

## 2018 Kansas Statutes

**21-6810. Criminal history categories, basis; determination of offenders classification; decay factors; prior convictions.** (a) Criminal history categories contained in the sentencing guidelines grids are based on the following types of prior convictions: Person felony adult convictions, nonperson felony adult convictions, person felony juvenile adjudications, nonperson felony juvenile adjudications, person misdemeanor adult convictions, nonperson class A misdemeanor adult convictions, person misdemeanor juvenile adjudications, nonperson class A misdemeanor juvenile adjudications, select class B nonperson misdemeanor adult convictions, select class B nonperson misdemeanor juvenile adjudications and convictions and adjudications for violations of municipal ordinances or county resolutions which are comparable to any crime classified under the state law of Kansas as a person misdemeanor, select nonperson class B misdemeanor or nonperson class A misdemeanor. A prior conviction is any conviction, other than another count in the current case, which was brought in the same information or complaint or which was joined for trial with other counts in the current case pursuant to K.S.A. 22-3203, and amendments thereto, which occurred prior to sentencing in the current case, regardless of whether the offense that led to the prior conviction occurred before or after the current offense or the conviction in the current case.

(b) A class B nonperson select misdemeanor is a special classification established for weapons violations. Such classification shall be considered and scored in determining an offender's criminal history classification.

(c) Except as otherwise provided, all convictions, whether sentenced consecutively or concurrently, shall be counted separately in the offender's criminal history.

(d) Except as provided in K.S.A. 2018 Supp. 21-6815, and amendments thereto, the following are applicable to determining an offender's criminal history classification:

- (1) Only verified convictions will be considered and scored.
- (2) All prior adult felony convictions, including expungements, will be considered and scored. Prior adult felony convictions for offenses that were committed before July 1, 1993, shall be scored as a person or nonperson crime using a comparable offense under the Kansas criminal code in effect on the date the current crime of conviction was committed.
- (3) There will be no decay factor applicable for:
  - (A) Adult convictions;
  - (B) a juvenile adjudication for an offense committed before July 1, 1993, which would have been a class A, B or C felony, if committed by an adult. Prior juvenile adjudications for offenses that were committed before July 1, 1993, shall be scored as a person or nonperson crime using a comparable offense under the Kansas criminal code in effect on the date the current crime of conviction was committed; or
  - (C) a juvenile adjudication for an offense committed on or after July 1, 1993, which would be an off-grid felony or a nondrug severity level 1 through 4 felony, if committed by an adult.
- (4) Except as otherwise provided, a juvenile adjudication will decay if the current crime of conviction is committed after the offender reaches the age of 25, and the juvenile adjudication is for an offense:
  - (A) Committed before July 1, 1993, which would have been a class D or E felony, if committed by an adult;
  - (B) committed on or after July 1, 1993, which would be a nondrug severity level 5 through 10 felony, a nongrid felony or any drug felony, if committed by an adult; or
  - (C) which would be a misdemeanor, if committed by an adult.
- (5) A juvenile adjudication will not be considered and scored if:
  - (A) The current crime of conviction is committed at least five years after the date of the prior adjudication;
  - (B) the offender has no new adjudications or convictions during such five-year period; and
  - (C) the juvenile adjudication is for an offense that would be a nondrug severity level 5 through 10 felony, drug felony, nongrid felony or misdemeanor, if committed by an adult.
- (6) All person misdemeanors, class A nonperson misdemeanors and class B select nonperson misdemeanors, and all municipal ordinance and county resolution violations comparable to such misdemeanors, shall be considered and scored. Prior misdemeanors for offenses that were committed before July 1, 1993, shall be scored as a person or nonperson crime using a comparable offense under the Kansas criminal code in effect on the date the current crime of conviction was committed.
- (7) Unless otherwise provided by law, unclassified felonies and misdemeanors, shall be considered and scored as nonperson crimes for the purpose of determining criminal history.
- (8) Prior convictions of a crime defined by a statute that has since been repealed shall be scored using the classification assigned at the time of such conviction.
- (9) Prior convictions of a crime defined by a statute that has since been determined unconstitutional by an appellate court shall not be used for criminal history scoring purposes.
- (10) Prior convictions of any crime shall not be counted in determining the criminal history category if they enhance the severity level, elevate the classification from misdemeanor to felony, or are elements of the present crime of conviction. Except as otherwise provided, all other prior convictions will be considered and scored.

(e) The amendments made to this section by section 1 of chapter 5 of the 2015 Session Laws of Kansas are procedural in nature and shall be construed and applied retroactively.

**History:** L. 2010, ch. 136, § 291; L. 2011, ch. 30, § 78; L. 2012, ch. 150, § 35; L. 2015, ch. 5, § 1; L. 2016, ch. 97, § 1; L. 2017, ch. 92, § 5; July 1.