

HOUSE BILL No. 2778

By Committee on Corrections and Juvenile Justice

2-10

AN ACT concerning crimes and punishment; relating to sentencing; amending K.S.A. 21-4710 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 21-4710 is hereby amended to read as follows: 21-4710. (a) Criminal history categories contained in the sentencing guidelines grid for nondrug crimes and the sentencing guidelines grid for drug crimes 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. 21-4716, and amendments thereto, the following are applicable to determining an offender's criminal history classification:

- (1) Only verified convictions will be considered and scored.

- 1 (2) All prior adult felony convictions, including expungements, will
2 be considered and scored.
- 3 (3) There will be no decay factor applicable for adult convictions.
- 4 (4) Except as otherwise provided, a juvenile adjudication, which
5 would have been a nonperson class D or E felony if committed before
6 July 1, 1993, or a nondrug level 6, 7, 8, 9 or 10, or drug level 4, nonperson
7 felony if committed on or after July 1, 1993, or a misdemeanor if com-
8 mitted by an adult, will decay if the current crime of conviction is com-
9 mitted after the offender reaches the age of 25.
- 10 (5) For convictions of crimes committed before July 1, 1993, a ju-
11 venile adjudication which would constitute a class A, B or C felony, if
12 committed by an adult, will not decay. For convictions of crimes com-
13 mitted on or after July 1, 1993, a juvenile adjudication which would con-
14 stitute an off-grid felony, a nondrug severity level 1, 2, 3, 4 or 5 felony,
15 or a drug severity level 1, 2 or 3 felony, if committed by an adult, will not
16 decay.
- 17 (6) All juvenile adjudications which would constitute a person felony
18 will not decay or be forgiven.
- 19 (7) All person misdemeanors, class A nonperson misdemeanors and
20 class B select nonperson misdemeanors, and all municipal ordinance and
21 county resolution violations comparable to such misdemeanors, shall be
22 considered and scored.
- 23 (8) Unless otherwise provided by law, unclassified felonies and mis-
24 demeanors, shall be considered and scored as nonperson crimes for the
25 purpose of determining criminal history.
- 26 (9) Prior convictions of a crime defined by a statute which has since
27 been repealed shall be scored using the classification assigned at the time
28 of such conviction.
- 29 (10) Prior convictions of a crime defined by a statute which has since
30 been determined unconstitutional by an appellate court shall not be used
31 for criminal history scoring purposes.
- 32 (11) Prior convictions of any crime shall not be counted in determin-
33 ing the criminal history category if they enhance the severity level or
34 applicable penalties, elevate the classification from misdemeanor to fel-
35 ony, or are elements of the present crime of conviction. Except as oth-
36 erwise provided, all other prior convictions will be considered and scored.
- 37 (12) *Notwithstanding any other provision of law, if a conviction or*
38 *sentence or both are set aside by any court, upon resentencing or upon*
39 *sentencing after reconviction, the criminal history of the offender shall*
40 *not include any convictions that were not established at the original sen-*
41 *tencing hearing.*
- 42 Sec. 2. K.S.A. 21-4710 is hereby repealed.
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1 Sec. 3. This act shall take effect and be in force from and after its
2 publication in the statute book.

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