

**21-6706. Conviction of second and subsequent felonies; exceptions.** (a) If a defendant is convicted of a felony specified in article 34, 35 or 36 of chapter 21 of Kansas Statutes Annotated, prior to their repeal, the punishment for which is confinement in the custody of the secretary of corrections after having previously been convicted of any such felony or comparable felony under the laws of another state, the federal government or a foreign government, the trial judge may sentence the defendant as follows, upon motion of the prosecutor:

(1) The court may fix a minimum sentence of not less than the least nor more than twice the greatest minimum sentence authorized by K.S.A. 2016 Supp. 21-6701, and amendments thereto, for the crime for which the defendant is convicted; and

(2) the court may fix a maximum sentence of not less than the least nor more than twice the greatest maximum sentence provided for the crime by K.S.A. 2016 Supp. 21-6701, and amendments thereto.

(b) If a defendant is convicted of a felony specified in article 34, 35 or 36 of chapter 21 of Kansas Statutes Annotated, prior to their repeal, having been convicted at least twice before for any such felony offenses or comparable felony offenses under the laws of another state, the federal government or a foreign government, the trial judge shall sentence the defendant as follows, upon motion of the prosecutor:

(1) The court shall fix a minimum sentence of not less than the greatest nor more than three times the greatest minimum sentence authorized for the crime for which the defendant is convicted by K.S.A. 2016 Supp. 21-6701, and amendments thereto; and

(2) the court may fix a maximum sentence of not less than the least nor more than three times the greatest maximum sentence provided for the crime by K.S.A. 2016 Supp. 21-6701, and amendments thereto.

(c) If a defendant is convicted of a felony other than a felony specified in article 34, 35 or 36 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, having been convicted at least twice before for any such felony offenses or comparable felony offenses under the laws of another state, the federal government or a foreign government, the trial judge shall sentence the defendant as follows, upon motion of the prosecutor:

(1) The court shall fix a minimum sentence of not less than the greatest nor more than two times the greatest minimum sentence authorized for the crime for which the defendant is convicted by K.S.A. 2016 Supp. 21-6701, and amendments thereto; and

(2) the court may fix a maximum sentence of not less than the least nor more than two times the greatest maximum sentence provided for the crime by K.S.A. 2016 Supp. 21-6701, and amendments thereto.

(d) If any portion of a sentence imposed under K.S.A. 21-107a, prior to their repeal, or under this section, is determined to be invalid by any court because a prior felony conviction is itself invalid, upon resentencing the court may consider evidence of any other prior felony conviction that could have been utilized under K.S.A. 21-107a, prior to their repeal, or under this section, at the time the original sentence was imposed, whether or not it was introduced at that time, except that if the defendant was originally sentenced as a second offender, the defendant shall not be resentenced as a third offender.

(e) The provisions of this section shall not be applicable to:

(1) Any person convicted of a felony of which a prior conviction of a felony is a necessary element;

(2) any person convicted of a felony for which a prior conviction of such felony is considered in establishing the class of felony for which the person may be sentenced; or

(3) any felony committed on or after July 1, 1993.

(f) A judgment may be rendered pursuant to this section only after the court finds from competent evidence the fact of former convictions for a felony committed by the prisoner, in or out of the state.

**History:** L. 2010, ch. 136, § 275; July 1, 2011.