

## 2016 Kansas Statutes

**22-3605. Decision and disposition of case on appeal; stay of mandate.** (a) Any appellate court may reverse, affirm or modify the judgment or order appealed from, or may order a new trial in the district court. In either case the cause must be remanded to the district court with proper instructions, together with the decision of the appellate court, within the time and in the manner to be prescribed by rule of the supreme court.

(b) (1) In appeals from criminal actions and in other post-conviction actions arising from criminal prosecutions, the issuance of the mandate from the appellate court shall be automatically stayed when:

(A) A party files a notice with the appellate court that it intends to file a petition for writ of certiorari to the United States supreme court; and

(B) the time has not expired for filing such a petition under applicable United States supreme court rules.

(2) If the mandate from the appellate court has already been issued when a party files its notice, the mandate from the appellate court shall be withdrawn and stayed.

(3) The stay shall be lifted when:

(A) If a petition for writ of certiorari to the United States supreme court is filed, the court denies such petition or issues such court's final order following granting such petition; or

(B) if no petition for writ of certiorari to the United States supreme court is filed, the time expires for filing such petition under applicable United States supreme court rules.

**History:** L. 1970, ch. 129, § 22-3605; L. 1975, ch. 178, § 24; L. 2014, ch. 139, § 6; July 1.