

HOUSE BILL No. 2479

By Committee on Judiciary

1-17

1 AN ACT concerning criminal procedure; relating to stay of certain
2 criminal cases; appeal of writ of habeas corpus relief.

3
4 *Be it enacted by the Legislature of the State of Kansas:*

5 Section 1. (a) When a district court has granted relief in a proceeding
6 under K.S.A. 60-1507, and amendments thereto, and the prosecution files
7 a docketing statement in an appellate court seeking an appeal from the
8 district court's decision to grant relief, the underlying criminal case shall
9 automatically be stayed, and the time during which the prosecution's
10 appeal is pending shall not be counted for the purpose of determining
11 whether a defendant is entitled to discharge under K.S.A. 22-3402, and
12 amendments thereto, until the mandate in the prosecution's appeal is
13 issued.

14 (b) Notwithstanding the stay required by subsection (a), a court may
15 release the prisoner on bond in accordance with K.S.A. 22-2804, and
16 amendments thereto, regardless of whether the prisoner has filed a notice
17 of appeal.

18 (c) The stay of the underlying criminal case in subsection (a) may be
19 lifted upon a motion filed in appellate court if the court finds that the
20 prisoner:

21 (1) Has made a strong showing that the prisoner is entitled to relief;
22 and

23 (2) will be irreparably injured if the stay is not lifted.

24 (d) If the stay in subsection (a) is lifted:

25 (1) The time during which the prosecution's appeal is pending shall
26 not be counted for the purpose of determining whether a defendant is
27 entitled to discharge under K.S.A. 22-3402, and amendments thereto, until
28 the mandate in the prosecution's appeal is issued; and

29 (2) the prisoner shall be entitled to a new bond hearing in the
30 underlying criminal case pursuant to K.S.A. 22-2802, and amendments
31 thereto.

32 (e) This section shall be a part of and supplemental to the Kansas
33 code of criminal procedure.

34 Sec. 2. This act shall take effect and be in force from and after its
35 publication in the statute book.