

## 2012 Kansas Statutes

**38-2380. Orders appealable by juvenile; appeal of departure sentence, procedure.** (a) *Order authorizing prosecution as an adult or extended jurisdiction juvenile prosecution.* (1) Unless the juvenile offender has consented to the order, a juvenile offender may take an appeal from an order authorizing prosecution as an adult. The appeal shall be taken only after conviction as an adult and in the same manner as criminal appeals, except that where the prosecution has resulted in a judgment of conviction upon a plea of guilty or nolo contendere, an appeal may be taken from the order authorizing prosecution pursuant to K.S.A. 2012 Supp. 38-2347, and amendments thereto, notwithstanding the provisions of subsection (a) of K.S.A. 22-3602, and amendments thereto.

(2) If on appeal the order authorizing prosecution as an adult is reversed but the finding of guilty is affirmed or the conviction was based on a plea of guilty or nolo contendere, the juvenile shall be deemed adjudicated to be a juvenile offender. On remand the district court shall proceed with sentencing.

(b) *Orders of adjudgment and sentencing.* The juvenile offender may appeal from an order of adjudication or sentencing, or both. The appeal shall be pursuant to K.S.A. 2012 Supp. 38-2382, and amendments thereto.

(1) Pending review of the sentence, the sentencing court or the appellate court may order the juvenile confined or placed on conditional release, including bond.

(2) On appeal from a judgment or conviction entered for an offense committed on or after July 1, 1999, the appellate court shall not review:

(A) Any sentence that is within the presumptive sentence for the crime; or

(B) any sentence resulting from an agreement between the state and the juvenile which the sentencing court approves on the record.

(3) In any appeal from a judgment of conviction imposing a sentence that departs from the presumptive sentence, sentence review shall be limited to whether the sentencing court's findings of fact and reasons justifying a departure:

(A) Are supported by the evidence in the record; and

(B) constitute substantial and compelling reasons for departure.

(4) In any appeal, the appellate court may review a claim that:

(A) A sentence that departs from the presumptive sentence resulted from partiality, prejudice, oppression or corrupt motive;

(B) the sentencing court erred in either including or excluding recognition of prior convictions or adjudications;

or

(C) the sentencing court erred in ranking the crime severity level of the current crime or in determining the appropriate classification of a prior conviction or juvenile adjudication for criminal history purposes.

(5) The appellate court may reverse or affirm the sentence. If the appellate court concludes that the trial court's factual findings are not supported by evidence in the record or do not establish substantial and compelling reasons for a departure, it shall remand the case to the trial court for resentencing.

(6) The appellate court shall issue a written opinion whenever the judgment of the sentencing court is reversed. The court may issue a written opinion in any other case when it is believed that a written opinion will provide guidance to sentencing judges and others in implementing the placement. The appellate courts may provide by rule for summary disposition of cases arising under this section when no substantial question is presented by the appeal.

(7) A review under summary disposition shall be made solely upon the record that was before the sentencing court. Written briefs shall not be required unless ordered by the appellate court and the review and decision shall be made in an expedited manner according to rules adopted by the supreme court.

(c) *Priority.* Appeals under this section shall have priority over other cases except those having statutory priority.

**History:** L. 2006, ch. 169, § 80; Jan. 1, 2007.