

Substitute for SENATE BILL No. 366

By Committee on Commerce

2-26

1 AN ACT concerning occupational regulation; relating to occupational
2 licenses for certain applicants; amending K.S.A. 2019 Supp. 48-3406
3 and repealing the existing section.
4

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

6 Section 1. K.S.A. 2019 Supp. 48-3406 is hereby amended to read as
7 follows: 48-3406. (a) For the purposes of this section:

8 (1) *"Applicant" means an individual who is a military spouse,*
9 *military servicemember or an individual who has established or intends to*
10 *establish residency in this state. "Applicant," with respect to law*
11 *enforcement certification by the Kansas commission on peace officers'*
12 *standards and training, means an applicant who has met the employment*
13 *requirement pursuant to K.S.A. 74-5605(a), and amendments thereto.*

14 (2) *"Complete application" means the licensing body has received all*
15 *forms, fees, documentation and any other information required or*
16 *requested by the licensing body for the purpose of evaluating the*
17 *application, consistent with this section and the rules and regulations*
18 *adopted by the licensing body pursuant to this section. If the licensing*
19 *body has received all such forms, fees, documentation and any other*
20 *information required or requested by the licensing body, an application*
21 *shall be deemed to be a complete application even if the licensing body*
22 *has not yet received a criminal background report from the Kansas bureau*
23 *of investigation.*

24 (3) *"Licensing body" means an official, agency, board or other entity*
25 *of the state which authorizes individuals to practice a profession in this*
26 *state and issues a license, registration, certificate, permit or other*
27 *authorization to an individual so authorized;*

28 ~~(2)~~(4) *"Military servicemember" means a current member of the*
29 *army, navy, marine corps, air force, air or army national guard of any state,*
30 *coast guard or any branch of the military reserves of the United States; and*
31 *or a former member with an honorable discharge.*

32 ~~(3)~~(5) *"Military spouse" means the spouse of an individual who is*
33 *currently in active service in any branch of the armed forces of the United*
34 *States.*

35 (6) *"Private certification" means a voluntary program in which a*
36 *private organization grants nontransferable recognition to an individual*

1 *who meets personal qualifications and standards relevant to performing*
2 *the occupation as determined by the private organization.*

3 (b) Notwithstanding any other provision of law, any licensing body
4 shall:

5 ~~(1) —, upon submission of a completed complete application, issue a~~
6 ~~license, registration or certification to a nonresident military spouse an~~
7 ~~applicant, so that the nonresident military spouse applicant may lawfully~~
8 ~~practice the person's occupation; and~~

9 ~~(2) — upon submission of a completed application within six months~~
10 ~~following release from military service, issue a license, registration or~~
11 ~~certification to a military servicemember with an honorable discharge so~~
12 ~~that the military servicemember may lawfully practice the military~~
13 ~~servicemember's occupation.~~

14 ~~(c) A military servicemember with an honorable discharge or~~
15 ~~nonresident military spouse An applicant who holds a valid current~~
16 ~~license, registration or certification in another state, district or territory of~~
17 ~~the United States shall receive a license, registration or certification under~~
18 ~~subsection (b) of this section:~~

19 (1) *If the applicant qualifies under the applicable Kansas licensure,*
20 *registration or certification by endorsement, reinstatement or reciprocity*
21 *statutes, then pursuant to applicable licensure, registration or certification*
22 *by endorsement, reinstatement or reciprocity statutes of the licensing body*
23 *of this state for the profession license, registration or certification within*
24 *60 15 days from the date a complete application was submitted if the*
25 *applicant is a military servicemember or military spouse or within 45 days*
26 *from the date a complete application was submitted for all other*
27 *applicants; or*

28 (2) *if the applicant does not qualify under the applicable licensure,*
29 *registration or certification by endorsement, reinstatement or reciprocity*
30 *statutes of the licensing body of this state, or if the Kansas professional*
31 *practice act does not have licensure, registration or certification by*
32 *endorsement, reinstatement or reciprocity statutes, then the applicant shall*
33 *receive a license, registration or certification as provided herein if, at the*
34 *time of application, the military servicemember or nonresident military*
35 *spouse applicant:*

36 (A) *Holds a valid current license, registration or certification in*
37 *another state, district or territory of the United States with licensure,*
38 *registration or certification requirements that the licensing body*
39 *determines are substantially equivalent to those established by the*
40 *licensing body of this state, or holds a certification issued by another state*
41 *for practicing the occupation but this state requires an occupational*
42 *license, and the licensing body determines that the certification*
43 *requirements are substantially equivalent to the licensing requirements*

1 *established by the licensing body of this state;*

2 (B) has not committed an act in any jurisdiction that would have
3 constituted grounds for the limitation, suspension or revocation *of the*
4 *license, certificate or registration*, or that the applicant has never been
5 censured or had other disciplinary action taken or had an application for
6 licensure, registration or certification denied or refused to practice an
7 occupation for which the ~~military servicemember or nonresident military~~
8 ~~spouse~~ *applicant* seeks licensure, registration or certification;

9 (C) has not been disciplined by a licensing, registering, certifying or
10 other credentialing entity in another jurisdiction and is not the subject of
11 an unresolved complaint, review procedure or disciplinary proceeding
12 conducted by a licensing, registering, certifying or other credentialing
13 entity in another jurisdiction nor has surrendered their membership on any
14 professional staff in any professional association or society or faculty for
15 another state or jurisdiction while under investigation or to avoid adverse
16 action for acts or conduct similar to acts or conduct ~~which that~~ would
17 constitute grounds for disciplinary action in a Kansas practice act;

18 (D) *does not have a disqualifying criminal record as determined by*
19 *the licensing body of this state under Kansas law;*

20 (E) *provides proof of solvency, financial standing, bonding or*
21 *insurance if required by the licensing body of this state, but only to the*
22 *same extent as required of any applicant with similar credentials or*
23 *experience;*

24 (F) pays any fees required by the licensing body of this state; and

25 ~~(E)~~(G) submits with the application a signed affidavit stating that the
26 application information, including necessary prior employment history, is
27 true and accurate.

28 Upon receiving ~~such affidavit~~ *a complete application*, the licensing
29 body shall issue the license, registration or certification within ~~60~~ 15 days
30 from the date a complete application was submitted *by a military*
31 *servicemember or military spouse, or within 45 days from the date a*
32 *complete application was submitted by an applicant who is not a military*
33 *servicemember or military spouse, to the ~~military servicemember or~~*
34 *nonresident military spouse applicant* on a probationary basis, but may
35 revoke the license, registration or certification at any time if the
36 information provided in the application is found to be false. ~~Any The~~
37 ~~probationary license issued under this subsection to a military~~
38 ~~servicemember or nonresident military spouse period~~ shall not exceed six
39 months. *Upon completion of the probationary period, the license,*
40 *certification or registration shall become a non-probationary license,*
41 *certification or registration.*

42 (d) ~~Any person~~ *applicant* who has not been in the active practice of
43 the occupation during the two years preceding the application for which

1 the applicant seeks a license, registration or certification *under subsections*
2 *(b) and (c)* may be required to complete such additional testing, training,
3 ~~mentoring~~, monitoring or *continuing* education as the Kansas licensing
4 body may deem necessary to establish the applicant's present ability to
5 practice ~~with reasonable skill and safety in a manner that protects the~~
6 *health, safety and welfare of the public, as provided by subsection (k).*

7 ~~(e) A nonresident military spouse~~ Upon submission of a complete
8 application, an applicant shall receive an occupational license,
9 registration or certification under subsection (b) based on the applicant's
10 work experience in another state, if the applicant:

11 (1) Worked in a state that does not use an occupational license,
12 registration or certification to regulate an occupation, but this state uses
13 an occupational license, registration or certification to regulate the
14 occupation;

15 (2) worked for at least three years in the occupation during the four
16 years immediately preceding the application; and

17 (3) satisfies the requirements of subsection (c)(2)(B) through (G).

18 (f) Upon submission of a complete application, an applicant shall
19 receive an occupational license, registration or certification under
20 subsection (b) based on the applicant's holding of a private certification
21 and work experience in another state, if the applicant:

22 (1) Holds a private certification and worked in a state that does not
23 use an occupational license or government certification to regulate an
24 occupation, but this state uses an occupational license or government
25 certification to regulate the occupation;

26 (2) worked for at least two years in the occupation;

27 (3) holds a current and valid private certification in the occupation;

28 (4) is held in good standing by the organization that issued the
29 private certification; and

30 (5) satisfies the requirements of subsection (c)(2)(B) through (G).

31 (g) An applicant licensed, registered or certified under this section
32 shall be entitled to the same rights and subject to the same obligations as
33 are provided by the licensing body for Kansas residents, except that
34 revocation or suspension of ~~a nonresident military spouse's~~ an applicant's
35 license, registration or certificate in the ~~nonresident military spouse's~~
36 applicant's state of residence or any jurisdiction in which the ~~nonresident~~
37 ~~military spouse~~ applicant held a license, registration or certificate shall
38 automatically cause the same revocation or suspension of such ~~nonresident~~
39 ~~military spouse's~~ applicant's license, registration or certificate in Kansas.
40 No hearing shall be granted to ~~a nonresident military spouse~~ an applicant
41 where such ~~nonresident military spouse's~~ applicant's license, registration
42 or certificate is subject to such automatic revocation or suspension, except
43 for the purpose of establishing the fact of revocation or suspension of the

1 ~~nonresident military spouse's applicant's~~ license, registration or certificate
2 by the ~~nonresident military spouse's applicant's~~ state of residence.

3 ~~(f)(h)~~ In the event the licensing body determines that the license,
4 registration or certificate currently held by ~~the military servicemember or~~
5 ~~nonresident military spouse~~ *an applicant* under subsection (c)(2)(A) *who*
6 *is a nonresident military spouse or nonresident military servicemember* is
7 not *substantially* equivalent to those issued by the licensing body of this
8 state, the licensing body ~~may~~ *shall* issue a temporary permit for a limited
9 period of time to allow the ~~military servicemember or nonresident military~~
10 ~~spouse applicant~~ to lawfully practice the ~~military servicemember's or~~
11 ~~nonresident military spouse's applicant's~~ occupation while completing any
12 specific requirements that are required in this state for licensure,
13 registration or certification that ~~was were~~ not required in the state, district
14 or territory of the United States in which the ~~military servicemember or~~
15 ~~nonresident military spouse applicant~~ was licensed, registered, certified or
16 otherwise credentialed.

17 *(i) In the event the licensing body determines that the license,*
18 *registration or certification currently held by an applicant under*
19 *subsection (c)(2)(A) who is not a nonresident military spouse or*
20 *nonresident military servicemember is not substantially equivalent to*
21 *those issued by the licensing body of this state, the licensing body may*
22 *issue a temporary permit for a limited period of time to allow the*
23 *applicant to lawfully practice the applicant's occupation while completing*
24 *any specific requirements that are required in this state for licensure,*
25 *registration or certification that was not required in the state, district or*
26 *territory of the United States in which the applicant was licensed,*
27 *registered, certified or otherwise credentialed.*

28 *(j) In the event that the licensing body determines that the private*
29 *certification or work experience currently held by the applicant under*
30 *subsection (e) or (f) is not sufficient to establish the applicant's present*
31 *ability to practice in a manner that protects the health, safety and welfare*
32 *of the public, the applicant may be required to complete such additional*
33 *testing, training, monitoring or continuing education as the licensing body*
34 *deems necessary. The applicant shall be issued a temporary permit for a*
35 *limited period of time to allow the applicant to lawfully practice the*
36 *occupation while completing any specific requirements unless the*
37 *licensing body finds, based on specific grounds, that issuing a temporary*
38 *permit would jeopardize the health, safety and welfare of the public.*

39 *(k) Any testing, continuing education or training requirements*
40 *administered under subsection (d), (h), (i) or (j) shall be limited to Kansas*
41 *law that regulates the occupation and that are materially different from or*
42 *additional to the law of another state, or shall be limited to any materially*
43 *different or additional body of knowledge or skill required for the*

1 *occupational license, registration or certification in Kansas.*

2 ~~(g)~~(l) A licensing body may grant licensure, registration, certification
3 or a temporary permit to any person who meets the requirements under
4 this section but was separated from such military service under less than
5 honorable conditions or with a general discharge under honorable
6 conditions.

7 (m) *Nothing in this section shall be construed to apply in conflict*
8 *with or in a manner inconsistent with federal law or a multistate compact,*
9 *or a rule or regulation or a reciprocal or other applicable statutory*
10 *provision that would allow an applicant to receive a license. Nothing in*
11 *this section shall be construed as prohibiting a licensing body from*
12 *denying any application for licensure, registration or certification, or*
13 *declining to grant a temporary or probationary license, if the licensing*
14 *body determines that granting the application may endanger the health,*
15 *safety and welfare of the public.*

16 ~~(h)~~(n) Each licensing body ~~may~~ shall adopt rules and regulations
17 necessary to implement and carry out the provisions of this section.

18 ~~(i)~~(o) This section shall not apply to the practice of law or the
19 regulation of attorneys pursuant to K.S.A. 7-103, and amendments thereto.

20 (p) *This section shall apply to all licensing bodies not excluded under*
21 *subsection (o), including, but not limited to:*

22 (1) *The abstracters' board of examiners;*

23 (2) *the board of accountancy;*

24 (3) *the board of adult care home administrators;*

25 (4) *the secretary for aging and disability services, with respect to*
26 *K.S.A. 65-5901 et seq. and 65-6503 et seq., and amendments thereto;*

27 (5) *the Kansas board of barbering;*

28 (6) *the behavioral sciences regulatory board;*

29 (7) *the Kansas state board of cosmetology;*

30 (8) *the Kansas dental board;*

31 (9) *the state board of education;*

32 (10) *the Kansas board of examiners in fitting and dispensing of*
33 *hearing instruments;*

34 (11) *the board of examiners in optometry;*

35 (12) *the state board of healing arts;*

36 (13) *the secretary of health and environment, with respect to K.S.A.*
37 *82a-1201 et seq., and amendments thereto;*

38 (14) *the commissioner of insurance, with respect to K.S.A. 40-241*
39 *and 40-4901 et seq., and amendments thereto;*

40 (15) *the state board of mortuary arts;*

41 (16) *the board of nursing;*

42 (17) *the state board of pharmacy;*

43 (18) *the Kansas real estate commission;*

1 (19) *the real estate appraisal board;*

2 (20) *the state board of technical professions; and*

3 (21) *the state board of veterinary examiners.*

4 (q) *All proceedings pursuant to this section shall be conducted in*
5 *accordance with the provisions of the Kansas administrative procedure act*
6 *and shall be reviewable in accordance with the Kansas judicial review act.*

7 (r) *Commencing July 1, 2020, each licensing body listed in*
8 *subsection (p)(1) through (21) shall provide a report for the period of July*
9 *1 through June 30 to the director of legislative research by August 31 of*
10 *each year, providing information requested by the director of legislative*
11 *research to fulfill the requirements of this subsection. The director of*
12 *legislative research shall develop the report format, prepare an analysis of*
13 *the reports and submit and present the analysis to the office of the*
14 *governor, the standing committee on commerce, labor and economic*
15 *development of the house of representatives, the standing committee on*
16 *commerce of the senate, the standing committee on appropriations of the*
17 *house of representatives and the standing committee on ways and means*
18 *of the senate by January 15 of the succeeding year. The director's report*
19 *may provide any analysis that the director deems useful and shall provide*
20 *the following items for each applicant category of military servicemember,*
21 *military spouse and non-military individual:*

22 (1) *The number of applications by occupation type received under the*
23 *provisions of this section;*

24 (2) *the number of applications granted under this section by*
25 *occupation type, and whether the credential issued was regular or*
26 *temporary;*

27 (3) *the number of applications denied under this section by*
28 *occupation type, the reason for denial and whether the denial was for a*
29 *regular or temporary credential;*

30 (4) *the average time between receipt of the application and*
31 *completion of the application by occupation type, whether the credential*
32 *was temporary or permanent and whether granted or denied;*

33 (5) *the average time between receipt of a complete application and*
34 *issuance of a credential by occupation type and whether a regular or*
35 *temporary credential;*

36 (6) *identification of applications by occupation type submitted under*
37 *this section where the issuance of credentials or another determination by*
38 *the licensing body was not made within the time limitations pursuant to*
39 *this section, the reasons for the failure to meet such time limitations and*
40 *whether the credentials were regular or temporary;*

41 (7) *the number of applications received by occupation type where the*
42 *applicant was previously censured, the recipient of disciplinary action or*
43 *was subject to a limitation, suspension or revocation of a prior credential;*

1 *and*

2 *(8) the number of applications granted by occupation type where the*
3 *applicant was previously censured, the recipient of disciplinary action or*
4 *was subject to a limitation, suspension or revocation of a prior credential,*
5 *and whether the credential was issued on a temporary or regular basis.*

6 *All information shall be provided by the licensing body to the director*
7 *of legislative research in a manner that maintains the confidentiality of all*
8 *applicants and in aggregate form that does not permit identification of*
9 *individual applicants.*

10 Sec. 2. K.S.A. 2019 Supp. 48-3406 is hereby repealed.

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