

Substitute for HOUSE BILL No. 2115

By Committee on Judiciary

2-24

1 AN ACT concerning crimes, punishment and criminal procedure; relating
2 to criminal history classification; aggravated battery, driving under the
3 influence; amending K.S.A. 2014 Supp. 21-6811 and repealing the
4 existing section.

5
6 WHEREAS, The provisions of K.S.A. 2014 Supp. 21-6811, as
7 amended by this act, shall be known and may be cited as Mija Stockman's
8 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
35 1, 1996, and is for ~~subsection (b) of K.S.A. 21-3404(b),~~ as in effect on
36 June 30, 1996, involuntary manslaughter in the commission of driving

1 under the influence, then, each prior adult conviction or juvenile
2 adjudication for K.S.A. 8-1567, and amendments thereto, shall count as
3 one person felony for criminal history purposes.

4 (2) If the current crime of conviction was committed on or after July
5 1, 1996, and is for a violation of ~~subsection (a)(3)~~ of K.S.A. 2014 Supp.
6 21-5405(a)(3), and amendments thereto, each prior adult conviction,
7 diversion in lieu of criminal prosecution or juvenile adjudication for: (A)
8 An act described in K.S.A. 8-1567, and amendments thereto; or (B) a
9 violation of a law of another state or an ordinance of any city, or resolution
10 of any county, which prohibits the act described in K.S.A. 8-1567, and
11 amendments thereto, shall count as one person felony for criminal history
12 purposes.

13 (3) *If the current crime of conviction is for a violation of K.S.A. 2014*
14 *Supp. 21-5413(b)(3), and amendments thereto:*

15 (A) *The first prior adult conviction, diversion in lieu of criminal*
16 *prosecution or juvenile adjudication for the following shall count as one*
17 *nonperson felony for criminal history purposes: (i) An act described in*
18 *K.S.A. 8-1567, and amendments thereto; or (ii) a violation of a law of*
19 *another state or an ordinance of any city, or resolution of any county,*
20 *which prohibits the act described in K.S.A. 8-1567, and amendments*
21 *thereto; and*

22 (B) *each second or subsequent prior adult conviction, diversion in*
23 *lieu of criminal prosecution or juvenile adjudication for the following*
24 *shall count as one person felony for criminal history purposes: (i) An act*
25 *described in K.S.A. 8-1567, and amendments thereto; or (ii) a violation of*
26 *a law of another state or an ordinance of any city, or resolution of any*
27 *county, which prohibits the act described in K.S.A. 8-1567, and*
28 *amendments thereto.*

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

31 (1) As a prior person felony if the prior conviction or adjudication
32 was classified as a burglary as defined in ~~subsection (a)~~ of K.S.A. 21-
33 3715(a), prior to its repeal, or ~~subsection (a)(1)~~ of K.S.A. 2014 Supp. 21-
34 5807(a)(1), and amendments thereto.

35 (2) As a prior nonperson felony if the prior conviction or adjudication
36 was classified as a burglary as defined in ~~subsection (b) or (c)~~ of K.S.A.
37 21-3715(b) or (c), prior to its repeal, or ~~subsection (a)(2) or (a)(3)~~ of
38 K.S.A. 2014 Supp. 21-5807(a)(2) or (a)(3), and amendments thereto.

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

42 (e) Out-of-state convictions and juvenile adjudications shall be used
43 in classifying the offender's criminal history. An out-of-state crime will be

1 classified as either a felony or a misdemeanor according to the convicting
2 jurisdiction. If a crime is a felony in another state, it will be counted as a
3 felony in Kansas. The state of Kansas shall classify the crime as person or
4 nonperson. In designating a crime as person or nonperson comparable
5 offenses shall be referred to. If the state of Kansas does not have a
6 comparable offense, the out-of-state conviction shall be classified as a
7 nonperson crime. Convictions or adjudications occurring within the federal
8 system, other state systems, the District of Columbia, foreign, tribal or
9 military courts are considered out-of-state convictions or adjudications.
10 The facts required to classify out-of-state adult convictions and juvenile
11 adjudications shall be established by the state by a preponderance of the
12 evidence.

13 (f) Except as provided in ~~subsections (d)(4), (d)(5) or (d)(6) of K.S.A.~~
14 ~~21-4710(d)(4), (d)(5) or (d)(6), prior to its repeal, or subsections (d)(3)(B),~~
15 ~~(d)(3)(C), (d)(3)(D) and (d)(4) of K.S.A. 2014 Supp. 21-6810(d)(3)(B), (d)~~
16 ~~(3)(C), (d)(3)(D) or (d)(4), and amendments thereto, juvenile adjudications~~
17 will be applied in the same manner as adult convictions. Out-of-state
18 juvenile adjudications will be treated as juvenile adjudications in Kansas.

19 (g) A prior felony conviction of an attempt, a conspiracy or a
20 solicitation as provided in K.S.A. 21-3301, 21-3302 or 21-3303, prior to
21 their repeal, or K.S.A. 2014 Supp. 21-5301, 21-5302 or 21-5303, and
22 amendments thereto, to commit a crime shall be treated as a person or
23 nonperson crime in accordance with the designation assigned to the
24 underlying crime.

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

27 (i) If the current crime of conviction is for a violation of ~~subsections~~
28 ~~(b)(2) through (b)(4) of K.S.A. 8-1602(b)(3) through (b)(5), and~~
29 amendments thereto, each of the following prior convictions committed on
30 or after July 1, 2011, shall count as a person felony for criminal history
31 purposes: K.S.A. 8-235, 8-262, 8-287, 8-291, 8-1566, 8-1567, 8-1568, 8-
32 1602, 8-1605 and 40-3104, and amendments thereto, and ~~subsection (a)(3)~~
33 ~~of K.S.A. 2014 Supp. 21-5405(a)(3) and 21-5406, and amendments~~
34 thereto, or a violation of a city ordinance or law of another state which
35 would also constitute a violation of such sections.

36 Sec. 2. K.S.A. 2014 Supp. 21-6811 is hereby repealed.

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