

HOUSE BILL No. 2093

By Committee on Corrections and Juvenile Justice

1-18

1 AN ACT concerning crimes, punishment and criminal procedure; relating
2 to criminal history; juvenile adjudications; amending K.S.A. 2016
3 Supp. 21-6810 and repealing the existing section.
4

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

6 Section 1. K.S.A. 2016 Supp. 21-6810 is hereby amended to read as
7 follows: 21-6810. (a) Criminal history categories contained in the
8 sentencing guidelines grids are based on the following types of prior
9 convictions: Person felony adult convictions, nonperson felony adult
10 convictions, person felony juvenile adjudications, nonperson felony
11 juvenile adjudications, person misdemeanor adult convictions, nonperson
12 class A misdemeanor adult convictions, person misdemeanor juvenile
13 adjudications, nonperson class A misdemeanor juvenile adjudications,
14 select class B nonperson misdemeanor adult convictions, select class B
15 nonperson misdemeanor juvenile adjudications and convictions and
16 adjudications for violations of municipal ordinances or county resolutions
17 which are comparable to any crime classified under the state law of
18 Kansas as a person misdemeanor, select nonperson class B misdemeanor
19 or nonperson class A misdemeanor. A prior conviction is any conviction,
20 other than another count in the current case, which was brought in the
21 same information or complaint or which was joined for trial with other
22 counts in the current case pursuant to K.S.A. 22-3203, and amendments
23 thereto, which occurred prior to sentencing in the current case, regardless
24 of whether the offense that led to the prior conviction occurred before or
25 after the current offense or the conviction in the current case.

26 (b) A class B nonperson select misdemeanor is a special classification
27 established for weapons violations. Such classification shall be considered
28 and scored in determining an offender's criminal history classification.

29 (c) Except as otherwise provided, all convictions, whether sentenced
30 consecutively or concurrently, shall be counted separately in the offender's
31 criminal history.

32 (d) Except as provided in K.S.A. 2016 Supp. 21-6815, and
33 amendments thereto, the following are applicable to determining an
34 offender's criminal history classification:

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

2 (2) All prior adult felony convictions, including expungements, will
3 be considered and scored. Prior adult felony convictions for offenses that
4 were committed before July 1, 1993, shall be scored as a person or
5 nonperson crime using a comparable offense under the Kansas criminal
6 code in effect on the date the current crime of conviction was committed.

7 (3) *Except as provided in paragraph (5), there will be no decay factor*
8 *applicable for:*

9 (A) Adult convictions;

10 (B) a juvenile adjudication for an offense ~~which~~ *that* would constitute
11 a nondrug severity level 1 through 4 person felony if committed by an
12 adult. Prior juvenile adjudications for offenses that were committed before
13 July 1, 1993, shall be scored as a person or nonperson crime using a
14 comparable offense under the Kansas criminal code in effect on the date
15 the current crime of conviction was committed;

16 (C) a juvenile adjudication for an offense committed before July 1,
17 1993, which would have been a class A, B or C felony, if committed by an
18 adult; or

19 (D) a juvenile adjudication for an offense committed on or after July
20 1, 1993, which would be an off-grid felony; **or** a nondrug severity level 1
21 *through 4 felony, if committed by an adult.*

22 (4) Except as otherwise provided, a juvenile adjudication will decay
23 if the current crime of conviction is committed after the offender reaches
24 the age of 25, and the juvenile adjudication is for an offense:

25 (A) Committed before July 1, 1993, which would have been a class D
26 or E felony if committed by an adult;

27 (B) committed on or after July 1, 1993, which would be a nondrug
28 severity level 5 through 10, a non-grid felony or any drug felony, if
29 committed by an adult; or

30 (C) which would be a misdemeanor if committed by an adult.

31 (5) *A juvenile adjudication will not be considered and scored if:*

32 (A) *The current crime of conviction is committed at least five years*
33 *after the date of final discharge of the adjudication;*

34 (B) *the offender has no new adjudications or convictions during such*
35 *five-year period; and*

36 (C) *the juvenile adjudication is for an offense that would be a*
37 *nondrug severity level 5 through 10 felony, drug felony, nongrid felony or*
38 *misdemeanor, if committed by an adult.*

39 (6) All person misdemeanors, class A nonperson misdemeanors and
40 class B select nonperson misdemeanors, and all municipal ordinance and
41 county resolution violations comparable to such misdemeanors, shall be
42 considered and scored. Prior misdemeanors for offenses that were
43 committed before July 1, 1993, shall be scored as a person or nonperson

1 crime using a comparable offense under the Kansas criminal code in effect
2 on the date the current crime of conviction was committed.

3 ~~(6)~~(7) Unless otherwise provided by law, unclassified felonies and
4 misdemeanors, shall be considered and scored as nonperson crimes for the
5 purpose of determining criminal history.

6 ~~(7)~~(8) Prior convictions of a crime defined by a statute ~~which~~ that has
7 since been repealed shall be scored using the classification assigned at the
8 time of such conviction.

9 ~~(8)~~(9) Prior convictions of a crime defined by a statute ~~which~~ that has
10 since been determined unconstitutional by an appellate court shall not be
11 used for criminal history scoring purposes.

12 ~~(9)~~(10) Prior convictions of any crime shall not be counted in
13 determining the criminal history category if they enhance the severity
14 level, elevate the classification from misdemeanor to felony, or are
15 elements of the present crime of conviction. Except as otherwise provided,
16 all other prior convictions will be considered and scored.

17 (e) The amendments made to this section by ~~this act~~ **{section 1 of**
18 **chapter 5 of the 2015 Session Laws of Kansas}** are procedural in nature
19 and shall be construed and applied retroactively.

20 Sec. 2. K.S.A. 2016 Supp. 21-6810 is hereby repealed.

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