

## SENATE BILL No. 433

By Committee on Judiciary

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9 AN ACT concerning crimes, punishment and criminal procedure;  
10 amending K.S.A. 2003 Supp. 21-4711 and repealing the existing  
11 section.

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

14 Section 1. K.S.A. 2003 Supp. 21-4711 is hereby amended to read as  
15 follows: 21-4711. In addition to the provisions of K.S.A. 21-4710 and  
16 amendments thereto, the following shall apply in determining an of-  
17 fender's criminal history classification as contained in the presumptive  
18 sentencing guidelines grid for nondrug crimes and the presumptive sen-  
19 tencing guidelines grid for drug crimes:

20 (a) Every three prior adult convictions or juvenile adjudications of  
21 class A and class B person misdemeanors in the offender's criminal his-  
22 tory, or any combination thereof, shall be rated as one adult conviction  
23 or one juvenile adjudication of a person felony for criminal history pur-  
24 poses. Every three prior adult convictions or juvenile adjudications of  
25 assault as defined in K.S.A. 21-3408 and amendments thereto occurring  
26 within a period commencing three years prior to the date of conviction  
27 for the current crime of conviction shall be rated as one adult conviction  
28 or one juvenile adjudication of a person felony for criminal history  
29 purposes.

30 (b) A conviction of subsection (a)(1) of K.S.A. 21-4204 and amend-  
31 ments thereto, criminal possession of firearms by a person who is both  
32 addicted to and an unlawful user of a controlled substance, subsection  
33 (a)(4) of K.S.A. 21-4204 and amendments thereto, possession of a firearm  
34 on school grounds or K.S.A. 21-4218 and amendments thereto, possession  
35 of a firearm on the grounds or in the state capitol building, will be scored  
36 as a select class B nonperson misdemeanor conviction or adjudication and  
37 shall not be scored as a person misdemeanor for criminal history  
38 purposes.

39 (c) (1) If the current crime of conviction was committed before July  
40 1, 1996, and is for subsection (b) of K.S.A. 21-3404, involuntary man-  
41 slaughter in the commission of K.S.A. 8-1567 and amendments thereto  
42 driving under the influence, then, each prior adult conviction or juvenile  
43 adjudication for K.S.A. 8-1567 and amendments thereto shall count as

1 one person felony for criminal history purposes.

2 (2) If the current crime of conviction was committed on or after July  
3 1, 1996, and is for ~~involuntary manslaughter while driving under the in-~~  
4 ~~fluence of alcohol and drugs~~ *a violation of an act described in K.S.A. 2003*  
5 *Supp. 21-3442, and amendments thereto*, each prior adult conviction, di-  
6 version in lieu of criminal prosecution or juvenile adjudication for: (A)  
7 An act described in K.S.A. 8-1567 and amendments thereto; or (B) a  
8 violation of a law of another state or an ordinance of any city, or resolution  
9 of any county, which prohibits the act described in K.S.A. 8-1567 and  
10 amendments thereto shall count as one person felony for criminal history  
11 purposes.

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

14 (1) As a prior person felony if the prior conviction or adjudication  
15 was classified as a burglary as described in subsection (a) of K.S.A. 21-  
16 3715 and amendments thereto.

17 (2) As a prior nonperson felony if the prior conviction or adjudication  
18 was classified as a burglary as described in subsection (b) or (c) of K.S.A.  
19 21-3715 and amendments thereto.

20 The facts required to classify prior burglary adult convictions and ju-  
21 venile adjudications must be established by the state by a preponderance  
22 of the evidence.

23 (e) Out-of-state convictions and juvenile adjudications will be used in  
24 classifying the offender's criminal history. An out-of-state crime will be  
25 classified as either a felony or a misdemeanor according to the convicting  
26 jurisdiction. If a crime is a felony in another state, it will be counted as a  
27 felony in Kansas. The state of Kansas shall classify the crime as person or  
28 nonperson. In designating a crime as person or nonperson comparable  
29 offenses shall be referred to. If the state of Kansas does not have a com-  
30 parable offense, the out-of-state conviction shall be classified as a non-  
31 person crime. Convictions or adjudications occurring within the federal  
32 system, other state systems, the District of Columbia, foreign, tribal or  
33 military courts are considered out-of-state convictions or adjudications.  
34 The facts required to classify out-of-state adult convictions and juvenile  
35 adjudications must be established by the state by a preponderance of the  
36 evidence.

37 (f) Except as provided in subsections (4), (5) and (6) of K.S.A. 21-  
38 4710 and amendments thereto, juvenile adjudications will be applied in  
39 the same manner as adult convictions. Out-of-state juvenile adjudications  
40 will be treated as juvenile adjudications in Kansas.

41 (g) A prior felony conviction of an attempt, a conspiracy or a solici-  
42 tation as provided in K.S.A. 21-3301, 21-3302 or 21-3303 and amend-  
43 ments thereto, to commit a crime shall be treated as a person or non-

1 person crime in accordance with the designation assigned to the  
2 underlying crime.

3 (h) Drug crimes are designated as nonperson crimes for criminal his-  
4 tory scoring.

5 Sec. 2. K.S.A. 2003 Supp. 21-4711 is hereby repealed.

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