

CHAPTER 30
HOUSE BILL No. 2603

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

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

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

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

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

(c) (1) If the current crime of conviction was committed before July 1, 1996, and is for subsection (b) of K.S.A. 21-3404, involuntary manslaughter in the commission of K.S.A. 8-1567 and amendments thereto driving under the influence, then, each prior adult conviction or juvenile adjudication for K.S.A. 8-1567 and amendments thereto shall count as one person felony for criminal history purposes.

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

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

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

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

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

(e) Out-of-state convictions and juvenile adjudications will be used in classifying the offender's criminal history. An out-of-state crime will be classified as either a felony or a misdemeanor according to the convicting jurisdiction. If a crime is a felony in another state, it will be counted as a felony in Kansas. The state of Kansas shall classify the crime as person or nonperson. In designating a crime as person or nonperson comparable offenses shall be referred to. If the state of Kansas does not have a comparable offense, the out-of-state conviction shall be classified as a nonperson crime. Convictions or adjudications occurring within the federal

system, other state systems, the District of Columbia, foreign, tribal or military courts are considered out-of-state convictions or adjudications. The facts required to classify out-of-state adult convictions and juvenile adjudications must be established by the state by a preponderance of the evidence.

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

(g) A prior felony conviction of an attempt, a conspiracy or a solicitation as provided in K.S.A. 21-3301, 21-3302 or 21-3303 and amendments thereto, to commit a crime shall be treated as a person or non-person crime in accordance with the designation assigned to the underlying crime.

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

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

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

Approved April 8, 2004.
