

2021 Kansas Statutes

22-3602. Appeals by defendant, when; appeals by prosecution; transfers to supreme court. (a) Except as otherwise provided, an appeal to the appellate court having jurisdiction of the appeal may be taken by the defendant as a matter of right from any judgment against the defendant in the district court and upon appeal any decision of the district court or intermediate order made in the progress of the case may be reviewed. No appeal shall be taken by the defendant from a judgment of conviction before a district judge upon a plea of guilty or nolo contendere, except that jurisdictional or other grounds going to the legality of the proceedings may be raised by the defendant as provided in K.S.A. 60-1507, and amendments thereto.

(b) Appeals to the court of appeals may be taken by the prosecution from cases before a district judge, or a district magistrate judge who is regularly admitted to practice law in Kansas, as a matter of right in the following cases, and no others:

- (1) From an order dismissing a complaint, information or indictment;
- (2) from an order arresting judgment;
- (3) upon a question reserved by the prosecution; or
- (4) upon an order granting a new trial in any case involving a class A or B felony or for crimes committed on or after July 1, 1993, in any case involving an off-grid crime.

(c) Procedures for appeals by the prosecution enumerated in subsection (b) shall be as provided in supreme court rules.

(d) Appeals to a district judge may be taken by the prosecution from cases before a district magistrate judge who is not regularly admitted to practice law in Kansas as a matter of right in the cases enumerated in subsection (b) and from orders enumerated in K.S.A. 22-3603, and amendments thereto.

(e) Any criminal case on appeal to the court of appeals may be transferred to the supreme court as provided in K.S.A. 20-3016 and 20-3017, and amendments thereto, and any party to such case may petition the supreme court for review of any decision of the court of appeals as provided in subsection (b) of K.S.A. 20-3018, and amendments thereto, except that any such party may appeal to the supreme court as a matter of right in any case in which a question under the constitution of either the United States or the state of Kansas arises for the first time as a result of the decision of the court of appeals.

(f) For crimes committed on or after July 1, 1993, an appeal by the prosecution or the defendant relating to sentences imposed pursuant to a presumptive sentencing guidelines system as provided in K.S.A. 21-4701 et seq., prior to their repeal, or the revised Kansas sentencing guidelines act, article 68 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, shall be as provided in K.S.A. 21-4721, prior to its repeal, or K.S.A. 2021 Supp. 21-6820, and amendments thereto.

History: L. 1970, ch. 129, § 22-3602; L. 1976, ch. 167, § 1; L. 1977, ch. 112, § 9; L. 1986, ch. 115, § 65; L. 1987, ch. 117, § 1; L. 1992, ch. 239, § 263; L. 1993, ch. 291, § 196; L. 1999, ch. 159, § 7; L. 2011, ch. 30, § 133; L. 2014, ch. 71, § 2; July 1.