

House Substitute for SENATE BILL No. 58

By Committee on Judiciary

3-18

1 AN ACT concerning the Kansas law enforcement training act; relating to
2 qualifications of applicants for certification; open records, exemptions;
3 amending K.S.A. 2015 Supp. 74-5605 and 74-5611a and repealing the
4 existing sections.
5

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

7 Section 1. K.S.A. 2015 Supp. 74-5605 is hereby amended to read as
8 follows: 74-5605. (a) Every applicant for certification shall be an
9 employee of a state, county or city law enforcement agency, a municipal
10 university police officer, a railroad policeman appointed pursuant to
11 K.S.A. 66-524, and amendments thereto; an employee of the tribal law
12 enforcement agency of an Indian nation that has entered into a tribal-state
13 gaming compact with this state; a manager or employee of the horsethief
14 reservoir benefit district pursuant to K.S.A. 2015 Supp. 82a-2212, and
15 amendments thereto; or a school security officer designated as a school
16 law enforcement officer pursuant to K.S.A. 72-8222, and amendments
17 thereto.

18 (b) Prior to admission to a course conducted at the training center or
19 at a certified state or local law enforcement agency, the applicant's
20 appointing authority or agency head shall furnish to the director of police
21 training and to the commission a statement certifying that the applicant has
22 been found to meet the minimum requirements of certification established
23 by this subsection. The commission may rely upon the statement of the
24 appointing authority or agency head as evidence that the applicant meets
25 the minimum requirements for certification to issue a provisional
26 certification. Each applicant for certification shall meet the following
27 minimum requirements:

- 28 (1) Be a United States citizen;
- 29 (2) have been fingerprinted and a search of local, state and national
30 fingerprint files made to determine whether the applicant has a criminal
31 record;
- 32 (3) not have been convicted of a crime that would constitute a felony
33 under the laws of this state, a misdemeanor crime of domestic violence or
34 a misdemeanor offense that the commission determines reflects on the
35 honesty, trustworthiness, integrity or competence of the applicant as
36 defined by rules and regulations of the commission;

1 (4) have graduated from a high school accredited by the Kansas state
2 board of education or the appropriate accrediting agency of another state
3 jurisdiction or have obtained the equivalent of a high school education as
4 defined by rules and regulations of the commission;

5 (5) be of good moral character sufficient to warrant the public trust in
6 the applicant as a police officer or law enforcement officer;

7 (6) have completed an assessment, including psychological testing
8 approved by the commission, to determine that the applicant does not have
9 a mental or personality disorder that would adversely affect the ability to
10 perform the essential functions of a police officer or law enforcement
11 officer with reasonable skill, safety and judgment;

12 (7) be free of any physical or mental condition which adversely
13 affects the ability to perform the essential functions of a police officer or
14 law enforcement officer with reasonable skill, safety and judgment; and

15 (8) be at least 21 years of age.

16 (c) The commission may deny a provisional or other certification
17 upon a finding that the applicant has engaged in conduct for which a
18 certificate may be revoked, suspended or otherwise disciplined as provided
19 in K.S.A. 74-5616, and amendments thereto. When it appears that grounds
20 for denial of a certification exist under this subsection, after a conditional
21 offer of employment has been made to an applicant seeking appointment
22 as a police officer or law enforcement officer, the applicant's appointing
23 authority or agency head may request an order from the commission to
24 determine whether a provisional certification will be issued to that
25 applicant.

26 (d) As used in this section, "conviction" includes rendering of
27 judgment by a military court martial pursuant to the uniform code of
28 military justice, by a court of the United States or by a court of competent
29 jurisdiction in any state, whether or not expunged; and any diversion *or*
30 *deferred judgment* agreement entered into for a misdemeanor crime of
31 domestic violence *or misdemeanor offense that the commission determines*
32 *reflects on the honesty, trustworthiness, integrity or competence of the*
33 *applicant as defined by rules and regulations of the commission* and any
34 diversion *or deferred judgment* agreement entered into on or after July 1,
35 1995, for a felony.

36 Sec. 2. K.S.A. 2015 Supp. 74-5611a is hereby amended to read as
37 follows: 74-5611a. (a) The commission shall establish and maintain a
38 central registry of all Kansas police officers or law enforcement officers.
39 The purpose of the registry is to be a resource for all agencies who appoint
40 or elect police or law enforcement officers to use when reviewing
41 employment applications of such officers. The registry shall be made
42 available only to those agencies who appoint or elect police or law
43 enforcement officers.

1 (b) The director shall provide forms for registration and shall refuse
2 any registration not submitted on such form in full detail.

3 (c) Within 30 days of appointment, election or termination, every city,
4 county and state agency, every school district and every community
5 college shall submit the name of any person appointed or elected to or
6 terminated from the position of police officer or law enforcement officer
7 within its jurisdiction.

8 (d) Upon termination, the agency head shall include a report
9 explaining the circumstances under which the officer resigned or was
10 terminated. Such termination report shall be available to the terminated
11 officer and any law enforcement agency to which the terminated officer
12 later applies for a position as a police officer or law enforcement officer.
13 The terminated officer may submit a written statement in response to the
14 termination and any such statement shall be included in the registry file
15 concerning such officer. The director shall adopt a format for the
16 termination report.

17 (e) The agency, agency head and any officer or employee of the
18 agency shall be absolutely immune from civil liability:

19 (1) For the report made in accordance with subsection (d); and

20 (2) when responding in writing to a written request concerning a
21 current or former officer from a prospective law enforcement agency of
22 that officer for the report made in accordance with subsection (d) and for
23 the disclosure of such report.

24 *(f) The registry maintained in accordance with subsection (a) and the*
25 *report submitted in accordance with subsection (d) shall be confidential*
26 *and shall not be subject to disclosure under the Kansas open records act,*
27 *K.S.A. 45-215 et seq., and amendments thereto. The confidentiality*
28 *prescribed by this section is not subject to expiration pursuant to K.S.A.*
29 *45-229, and amendments thereto, or any other statute.*

30 New Sec. 3. (a) Except as provided in subsection (b), any complaint
31 or report, record or other information relating to a complaint which is
32 received, obtained, created or maintained by the commission shall be
33 confidential and shall not be subject to disclosure under the open records
34 act, K.S.A. 45-215 et seq., and amendments thereto. The confidentiality
35 prescribed by this section is not subject to expiration pursuant to K.S.A.
36 45-229, and amendments thereto, or any other statute.

37 (b) Any complaint, report, record, or other information relating to a
38 complaint which is received, obtained, created or maintained by the
39 commission may be disclosed:

40 (1) In any proceeding conducted by the commission in accordance
41 with the Kansas administrative procedure act or in an appeal of an order of
42 the commission entered in a proceeding, or to a party in such proceeding
43 or that party's attorney;

1 (2) to a municipal, state or federal licensing, regulatory or
2 enforcement agency with jurisdiction over acts or conduct similar to acts
3 or conduct which would constitute grounds for action under this act; and

4 (3) to the director of police training when such disclosure is relevant
5 to the exercise of the authority granted in K.S.A. 74-5604a(b), and
6 amendments thereto.

7 (c) Any complaint or report, record or other information disclosed by
8 the commission as authorized by this section shall remain under seal in the
9 record of the administrative proceeding in which disclosed and shall not be
10 redisclosed by the receiving party or agency except as otherwise
11 authorized by law.

12 (d) This section shall be part of an supplemental to the Kansas law
13 enforcement training act.

14 Sec. 4. K.S.A. 2015 Supp. 74-5605 and 74-5611a are hereby
15 repealed.

16 Sec. 5. This act shall take effect and be in force from and after its
17 publication in the statute book.