

## 2023 Kansas Statutes

**21-5108. Burden of proof; defendant presumed innocent.** (a) In all criminal proceedings, the state has the burden to prove beyond a reasonable doubt that a defendant is guilty of a crime. This standard requires the prosecution to prove beyond a reasonable doubt each required element of a crime.

(b) A defendant is presumed to be innocent until proven guilty. When there is a reasonable doubt as to which of two or more degrees of a crime the defendant is guilty, the defendant shall be convicted of the lowest degree only. When there is a reasonable doubt as to a defendant's guilt, the defendant shall be found not guilty.

(c) A defendant is entitled to an instruction on every affirmative defense that is supported by competent evidence. Competent evidence is that which could allow a rational fact finder to reasonably conclude that the defense applies. Once the defendant satisfies the burden of producing such evidence, the state has the burden of disproving the defense beyond a reasonable doubt.

(d) Issues raised under K.S.A. 21-5106, 21-5107 and 21-5110, and amendments thereto, are not affirmative defenses under subsection (c).

**History:** L. 2010, ch. 136, § 8; July 1, 2011.