

HOUSE BILL No. 2055

By Committee on Corrections and Juvenile Justice

1-20

1 AN ACT concerning crimes, punishment and criminal procedure; relating
2 to criminal history; out-of-state misdemeanors; amending K.S.A. 2014
3 Supp. 21-6811 and repealing the existing section.

4
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2014 Supp. 21-6811 is hereby amended to read as
7 follows: 21-6811. In addition to the provisions of K.S.A. 2014 Supp. 21-
8 6810, and amendments thereto, the following shall apply in determining an
9 offender's criminal history classification as contained in the presumptive
10 sentencing guidelines grids:

11 (a) Every three prior adult convictions or juvenile adjudications of
12 class A and class B person misdemeanors in the offender's criminal history,
13 or any combination thereof, shall be rated as one adult conviction or one
14 juvenile adjudication of a person felony for criminal history purposes.
15 Every three prior adult convictions or juvenile adjudications of assault as
16 defined in K.S.A. 21-3408, prior to its repeal, or ~~subsection (a) of~~ K.S.A.
17 2014 Supp. 21-5412(a), and amendments thereto, occurring within a
18 period commencing three years prior to the date of conviction for the
19 current crime of conviction shall be rated as one adult conviction or one
20 juvenile adjudication of a person felony for criminal history purposes.

21 (b) A conviction of criminal possession of a firearm as defined in
22 ~~subsection (a)(1) or (a)(5) of~~ K.S.A. 21-4204(a)(1) or (a)(5), prior to its
23 repeal, criminal use of weapons as defined in ~~subsection (a)(10) or (a)(11)~~
24 ~~of~~ K.S.A. 2014 Supp. 21-6301(a)(10) or (a)(11), and amendments thereto,
25 or unlawful possession of a firearm as in effect on June 30, 2005, and as
26 defined in K.S.A. 21-4218, prior to its repeal, will be scored as a select
27 class B nonperson misdemeanor conviction or adjudication and shall not
28 be scored as a person misdemeanor for criminal history purposes.

29 (c) (1) If the current crime of conviction was committed before July
30 1, 1996, and is for ~~subsection (b) of~~ K.S.A. 21-3404(b), as in effect on
31 June 30, 1996, involuntary manslaughter in the commission of driving
32 under the influence, then, each prior adult conviction or juvenile
33 adjudication for K.S.A. 8-1567, and amendments thereto, shall count as
34 one person felony for criminal history purposes.

35 (2) If the current crime of conviction was committed on or after July
36 1, 1996, and is for a violation of ~~subsection (a)(3) of~~ K.S.A. 2014 Supp.

1 21-5405(a)(3), and amendments thereto, each prior adult conviction,
2 diversion in lieu of criminal prosecution or juvenile adjudication for: (A)
3 An act described in K.S.A. 8-1567, and amendments thereto; or (B) a
4 violation of a law of another state or an ordinance of any city, or resolution
5 of any county, which prohibits the act described in K.S.A. 8-1567, and
6 amendments thereto, shall count as one person felony for criminal history
7 purposes.

8 (d) Prior burglary adult convictions and juvenile adjudications will be
9 scored for criminal history purposes as follows:

10 (1) As a prior person felony if the prior conviction or adjudication
11 was classified as a burglary as defined in ~~subsection (a) of~~ K.S.A. 21-
12 3715(a), prior to its repeal, or subsection ~~(a)(1) of~~ K.S.A. 2014 Supp. 21-
13 5807(a)(1), and amendments thereto.

14 (2) As a prior nonperson felony if the prior conviction or adjudication
15 was classified as a burglary as defined in ~~subsection (b) or (c) of~~ K.S.A.
16 21-3715(b) or (c), prior to its repeal, or ~~subsection (a)(2) or (a)(3) of~~
17 K.S.A. 2014 Supp. 21-5807(a)(2) or (a)(3), and amendments thereto.

18 The facts required to classify prior burglary adult convictions and
19 juvenile adjudications shall be established by the state by a preponderance
20 of the evidence.

21 (e) (1) Out-of-state convictions and juvenile adjudications shall be
22 used in classifying the offender's criminal history.

23 (2) An out-of-state crime will be classified as either a felony or a
24 misdemeanor according to the convicting jurisdiction.:

25 (A) If a crime is a felony in another state, it will be counted as a
26 felony in Kansas.

27 (B) *If a crime is a misdemeanor in another state, the state of Kansas*
28 *shall refer to the comparable offense in order to classify the out-of-state*
29 *crime as a class A, B or C misdemeanor. If the comparable misdemeanor*
30 *crime in the state of Kansas is a felony, the out-of-state crime shall be*
31 *classified as a class A misdemeanor. If the state of Kansas does not have a*
32 *comparable crime, the out-of-state crime shall be classified as a class C*
33 *misdemeanor* **{not be used in classifying the offender's criminal**
34 **history}**.

35 (3) The state of Kansas shall classify the crime as person or
36 nonperson. In designating a crime as person or nonperson comparable
37 offenses shall be referred to. If the state of Kansas does not have a
38 comparable offense, the out-of-state conviction shall be classified as a
39 nonperson crime.

40 (4) Convictions or adjudications occurring within the federal system,
41 other state systems, the District of Columbia, foreign, tribal or military
42 courts are considered out-of-state convictions or adjudications.

43 (5) The facts required to classify out-of-state adult convictions and

1 juvenile adjudications shall be established by the state by a preponderance
2 of the evidence.

3 (f) Except as provided in ~~subsections (d)(4), (d)(5) or (d)(6) of K.S.A.~~
4 ~~21-4710(d)(4), (d)(5) or (d)(6), prior to its repeal, or subsections (d)(3)(B),~~
5 ~~(d)(3)(C), (d)(3)(D) and (d)(4) of K.S.A. 2014 Supp. 21-6810(d)(3)(B), (d)~~
6 ~~(3)(C), (d)(3)(D) and (d)(4),~~ and amendments thereto, juvenile
7 adjudications will be applied in the same manner as adult convictions.
8 Out-of-state juvenile adjudications will be treated as juvenile adjudications
9 in Kansas.

10 (g) A prior felony conviction of an attempt, a conspiracy or a
11 solicitation as provided in K.S.A. 21-3301, 21-3302 or 21-3303, prior to
12 their repeal, or K.S.A. 2014 Supp. 21-5301, 21-5302 or 21-5303, and
13 amendments thereto, to commit a crime shall be treated as a person or
14 nonperson crime in accordance with the designation assigned to the
15 underlying crime.

16 (h) Drug crimes are designated as nonperson crimes for criminal
17 history scoring.

18 (i) If the current crime of conviction is for a violation of ~~subsections~~
19 ~~(b)(2) through (b)(4) of K.S.A. 8-1602(b)(2) through (b)(5),~~ and
20 amendments thereto, each of the following prior convictions committed on
21 or after July 1, 2011, shall count as a person felony for criminal history
22 purposes: K.S.A. 8-235, 8-262, 8-287, 8-291, 8-1566, 8-1567, 8-1568, 8-
23 1602, 8-1605 and 40-3104, and amendments thereto, and ~~subsection (a)(3)~~
24 ~~of K.S.A. 2014 Supp. 21-5405(a)(3) and 21-5406,~~ and amendments
25 thereto, or a violation of a city ordinance or law of another state which
26 would also constitute a violation of such sections.

27 Sec. 2. K.S.A. 2014 Supp. 21-6811 is hereby repealed.

28 Sec. 3. This act shall take effect and be in force from and after its
29 publication in the statute book.