

EIGHTEENTH JUDICIAL DISTRICT LOCAL COURT RULES

Criminal

Rule 300: DUTIES OF PRESIDING JUDGE OF CRIMINAL DEPARTMENT

The Presiding Judge of the Criminal Department shall have general supervision of all matters arising under the Criminal Code and traffic statutes of the State of Kansas, including appeals from municipal courts. He shall maintain and conduct such dockets and calendars as are required or necessary to implement the laws of the State of Kansas or Rules of the Supreme Court. He shall assign the work of the Department to the Judges within the Department.

Rule 301 (Amended): PRETRIAL MOTIONS

The Presiding Judge of the Criminal Department will hear or assign Pretrial motions, other than for bond reduction/modification, at the 9:00 a.m. Motion Docket on the Friday following the week in which a party files the motion, or at such other time as the Presiding Judge may order.

Pretrial motions that require presentation of evidence or significant legal argument that could delay the start of jury selection must be resolved prior to the trial date. Counsel have the burden to schedule such motions with the assigned trial judge. If they do not the Court may continue the trial, at its discretion, and charge the continuance to the party responsible for the delay.

Counsel must submit all motions requesting bond reduction/modification to the assigned sentencing judge. Such motions must be in writing and include a notice of the hearing date and certificate of service. The moving party must file and serve the motion on the opposing party at least two business days in advance of the hearing date. If the assigned sentencing judge is unable to schedule the hearing within five business days from the date requested, the Presiding Judge of the Criminal Department will schedule the hearing on the next criminal motion docket.

Sentencing motions requesting a dispositional departure must be filed two business days in advance of the scheduled sentencing date unless both parties agree to the departure.

Rule 302: POST TRIAL MOTIONS INCLUDING PETITIONS FILED UNDER K.S.A. 60-1507

All post-trial motions in criminal cases and petitions pursuant to K.S.A. 60-1507 will be heard at the time and date set by the Judge who tried the case.

Rule 303: COMMERCIAL SURETY RULES AND PROCEDURES - As Amended 10/29/2019

A. Authorization to Issue Appearance Bonds. Except as otherwise provided by law, no compensated surety shall be authorized to act as a surety in this Court until having fully complied with Kansas law, including K.S.A. 22-2806 through 22-2809a, and the rules of this Court, including this Local Rule relating to the justification and approval of sureties, and the issuance of appearance bonds. Persons who are not a compensated surety may act as sureties in this Court on a case by case basis without complying with section C if a judge of this Court approves.

B. Definitions. As used in this Rule, the terms shall have the following meanings:

“Applicant” means any person applying for approval or having been approved to issue appearance bonds under this rule, or any previous version of this rule, as a compensated surety.

“Appearance bond” means a bond certificate issued by a surety which guarantees the appearance of a defendant in the Eighteenth Judicial District at the time specified on the bond and at all subsequent court appearances. In the event of failure to appear at any time specified by the Court, the surety guarantees payment of the amount on the bond.

“Chief Judge” means the Chief Judge of the Eighteenth Judicial District or other Judge of the District Court designated by the Chief Judge of the Eighteenth Judicial District to act on his or her behalf. The Chief Judge may also designate the Clerk of the District Court or the District Court Administrator to perform clerical or administrative duties outlined in this Rule.

“Commercial Surety” means any person or entity who, as surety, issues appearance bonds for compensation, is responsible for any forfeiture, and is liable for appearance bonds written by their authorized agents.

“Bail Enforcement Agent” means a person not performing the duties of a law enforcement officer who tracks down, captures and surrenders to the custody of a court a fugitive who has violated a surety or bail bond agreement, commonly referred to as a bounty hunter.

“Compensated Surety” means any person who or entity that is organized under the laws of the state of Kansas that, as surety, issues appearance bonds for compensation, is responsible for

any forfeiture and is liable for appearance bonds written by such person's or entity's authorized agents. A compensated surety is either an insurance agent surety or a property surety.

"Insurance Department" means the Kansas Insurance Department.

"Insurance Agent Surety" means a compensated surety licensed by the insurance commissioner to issue surety bonds or appearance bonds in this state and who represents an authorized insurance company. An insurance agent surety may have other insurance agent sureties working with or for such surety.

"Property Surety" means a compensated surety who secures appearance bonds by property pledged as security. A property surety may be a person or entity, other than a corporation, and may authorize bail agents to act on behalf of the property surety in writing appearance bonds. In the 18th Judicial District the only property that can be pledged to secure appearance bonds is a valid, current and enforceable irrevocable two year Letter of Credit starting July 1st in the year of the application in an amount not less than one hundred thousand dollars (\$100,000) issued to the District Court, Eighteenth Judicial District, by a state or national banking institution authorized to and doing business in the State of Kansas, guaranteeing payment of any forfeited appearance bonds posted by the Property Surety or his/her Bail Agent(s) on which judgment has been granted. Any supplemental Letter of Credit shall meet all requirements of this Rule and shall not expire until the next June 30th. All such letters of credit must be reviewed by the District Attorney and approved by the Chief Judge. Letters of Credit shall be retained by the Clerk of the District Court, following approval of the application. No other property is acceptable to be pledged from a property surety.

"Bail Agent" means a person authorized by a compensated surety to execute surety bail bonds on such surety's behalf. In the 18th judicial district Bail Agents shall have the same continuing education requirements as Compensated Sureties.

"Insurance Company" means any company authorized by the Kansas State Insurance Commissioner to write surety bonds or Appearance Bonds.

"Surety" means a person or compensated surety, other than a defendant in a criminal proceeding, that guarantees the appearance of a defendant in a criminal proceeding, by executing an appearance bond.

"Unsatisfied Appearance Bond Forfeitures" shall mean appearance bonds, which after thirty (30) days from the granting of judgment on the motion for the same have not been paid into the court or the defendant has not been recommitted into custody by the surety or his or her bail agent.

C. Criteria for Authorization to Act as Commercial Surety in the Eighteenth Judicial District.

Every compensated surety shall submit an application to the chief judge of the judicial district, or the chief judge's designee, in each judicial district where such surety seeks to act as a surety.

A compensated surety shall not act as a surety in such judicial district prior to approval of such application. The application must be filed with the Clerk of the District Court of the 18th Judicial District.

Requirements for Insurance Agents

1. The application shall include the following information for each insurance agent surety, property surety or bail agent:
 - A. A copy of the applicant's Kansas driver's license or nondriver's identification card;
 - B. A statement, made under penalty of perjury, that the applicant is a resident of this state and is not prohibited by K.S.A. 22-2809a(c), and amendments thereto, from acting as a surety;
 - C. A certificate of continuing education compliance in accordance with Kansas law.
2. The application for each insurance agent surety also shall include:
 - A. A copy of the qualifying power of attorney certificates issued to such surety by any insurance company;
 - B. a current and valid certificate of license from the insurance department; and
 - C. a current and valid certificate of authority from the insurance department.
 - D. A statement that the applicant has not been convicted of a felony in Kansas or any other jurisdiction, has not in the preceding ten (10) years been convicted of any misdemeanor involving violence, dishonesty, deceit or moral turpitude, is qualified to act as a surety under Kansas law, has read this Rule and the Kansas statutes dealing with appearance bonds in their entirety and agrees to comply with all provisions.
 - E. A completed application including the Authorization for Release of Records, a copy of a valid driver's license or photo ID and a statement of the maximum monetary limit authorized on any individual bond.
 - F. A signed release from the applicant allowing the Court or its designee, to conduct a criminal history records investigation on said individual.
3. The application for each property surety also shall include:
 - A. A list of all bail agents authorized by such property surety to write appearance bonds on such property surety's behalf and all documentation from such bail agents demonstrating compliance with subsection this rule.

B. an affidavit describing the property by which such property surety proposes to justify its obligations and the encumbrances thereon, and all such surety's other liabilities. The description shall include a valuation of the property described therein. If the valuation is not readily evident, an appraisal of the property may be required and, if required, shall be incorporated into the affidavit.

C. A property surety authorized to act as a surety in the 18th judicial district shall be allowed outstanding appearance bonds not to exceed an aggregate amount which is 15 times the valuation of the property pledged by the property surety. Such property surety shall not write any single appearance bond that exceeds 35% of the total valuation of the property pledged by the property surety.

D. A completed application including the Authorization for Release of Records and a statement of the maximum monetary limit authorized on any individual bond.

E. A signed release from the applicant and any persons authorized by the applicant to issue appearance bonds, allowing the Court or its designee to conduct a criminal history records investigation on said individual(s).

F. A statement that the applicant has not been convicted of a felony in Kansas or any other jurisdiction, has not in the preceding ten (10) years been convicted in Kansas or any other jurisdiction of any misdemeanor involving violence, dishonesty, deceit or moral turpitude, is qualified to act as a surety under Kansas law, has read this Rule and the Kansas statutes dealing with appearance bonds in their entirety and agrees to comply with all provisions.

G. Any other information as may be requested by the Chief Judge regarding the applicant concerning his/her ability or qualifications to issue appearance bonds.

D. Disqualification/Suspension. Applicants shall not be approved to issue appearance bonds; or bonding privileges may be suspended or revoked if:

1. The applicant or any authorized agent has been convicted of any felony or within the preceding 10 years has been convicted of any misdemeanor involving violence, dishonesty, deceit or moral turpitude.
2. The applicant is not a citizen of the United States.
3. The applicant or any authorized agent does not have current, federal or state photo identification.
4. The applicant or any authorized agent has failed to meet financial responsibilities to this or any other Court; or has any pending matters before the Court in which the applicant or any authorized agent has failed to appear as directed. This may be evidenced by a failure to pay a

judgment on a bond forfeiture or by any other legal action to collect past due amounts or other commonly accepted indications.

5. The appearance bonds outstanding by a Property Surety and/or his or her Bail Agents exceed an aggregate amount which is fifteen (15) times the amount of the letter(s) of credit issued to the Court.

6. The applicant or authorized agent has provided a false statement in any information submitted to the Court for approval of his/her application or regarding a warrant/appearance bond recall.

7. The applicant or any authorized agent has outstanding warrant(s) issued for his or her arrest for any crime.

8. The applicant or any authorized agent allows an unauthorized person to write an appearance bond(s).

9. An Insurance Agent allows an appearance bond to be submitted to the Court which does not contain an individual, numbered, power of attorney properly executed.

10. The applicant or any authorized agent employs an Bail Enforcement Agent who is not qualified to act as such under the provisions of K.S.A. 22-2809a.

11. The applicant or any authorized agent failed to timely file a renewal application by June 1.

12. Good cause exists for the Chief Judge to determine that it is not in the best interest of the Court and/or the community to permit the applicant or Surety to write appearance bonds in the Eighteenth Judicial District.

13. Written notice of suspension or revocation of bonding privileges, except for a suspension due to a conviction for a disqualifying crime, exceeding the aggregate amount of bonds approved to be written under the letter(s) of credit or due to failure to pay a judgment within 30 days of it being granted, shall be given to the surety. Such notice of suspension or revocation shall state the reason for the suspension or revocation and be mailed by regular mail to the address on file with the Court as provided in the most current application. Any suspension or revocation under this Rule shall be effective upon signature of the written notice by the Chief Judge.

14. If the suspension or revocation is for failure to pay a judgment within 30 days of it being granted, the suspension shall be effective on the 31st day following judgment without any further action or notice by the Court. The surety may request a hearing before the Chief Judge within 14 days of the date of suspension, revocation or the notice of suspension or revocation. If such request is made, the suspension or revocation of bonding privileges may be stayed by

the Chief Judge pending such hearing which shall be held within 14 days of the request for hearing.

E. Persons Authorized to Write Appearance Bonds. As part of the approval process, the applicant shall submit the name(s) and requested information for all proposed Bail Agents of the applicant. Only those persons so approved are authorized to act as a Property Surety or Bail Agents to write appearance bonds. If, following approval, the applicant wants to add additional Bail Agents, the applicant must complete and submit a supplemental application that meets the requirements of this Rule to the Chief Judge and file it with the Clerk of the District Court. The bail agent will not be allowed to write appearance bonds unless and until approved to do so by the Chief Judge or designee. In addition, when Bail Agents are no longer authorized to write bonds or are no longer employed by the Property Surety, the property surety shall notify the Chief Judge, in writing, within three (3) business days, that said person is no longer authorized by the applicant to write appearance bonds, or serve as their bail agent and the notice shall be filed with the Clerk of The District Court. The Property Surety will remain responsible for any appearance bonds written by the Bail Agent until the notice required is received by the Chief Judge.

The Sheriff shall provide all approved Compensated Sureties equality in exposure. The Chief Judge shall periodically furnish the Clerk of the District Court and the Sheriff a list of approved Compensated Sureties.

Nothing in this Rule shall negate K.S.A. 22-2806 which provides that an appearance bond may be approved and accepted by the Sheriff of Sedgwick County, according to law.

F. Failure to Appear.

1. An appearance bond issued by a Compensated Surety authorized to transact business in the State of Kansas and in the Eighteenth Judicial District guarantees the appearance of such person in Court at the time specified on the appearance bond and at all subsequent court appearances unless and until the Compensated Surety is released on the appearance bond.

2. If an appearance bond is posted on a charge for which a disposition has not yet been entered, the appearance bond remains in effect until such time as the defendant answers the complaint and sentence or disposition is entered thereon. This would not include future court appearances for review of compliance with court orders. However, if the appearance bond is posted for a nonappearance on a post-conviction or post-diversion matter, the appearance bond remains in effect until final disposition of the matter for which the appearance bond was posted. Upon failure of the defendant to appear as ordered, the judge shall declare the appearance bond forfeited. The court may set aside the forfeiture upon such conditions as the court may impose, if it appears that justice does not require the enforcement of the forfeiture. If the forfeiture is not set aside, the Court shall request the District Attorney to prepare a Journal Entry of Bond Forfeiture of the appearance bond and file a Motion for Judgment on said bond forfeiture to be set for hearing not less than 60 days following the filing of the Motion for

Judgment. It is the responsibility of the Surety to be aware of the defendant's required court appearances on the Court's calendar, and to see to it that the defendant appears as ordered. The Surety's liability on the appearance bond is not conditioned upon any notice by the Court, District Attorney or any other person or entity of the defendant's failure to appear.

G. Failure to Produce the Defendant or the Forfeited Funds. If the defendant is not surrendered or the appearance bond forfeiture paid by the end of the Court's business day on the 30th day following judgment, the Surety's bonding privileges will be suspended at that time. If the Surety is a Property Surety and he/she or one or more of his/her Bail Agents is suspended for non-payment of a judgment, the Property Surety and all of his/her Bail Agents will be suspended. Notification of the suspension of bonding privileges shall be made in writing to the Property Surety and his/her Bail Agents. The letter will be sent by regular mail to the address on file with the Court. Failure to send or receive the letter does not negate the suspension of bonding privileges under this paragraph.

H. Reinstatement of Bonding Privileges.

1. Nonpayment of a judgment. If suspended for nonpayment of a judgment, the Surety must pay all judgments for unsatisfied appearance bond forfeitures before consideration will be given for reinstatement of bonding privileges. Once payment in full is made, the following schedule will be followed:

For the first suspension within a one (1) year period, the Surety's privileges will be suspended for a period not to exceed thirty (30) days after payment. For a second or subsequent suspension within a one (1) year period, the Surety's privileges will be suspended for ninety (90) days after payment.

2. Exceeding Total Amount of Bonding Privileges. If the total aggregate amount of outstanding bonds of a bondsman and his or her agents ever exceeds the total amount permitted under this rule the Chief Judge or designee without notice may immediately suspend the bonding privileges of that surety and agents. The property surety and bail agents shall not qualify for reinstatement of bonding privileges and reinstatement shall not be considered until the total aggregate amount of outstanding bonds of that property surety and bail agents do not exceed 75% of the total bonding authority allowed under this rule. Upon a second violation of Section H.2 within a 12 month period, the bonding privileges shall not be reinstated until at least three (3) months have passed since the property surety qualifies for reinstatement. Upon a third or more violation of Section H. 2 within a 12 month period, the bonding privileges shall not be reinstated until at least 12 months have passed since the property surety qualifies for reinstatement.

3. In order to qualify for reinstatement the property surety and bail agents(s) while suspended shall continue to meet all obligations under this Rule.

4. Nothing in this Rule or section obligates the Chief Judge to reinstate a suspended or revoked bail agent as soon as he or she may be eligible for reinstatement, nor does it prevent or prohibit the Chief Judge from imposing any other requirements upon a property surety before privileges are reinstated. Nothing in this rule prevents or prohibits the Chief Judge from permanently revoking a property surety's or bail agent's bonding privileges.

I. Refunds. If the judgment on the appearance bond forfeiture is paid on time, and the defendant is later surrendered by the Surety, upon request, a partial refund may be allowed as indicated below:

- 1--30 days after payment 75% refund
- 31--60 days after payment 50% refund
- 61--90 days after payment 25% refund

Said request for refunds must be made in writing and filed with the Clerk of the District Court with a copy served upon the District Attorney's Office.

No refunds will be given for surrenders that occur in excess of 90 days after payment unless specifically ordered by the Chief Judge after the filing of a proper motion. No refunds will be given unless the defendant is surrendered by the Surety or Agent of the Surety to the Sedgwick County Adult Detention Facility. If the defendant is arrested by law enforcement personnel within ninety (90) days of forfeiture, without the assistance of the Surety or Agent of the Surety, no refunds will be provided.

J. Surrender. For purposes of consideration of a refund, a defendant is considered surrendered to the Court when he or she is surrendered to the Sedgwick County Adult Detention Facility. A defendant is not considered surrendered to the Court if the defendant is incarcerated in another county or another State. Upon timely surrender, the Surety will be released from all further liability on the appearance bond.

The Surety, pursuant to K.S.A. 22-2807(3), may provide to the court, prior to judgment on the appearance bond forfeiture, a written statement, signed under penalty of perjury, setting forth the details of the incarceration of the defendant in some location within the United States. Upon receipt of such statement, the Court shall set aside the forfeiture and upon the defendant's return to the Court's jurisdiction, the Surety may be ordered to pay the costs of the return.

A Property Surety shall file the letter(s) of credit used as security for appearance bonds with the Clerk and immediately report any expiration, renewal, cancellation, suspension or revocation of said letter(s) of credit to the Clerk.

The report shall also include a list of appearance bond forfeitures that have been declared on cases in this Judicial District where there are appearance bonds written by the Surety, any judgments granted in those cases and the payment due date of said judgments.

The reports required by this Rule shall be submitted to the Clerk of the District Court in the form directed by the Court.

Failure to submit said report as designated is cause for a suspension or revocation of bonding privileges.

K. Application of Rule to Compensated Sureties Already Approved to Write Appearance Bonds in the Eighteenth Judicial District; Continuation of Bonding Privileges; Time Period for Bonding Privileges. Any Compensated Surety currently approved to write appearance bonds in the Eighteenth Judicial District shall be required to comply with this rule as of July 1, 2013. The annual bonding privileges period shall be from July 1 through June 30 of the following year. In order to retain bonding privileges, a Compensated Surety must submit an application, pursuant to this order, no later than June 1 of each year to remain in good standing for the next twelve (12) month bonding period [July 1 to June 30]. Upon approval of an application the bonding privileges will be granted and will remain valid for the approved bonding period, at which time it will expire unless renewed.

A compensated surety may not submit a new application under this Rule while the compensated surety's bonding privileges are suspended or revoked.

A compensated surety may withdraw from writing bonds prior to expiration of the bonding authority granted under this rule. Any withdrawal from writing bonds prior to the expiration of the bonding authority granted under this rule is not effective until made in writing to the Chief Judge and filed with the Clerk of the District Court, and it shall not result in the early termination or withdrawal of any letter(s) of credit submitted in support of the application(s) submitted under this rule.

A compensated surety's obligations under this Rule shall continue even though the compensated surety's privileges have been suspended, revoked or withdrawn.

L. Ability to Sue. Nothing contained herein shall in any way limit the Court's ability to proceed with any and all proper civil remedies against any Surety, insurance company or banking institution to collect on an appearance bond if payment is not forthcoming upon demand and for the Court to authorize all needed actions to engage in collection efforts, including the engagement of counsel and others to enforce and collect bond judgments.

Credits

Adopted effective February 14, 2013; Amended effective January 16, 2015; July 16, 2016, March 29, 2019.

Eighteenth Judicial District Court Rules, Rule 303, KS R 18 Dist Rule 303

Current with amendments received through March 29, 2019

Rule 304: ACKNOWLEDGMENT OF RIGHTS AND ENTRY OF PLEA

All pleas of guilty or nolo contendere shall be accompanied by a fully executed "Defendant's Acknowledgment of Rights and Entry of Plea" form. The judges of the 18th Judicial District approve the use of the attached form (Rev. 10/06), which is intended to supplement not replace or be a substitute for any of the requirements of K.S.A. 22-3210. Use of any other form must be approved in advance by the judge taking the plea. (Click here for the form, Adobe Reader required.)

At the discretion of the judge taking the plea, a defendant may be required to take an oath as part of the plea process. (Click here for the oath, Adobe Reader required.)

Rule 305: JURY TRIAL SCHEDULING

The Presiding Judge of the Criminal Department, or another designated judge, will conduct a jury trial scheduling meeting at 2:00 p.m. each Thursday for cases announced for trial the following week, or such other time as the Presiding Judge designates. A party wishing to announce a case for trial must advise opposing counsel of this announcement at least 24 hours in advance of this meeting and notify the Court of the announcement no later than noon on the day of the meeting. If a party announces a case for trial after the deadlines set forth in this Rule the Court may, absent good cause shown, continue the case and charge the continuance to the party making the late announcement.

Rule 306: CONTINUANCES

A party requesting a continuance of any case scheduled on the docket (whether for jury trial, preliminary hearing, bench trial, or motion), must first notify opposing counsel of the request. If opposing counsel does not object to the request, the party seeking the continuance must then send an email message to "criminal_assignment@dc18.org" that contains all of the following information:

- The name and email address of the attorney making the request;
- The name and email address of the opposing attorney who agrees to the continuance;
- The defendant's name and case number; and
- The continuance date requested

Defense counsel shall insure that the necessary consultation has occurred and is ongoing with the defendant.

NOTE:

The Court will reject any request that does not include all information listed above, and will require counsel to appear at the docket call.

For any fifth (5th) or subsequent continuance request(s) (whether State or defense requests), counsel must appear in person at the docket-call and make the request on the record.

The Court will accept continuance requests only from the party making the request.

The Court must receive requests for jury trial continuance by 2:00 p.m. on the last business day before the jury trial docket, and by 4:00 p.m. the day prior to the docket-call for cases scheduled on the preliminary hearing, bench trial, or pre-trial motion(s) docket. Counsel seeking continuance must do so either by email or in open court. The Court will not entertain requests over the telephone or during chamber visits. The court will email counsel for both parties if it grants the continuance request. If counsel does not receive a reply email, counsel must appear in person at the docket-call to request the continuance.

Rule 307: DOCUMENTS FILED UNDER SEAL

A party seeking permission to file a document “under seal” must prepare a written motion setting out the request and a proposed order, and submit the motion, proposed order, and any associated papers either to the Presiding Judge of the Criminal Department or the assigned criminal department/sentencing judge for review. The motion must state the reasons why counsel seeks to file “under seal” and set forth any other provisions relating to confidentiality of the documents counsel seeks to seal.

The Clerk of the District Court will file documents “under seal” only upon receipt of a judicially approved, signed written order.