 9		1,000	WS
CRIM/TRES POSTED	ST015-26	(A)(2)			100 C	500	
CRIMINAL CONTEMPT	20-1203			AM	50 *	500	WS
CRIMINAL DEFAMATION	21-4004			AM		1,000	OR
CRIMINAL HIS.DISTRIB	22-4707			AM N		500	WS
CRIMINAL NUISANCES	ST015-74	(A)			100 C	500	
CRIMINAL TRESPAS, ATT	21-3721AT			CM	100	100	C
CRIMINAL TRESPASS	21-3721			BM	100	100	C
CRIMINAL TRESPASS, CON	21-3721CU			CM	100	100	C
CRIMINAL USE/WEAPON	21-4201	A5		EF N 9		1,000	WS
CRIMINAL USE/WEAPON	21-4201	A1		AM N 10		500	WS

Automatic Bond Schedule (ABS) Extract page--this example is for a jointly operated jail so it shows both city ordinances and state criminal statutes. The column headings for the first two columns are self-explanatory. CS is for class of felony; P is for person or nonperson; LV is for severity level; Cash bond heads the amount column; * is a column showing information on whether a ten percent bond is available or whether the bond is for the city or if J shows that only a judge can set the bond; Surty-Bond sets amounts; and Type is a column showing NON (only a judge can set the bond amount), WS (with surety), PS (professional surety), or OR (own recognizance).