

HOUSE BILL No. 2334

By Committee on Federal and State Affairs

2-12

9 AN ACT concerning crimes, punishment and criminal procedure; relat-
10 ing to sentencing; amending K.S.A. 21-4720 and repealing the existing
11 section.
12

13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 21-4720 is hereby amended to read as follows: 21-
15 4720. (a) The provisions of subsections (a), (b), (c), (d), (e) and (h) of
16 K.S.A. 21-4608 and amendments thereto regarding multiple sentences
17 shall apply to the sentencing of offenders for crimes committed on or
18 after July 1, 1993, pursuant to the sentencing guidelines system as pro-
19 vided in this act. The mandatory consecutive requirements contained in
20 subsections (c), (d) and (e) shall not apply if such application would result
21 in a manifest injustice.

22 (b) The sentencing judge shall otherwise have discretion to impose
23 concurrent or consecutive sentences in multiple conviction cases. The
24 sentencing judge shall state on the record if the sentence is to be served
25 concurrently or consecutively. In cases where consecutive sentences may
26 be imposed by the sentencing judge, the following shall apply:

27 (1) When the sentencing judge imposes multiple sentences consec-
28 utively, the consecutive sentences shall consist of an imprisonment term
29 which is the sum of the consecutive imprisonment terms, and a super-
30 vision term. The postrelease supervision term will be based on the longest
31 supervision term imposed for any of the crimes.

32 (2) (A) The sentencing judge must establish a base sentence for the
33 primary crime. The primary crime is the crime with the highest crime
34 severity ranking. ~~An off-grid crime shall not be used as the primary crime~~
35 ~~in determining the base sentence when imposing multiple sentences.~~

36 (B) If sentences for off-grid and on-grid convictions are ordered to
37 run consecutively, ~~the offender shall not begin to serve the on-grid sen-~~
38 ~~tence until paroled from the off-grid sentence~~ *the on-grid sentence is*
39 *added to the off-grid sentence and both sentences are satisfied by serving*
40 *the off-grid sentence*, and the postrelease supervision term will be based
41 on the off-grid crime.

42 (C) If more than one crime of conviction is classified in the same
43 crime category, the sentencing judge must designate which crime will

1 serve as the primary crime.

2 (D) In the instance of sentencing with both the drug grid and the
3 nondrug grid and simultaneously having a presumption of imprisonment
4 and probation, the sentencing judge will use the crime which presumes
5 imprisonment as the primary crime.

6 (E) In the instance of sentencing with both the drug grid and the
7 nondrug grid and simultaneously having a presumption of either both
8 probation or both imprisonment, the sentencing judge will use the crime
9 with the longest sentence term within the grid block range as the primary
10 crime.

11 (3) The base sentence is set using the total criminal history score
12 assigned.

13 (4) The total prison sentence imposed in a case involving multiple
14 convictions arising from multiple counts within an information, complaint
15 or indictment cannot exceed twice the base sentence. This limit shall
16 apply only to the total sentence, and it shall not be necessary to reduce
17 the duration of any of the nonbase sentences imposed to be served con-
18 secutively to the base sentence. The postrelease supervision term will
19 reflect only the longest such term assigned to any of the crimes for which
20 consecutive sentences are imposed. Supervision periods will not be
21 aggregated.

22 (5) Nonbase sentences will not have criminal history scores applied,
23 as calculated in the criminal history I column of the grid, but base sen-
24 tences will have the full criminal history score assigned. In the event a
25 conviction designated as the primary crime in a multiple conviction case
26 is reversed on appeal, the appellate court shall remand the multiple con-
27 viction case for resentencing. Upon resentencing, if the case remains a
28 multiple conviction case the court shall follow all of the provisions of this
29 section concerning the sentencing of multiple conviction cases.

30 (6) If the sentence for the primary crime is a prison term, the entire
31 imprisonment term of the consecutive sentences will be served in prison.

32 (7) If the sentence for the consecutive sentences is a prison term, the
33 postrelease supervision term is a term of postrelease supervision as es-
34 tablished for the primary crime.

35 (8) If the sentence for the primary crime is a nonprison sentence, a
36 nonprison term will be imposed for each crime conviction, but the non-
37 prison terms shall not be aggregated or served consecutively even though
38 the underlying prison sentences have been ordered to be served consec-
39 utively. Upon revocation of the nonprison sentence, the offender shall
40 serve the prison sentences consecutively as provided in this section.

41 (c) The following shall apply for a departure from the presumptive
42 sentence based on aggravating factors within the context of consecutive
43 sentences:

1 (1) The court may depart from the presumptive limits for consecutive
2 sentences only if the judge finds substantial and compelling reasons to
3 impose a departure sentence for any of the individual crimes being sen-
4 tenced consecutively.

5 (2) When a departure sentence is imposed for any of the individual
6 crimes sentenced consecutively, the imprisonment term of that departure
7 sentence shall not exceed twice the maximum presumptive imprisonment
8 term that may be imposed for that crime.

9 (3) The total imprisonment term of the consecutive sentences, in-
10 cluding the imprisonment term for the departure crime, shall not exceed
11 twice the maximum presumptive imprisonment term of the departure
12 sentence following aggravation.

13 Sec. 2. K.S.A. 21-4720 is hereby repealed.

14 Sec. 3. This act shall take effect and be in force from and after its
15 publication in the statute book.