

HOUSE BILL No. 2703

By Committee on Corrections and Juvenile Justice

2-14

1 AN ACT concerning crimes, criminal procedure and punishment; relating
2 to criminal history; out-of-state misdemeanors; amending K.S.A. 2013
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. 2013 Supp. 21-6811 is hereby amended to read as
7 follows: 21-6811. In addition to the provisions of K.S.A. 2013 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 2013 Supp. 21-5412, and amendments thereto, occurring within a period
18 commencing three years prior to the date of conviction for the current
19 crime of conviction shall be rated as one adult conviction or one juvenile
20 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, prior to its repeal, criminal
23 use of weapons as defined in subsection (a)(10) or (a)(11) of K.S.A. 2013
24 Supp. 21-6301, and amendments thereto, or unlawful possession of a
25 firearm as in effect on June 30, 2005, and as defined in K.S.A. 21-4218,
26 prior to its repeal, will be scored as a select class B nonperson
27 misdemeanor conviction or adjudication and shall not be scored as a
28 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, as in effect on June
31 30, 1996, involuntary manslaughter in the commission of driving under the
32 influence, then, each prior adult conviction or juvenile adjudication for
33 K.S.A. 8-1567, and amendments thereto, shall count as one person felony
34 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. 2013 Supp.

1 21-5405, and amendments thereto, each prior adult conviction, diversion
2 in lieu of criminal prosecution or juvenile adjudication for: (A) An act
3 described in K.S.A. 8-1567, and amendments thereto; or (B) a violation of
4 a law of another state or an ordinance of any city, or resolution of any
5 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. 21-3715,
12 prior to its repeal, or subsection (a)(1) of K.S.A. 2013 Supp. 21-5807, and
13 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, prior to its repeal, or subsection (a)(2) or (a)(3) of K.S.A. 2013
17 Supp. 21-5807, 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 offense in the
30 state of Kansas is a felony, the out-of-state crime shall be classified as a
31 class A misdemeanor. If the state of Kansas does not have a comparable
32 offense, the out-of-state crime shall be classified as a class C
33 misdemeanor.*

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

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

42 (5) The facts required to classify out-of-state adult convictions and
43 juvenile adjudications shall be established by the state by a preponderance

1 of the evidence.

2 (f) Except as provided in subsections (d)(4), (d)(5) or (d)(6) of K.S.A.
3 21-4710, prior to its repeal, or subsections (d)(3)(B), (d)(3)(C), (d)(3)(D)
4 and (d)(4) of K.S.A. 2013 Supp. 21-6810, and amendments thereto,
5 juvenile adjudications will be applied in the same manner as adult
6 convictions. Out-of-state juvenile adjudications will be treated as juvenile
7 adjudications in Kansas.

8 (g) A prior felony conviction of an attempt, a conspiracy or a
9 solicitation as provided in K.S.A. 21-3301, 21-3302 or 21-3303, prior to
10 their repeal, or K.S.A. 2013 Supp. 21-5301, 21-5302 or 21-5303, and
11 amendments thereto, to commit a crime shall be treated as a person or
12 nonperson crime in accordance with the designation assigned to the
13 underlying crime.

14 (h) Drug crimes are designated as nonperson crimes for criminal
15 history scoring.

16 (i) If the current crime of conviction is for a violation of subsections
17 (b)(2) through (b)(4) of K.S.A. 8-1602, and amendments thereto, each of
18 the following prior convictions committed on or after July 1, 2011, shall
19 count as a person felony for criminal history purposes: K.S.A. 8-235, 8-
20 262, 8-287, 8-291, 8-1566, 8-1567, 8-1568, 8-1602, 8-1605 and 40-3104,
21 and amendments thereto, and subsection (a)(3) of K.S.A. 2013 Supp. 21-
22 5405 and 21-5406, and amendments thereto, or a violation of a city
23 ordinance or law of another state which would also constitute a violation
24 of such sections.

25 Sec. 2. K.S.A. 2013 Supp. 21-6811 is hereby repealed.

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