

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; ***aggravated battery, driving under the influence;***
3 out-of-state misdemeanors; amending K.S.A. 2014 Supp. 21-6811 and
4 repealing the existing section.

5
6 ***WHEREAS, The provisions of K.S.A. 2014 Supp. 21-6811(c), as***
7 ***amended by this act, shall be known and may be cited as Mija***
8 ***Stockman's Law; Now, therefore,***

9
10 *Be it enacted by the Legislature of the State of Kansas:*

11 Section 1. K.S.A. 2014 Supp. 21-6811 is hereby amended to read as
12 follows: 21-6811. In addition to the provisions of K.S.A. 2014 Supp. 21-
13 6810, and amendments thereto, the following shall apply in determining an
14 offender's criminal history classification as contained in the presumptive
15 sentencing guidelines grids:

16 (a) Every three prior adult convictions or juvenile adjudications of
17 class A and class B person misdemeanors in the offender's criminal history,
18 or any combination thereof, shall be rated as one adult conviction or one
19 juvenile adjudication of a person felony for criminal history purposes.
20 Every three prior adult convictions or juvenile adjudications of assault as
21 defined in K.S.A. 21-3408, prior to its repeal, or ~~subsection (a) of K.S.A.~~
22 2014 Supp. 21-5412(a), and amendments thereto, occurring within a
23 period commencing three years prior to the date of conviction for the
24 current crime of conviction shall be rated as one adult conviction or one
25 juvenile adjudication of a person felony for criminal history purposes.

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

34 (c) (1) If the current crime of conviction was committed before July

1 1, 1996, and is for ~~subsection (b)~~ of K.S.A. 21-3404(b), as in effect on
2 June 30, 1996, involuntary manslaughter in the commission of driving
3 under the influence, then, each prior adult conviction or juvenile
4 adjudication for K.S.A. 8-1567, and amendments thereto, shall count as
5 one person felony for criminal history purposes.

6 (2) If the current crime of conviction was committed on or after July
7 1, 1996, and is for a violation of ~~subsection (a)(3)~~ of K.S.A. 2014 Supp.
8 21-5405(a)(3), and amendments thereto, each prior adult conviction,
9 diversion in lieu of criminal prosecution or juvenile adjudication for: (A)
10 ~~An~~ **Any** act described in K.S.A. **8-2,144 or 8-1567 or K.S.A. 2014 Supp.**
11 **8-1025**, and amendments thereto; or (B) a violation of a law of another
12 state or an ordinance of any city, or resolution of any county, which
13 prohibits ~~the~~ **any** act described in K.S.A. **8-2,144 or 8-1567 or K.S.A.**
14 **2014 Supp. 8-1025**, and amendments thereto, shall count as one person
15 felony for criminal history purposes.

16 (3) *If the current crime of conviction is for a violation of K.S.A.*
17 *2014 Supp. 21-5413(b)(3), and amendments thereto:*

18 (A) *The first prior adult conviction, diversion in lieu of criminal*
19 *prosecution or juvenile adjudication for the following shall count as one*
20 *nonperson felony for criminal history purposes: (i) Any act described in*
21 *K.S.A. 8-2,144 or 8-1567 or K.S.A. 2014 Supp. 8-1025, and amendments*
22 *thereto; or (ii) a violation of a law of another state or an ordinance of*
23 *any city, or resolution of any county, which prohibits any act described*
24 *in K.S.A. 8-2,144 or 8-1567 or K.S.A. 2014 Supp. 8-1025, and*
25 *amendments thereto; and*

26 (B) *each second or subsequent prior adult conviction, diversion in*
27 *lieu of criminal prosecution or juvenile adjudication for the following*
28 *shall count as one person felony for criminal history purposes: (i) Any*
29 *act described in K.S.A. 8-2,144 or 8-1567 or K.S.A. 2014 Supp. 8-1025,*
30 *and amendments thereto; or (ii) a violation of a law of another state or*
31 *an ordinance of any city, or resolution of any county, which prohibits*
32 *any act described in K.S.A. 8-2,144 or 8-1567 or K.S.A. 2014 Supp. 8-*
33 *1025, and amendments thereto.*

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

36 (1) As a prior person felony if the prior conviction or adjudication
37 was classified as a burglary as defined in ~~subsection (a)~~ of K.S.A. 21-
38 3715(a), prior to its repeal, or ~~subsection (a)(1)~~ of K.S.A. 2014 Supp. 21-
39 5807(a)(1), and amendments thereto.

40 (2) As a prior nonperson felony if the prior conviction or adjudication
41 was classified as a burglary as defined in ~~subsection (b) or (c)~~ of K.S.A.
42 21-3715(b) or (c), prior to its repeal, or ~~subsection (a)(2) or (a)(3)~~ of
43 K.S.A. 2014 Supp. 21-5807(a)(2) or (a)(3), and amendments thereto.

1 The facts required to classify prior burglary adult convictions and
2 juvenile adjudications shall be established by the state by a preponderance
3 of the evidence.

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

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

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

10 (B) *If a crime is a misdemeanor in another state, the state of Kansas*
11 *shall refer to the comparable offense in order to classify the out-of-state*
12 *crime as a class A, B or C misdemeanor. If the comparable misdemeanor*
13 *crime in the state of Kansas is a felony, the out-of-state crime shall be*
14 *classified as a class A misdemeanor. If the state of Kansas does not have a*
15 *comparable crime, the out-of-state crime shall be classified as a class C*
16 *misdemeanor {not be used in classifying the offender's criminal*
17 *history}.*

18 (3) The state of Kansas shall classify the crime as person or
19 nonperson. In designating a crime as person or nonperson comparable
20 offenses shall be referred to. If the state of Kansas does not have a
21 comparable offense, the out-of-state conviction shall be classified as a
22 nonperson crime.

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

26 (5) The facts required to classify out-of-state adult convictions and
27 juvenile adjudications shall be established by the state by a preponderance
28 of the evidence.

29 (f) Except as provided in ~~subsections (d)(4), (d)(5) or (d)(6) of K.S.A.~~
30 ~~21-4710(d)(4), (d)(5) or (d)(6), prior to its repeal, or subsections (d)(3)(B);~~
31 ~~(d)(3)(C), (d)(3)(D) and (d)(4) of K.S.A. 2014 Supp. 21-6810(d)(3)(B), (d)~~
32 ~~(3)(C), (d)(3)(D) and (d)(4), and amendments thereto, juvenile~~
33 ~~adjudications will be applied in the same manner as adult convictions.~~
34 ~~Out-of-state juvenile adjudications will be treated as juvenile adjudications~~
35 ~~in Kansas.~~

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

42 (h) Drug crimes are designated as nonperson crimes for criminal
43 history scoring.

1 (i) If the current crime of conviction is for a violation of ~~subsections~~
2 ~~(b)(2) through (b)(4) of~~ K.S.A. 8-1602**(b)(2) through (b)(5)**, and
3 amendments thereto, each of the following prior convictions committed on
4 or after July 1, 2011, shall count as a person felony for criminal history
5 purposes: K.S.A. 8-235, 8-262, 8-287, 8-291, 8-1566, 8-1567, 8-1568, 8-
6 1602, 8-1605 and 40-3104, and amendments thereto, and ~~subsection (a)(3)~~
7 ~~of~~ K.S.A. 2014 Supp. 21-5405**(a)(3)** and 21-5406, and amendments
8 thereto, or a violation of a city ordinance or law of another state which
9 would also constitute a violation of such sections.

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

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