

21-6818. Departure sentencing; limitations. (a) When a departure sentence is appropriate, the sentencing judge may depart from the sentencing guidelines as provided in this section. The sentencing judge shall not impose a downward dispositional departure sentence for any crime of extreme sexual violence, as defined in K.S.A. 2014 Supp. 21-6815, and amendments thereto. The sentencing judge shall not impose a downward durational departure sentence for any crime of extreme sexual violence, as defined in K.S.A. 2014 Supp. 21-6815, and amendments thereto, to less than 50% of the center of the range of the sentence for such crime.

(b) When a sentencing judge departs in setting the duration of a presumptive term of imprisonment:

(1) The judge shall consider and apply the sentencing guidelines, to impose a sentence that is proportionate to the severity of the crime of conviction and the offender's criminal history; and

(2) the presumptive term of imprisonment set in such departure shall not total more than double the maximum duration of the presumptive imprisonment term.

(c) When a sentencing judge imposes a prison term as a dispositional departure:

(1) The judge shall consider and apply the sentencing guidelines to impose a sentence that is proportionate to the severity of the crime of conviction; and

(2) the term of imprisonment shall not exceed the maximum duration of the presumptive imprisonment term listed within the sentencing grid. Any sentence inconsistent with the provisions of this section shall constitute an additional departure and shall require substantial and compelling reasons independent of the reasons given for the dispositional departure.

(d) If the sentencing judge imposes a nonprison sentence as a dispositional departure from the guidelines, the recommended duration shall be as provided in subsection (c) of K.S.A. 2014 Supp. 21-6608, and amendments thereto.

History: L. 2010, ch. 136, § 299; L. 2011, ch. 30, § 82; July 1.