

## HOUSE BILL No. 2612

By Committee on Judiciary

Requested by Steve Kearney on behalf of the Kansas Association of Court Services Officers and the Kansas County & District Attorneys Association

2-2

1 AN ACT concerning crimes, punishment and criminal procedure; relating  
2 to sentencing; providing that the supervision term in certain multiple  
3 conviction cases will be based on the longest supervision term imposed  
4 for any of the crimes; amending K.S.A. 21-6819 and repealing the  
5 existing section.

6

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

8 Section 1. K.S.A. 21-6819 is hereby amended to read as follows: 21-  
9 6819. (a) The provisions of ~~subsections~~ (a), (b), (c), (d), (e) and (h) of  
10 K.S.A. 21-6606(a), (b), (c), (d), (e) and (h), and amendments thereto,  
11 regarding multiple sentences shall apply to the sentencing of offenders  
12 pursuant to the sentencing guidelines. The mandatory consecutive sentence  
13 requirements contained in ~~subsections~~ (e), (d) and (e) of K.S.A. 21-  
14 6606(c), (d) and (e), and amendments thereto, shall not apply if such  
15 application would result in a manifest injustice.

16 (b) The sentencing judge shall otherwise have discretion to impose  
17 concurrent or consecutive sentences in multiple conviction cases. The  
18 sentencing judge may consider the need to impose an overall sentence that  
19 is proportionate to the harm and culpability and shall state on the record if  
20 the sentence is to be served concurrently or consecutively. In cases where  
21 consecutive sentences may be imposed by the sentencing judge, the  
22 following shall apply:

23 (1) When the sentencing judge imposes multiple sentences  
24 consecutively, the consecutive sentences shall consist of an imprisonment  
25 term which may not exceed the sum of the consecutive imprisonment  
26 terms, and a supervision term. The sentencing judge shall have the  
27 discretion to impose a consecutive term of imprisonment for a crime other  
28 than the primary crime of any term of months not to exceed the nonbase  
29 sentence as determined under subsection (b)(5). The postrelease  
30 supervision term will be based on the longest supervision term imposed for  
31 any of the crimes.

32 (2) The sentencing judge shall 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

1 in determining the base sentence when imposing multiple sentences. If  
2 sentences for off-grid and on-grid convictions are ordered to run  
3 consecutively, the offender shall not begin to serve the on-grid sentence  
4 until paroled from the off-grid sentence, and the postrelease supervision  
5 term will be based on the off-grid crime. If more than one crime of  
6 conviction is classified in the same crime category, the sentencing judge  
7 shall designate which crime will serve as the primary crime. In the  
8 instance of sentencing with both the drug grid and the nondrug grid and  
9 simultaneously having a presumption of imprisonment and probation, the  
10 sentencing judge shall use the crime which presumes imprisonment as the  
11 primary crime. In the instance of sentencing with both the drug grid and  
12 the nondrug grid and simultaneously having a presumption of either both  
13 probation or both imprisonment, the sentencing judge shall use the crime  
14 with the longest sentence term as the primary crime.

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

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

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

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

36 (7) If the sentence for the consecutive sentences is a prison term, the  
37 postrelease supervision term is a term of postrelease supervision as  
38 established for the primary crime.

39 (8) If the sentence for the primary crime is a nonprison sentence, a  
40 nonprison term will be imposed for each crime conviction, but the  
41 nonprison terms shall not be ~~aggregated~~ or served consecutively even  
42 though the underlying prison sentences have been ordered to be served  
43 consecutively. *The supervision term will be based on the longest*

1    *supervision term imposed for any of the crimes and the supervision*  
2    *durations set forth in K.S.A. 21-6608(c)(1), (c)(2), (c)(3) and (c)(4) shall*  
3    *not apply. Such an increase shall not be considered a departure and shall*  
4    *not be subject to appeal. Upon revocation of the nonprison-sentence*  
5    *sentences, the offender shall serve the prison sentences consecutively as*  
6    *provided in this section.*

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

10        (1) The court may depart from the presumptive limits for consecutive  
11    sentences only if the judge finds substantial and compelling reasons to  
12    impose a departure sentence for any of the individual crimes being  
13    sentenced consecutively.

14        (2) When a departure sentence is imposed for any of the individual  
15    crimes sentenced consecutively, the imprisonment term of that departure  
16    sentence shall not exceed twice the maximum presumptive imprisonment  
17    term that may be imposed for that crime.

18        (3) The total imprisonment term of the consecutive sentences,  
19    including the imprisonment term for the departure crime, shall not exceed  
20    twice the maximum presumptive imprisonment term of the departure  
21    sentence following aggravation.

22        Sec. 2. K.S.A. 21-6819 is hereby repealed.

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