

22-2901. Appearance before the magistrate. (1) Except as provided in subsection (7), when an arrest is made in the county where the crime charged is alleged to have been committed, the person arrested shall be taken without unnecessary delay before a magistrate of the court from which the warrant was issued. If the arrest has been made on probable cause, without a warrant, he shall be taken without unnecessary delay before the nearest available magistrate and a complaint shall be filed forthwith.

(2) Except as provided in subsection (7), when an arrest is made in a county other than where the crime charged is alleged to have been committed, the person arrested may be taken directly to the county wherein the crime is alleged to have been committed without unnecessary delay or at the request of the defendant he shall be taken without unnecessary delay before the nearest available magistrate. Such magistrate shall ascertain the nature of the crime charged in the warrant and the amount of the bond, if any, endorsed on the warrant. If no warrant for the arrest of the person is before the magistrate he shall make use of telephonic, telegraphic or radio communication to ascertain the nature of the charge and the substance of any warrant that has been issued. If no warrant has been issued, a complaint shall be filed and a warrant issued in the county where the crime is alleged to have been committed, and the nature of the charge, the substance of the warrant, and the amount of the bond shall be communicated to the magistrate before whom the defendant is in custody. Upon receipt of such information, the magistrate shall proceed as hereinafter provided.

(3) The magistrate shall fix the terms and conditions of the appearance bond upon which the defendant may be released. If the first appearance is before a magistrate in a county other than where the crime is alleged to have been committed, the magistrate may release the defendant on an appearance bond in an amount not less than that endorsed on the warrant. The defendant shall be required to appear before the magistrate who issued the warrant or a magistrate of a court having jurisdiction on a day certain, not more than 14 days thereafter.

(4) If the defendant is released on an appearance bond to appear before the magistrate in another county, the magistrate who accepts the appearance bond shall forthwith transmit such appearance bond and all other papers relating to the case to the magistrate before whom the defendant is to appear.

(5) If the person arrested cannot provide an appearance bond, or if the crime is not bailable, the magistrate shall commit him to jail pending further proceedings or shall order him delivered to a law enforcement officer of the county where the crime is alleged to have been committed.

(6) The provisions of this section shall not apply to a person who is arrested on a bench warrant. Such persons shall without unnecessary delay be taken before the magistrate who issued the bench warrant.

(7) If a person is arrested on a warrant or arrested on probable cause without a warrant, pursuant to a violation of subsection (a)(1)(C) of K.S.A. 2016 Supp. 21-5808, and amendments thereto, such person shall not be allowed to post bond pending such person's first appearance in court provided that a first appearance occurs within 48 hours after arrest. The magistrate may fix as a condition of release on the appearance bond that such person report to a court services officer. Nothing in this section shall be construed to be an unnecessary delay as such term is used in this section.

History: L. 1970, ch. 129, § 22-2901; L. 1996, ch. 211, § 3; L. 2010, ch. 135, § 16; L. 2011, ch. 30, § 119; July 1.