

## HOUSE BILL No. 2144

By Committee on Corrections and Juvenile Justice

1-26

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1 AN ACT concerning crimes, punishment and criminal procedure; relating  
2 to sentencing guidelines; criminal history calculation; requiring an  
3 offender who raises error in calculation for first time on appeal to show  
4 prejudicial error; amending K.S.A. 2020 Supp. 21-6814 and repealing  
5 the existing section.  
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7 *Be it enacted by the Legislature of the State of Kansas:*

8 Section 1. K.S.A. 2020 Supp. 21-6814 is hereby amended to read as  
9 follows: 21-6814. (a) The offender's criminal history shall be admitted in  
10 open court by the offender or determined by a preponderance of the  
11 evidence at the sentencing hearing by the sentencing judge.

12 (b) Except to the extent disputed in accordance with subsection (c),  
13 the summary of the offender's criminal history prepared for the court by  
14 the state shall satisfy the state's burden of proof regarding an offender's  
15 criminal history.

16 (c) Upon receipt of the criminal history worksheet prepared for the  
17 court, the offender shall immediately notify the district attorney and the  
18 court with written notice of any error in the proposed criminal history  
19 worksheet. Such notice shall specify the exact nature of the alleged error.  
20 The state shall have the burden of proving the disputed portion of the  
21 offender's criminal history. The sentencing judge shall allow the state  
22 reasonable time to produce evidence to establish its burden of proof. If the  
23 offender later challenges such offender's criminal history, which has been  
24 previously established, the burden of proof shall shift to the offender to  
25 prove such offender's criminal history by a preponderance of the evidence.

26 (d) *If an offender raises a challenge to the offender's criminal history*  
27 *for the first time on appeal, the offender shall have the burden of*  
28 *designating a record that shows prejudicial error. If the offender fails to*  
29 *provide such record, the appellate court shall dismiss the claim.*

30 Sec. 2. K.S.A. 2020 Supp. 21-6814 is hereby repealed.

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