

**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.