

*[As Amended by Senate Committee of the Whole]*

*As Amended by Senate Committee*

*Session of 2008*

## SENATE BILL No. 492

By Committee on Education

1-28

12 AN ACT concerning teachers; relating to the issuance of teachers' li-  
13 censes; amending K.S.A. 2007 Supp. 72-1397 and repealing the exist-  
14 ing section.

15  
16 *Be it enacted by the Legislature of the State of Kansas:*

17 ~~Section 1.—K.S.A. 2007 Supp. 72-1397 is hereby amended to read as~~  
18 ~~follows: 72-1397. (a) (1) Except as provided by paragraph (2), the state~~  
19 ~~board of education shall not knowingly issue a license to or renew the~~  
20 ~~license of any person who has been convicted of any offense or, attempt~~  
21 ~~or conspiracy to commit any offense specified in subsection (c) of K.S.A.~~  
22 ~~21-4619 and amendments thereto, or has been convicted in another state~~  
23 ~~or by the federal government of an act similar to any act described in this~~  
24 ~~subsection.~~

25 ~~—(2) The provisions of paragraph (1) of this subsection shall not apply~~  
26 ~~to an offense described in clause (18), (20) or (21) of subsection (c) of~~  
27 ~~K.S.A. 21-4619, and amendments thereto.~~

28 ~~—(b) Except as provided in subsection (c), the state board of education~~  
29 ~~shall not knowingly issue a license to or renew the license of any person~~  
30 ~~who:~~

31 ~~—(1) Has been convicted of a felony under the uniform controlled sub-~~  
32 ~~stances act; (2) has been convicted of a felony described in any section of~~  
33 ~~article 34 of chapter 21 of the Kansas Statutes Annotated, other than an~~  
34 ~~act specified in subsection (a) or an act described in K.S.A. 21-3412 or~~  
35 ~~K.S.A. 21-3412a, and amendments thereto, if the victim is a minor or~~  
36 ~~student; (3) has been convicted of a felony described in any section of~~  
37 ~~article 35 of chapter 21 of the Kansas Statutes Annotated, other than an~~  
38 ~~act specified in subsection (c) of K.S.A. 21-4619 and amendments thereto;~~  
39 ~~(a) or has been convicted of an act described in K.S.A. 21-3517, and~~  
40 ~~amendments thereto, if the victim is a minor or student; (4) has been~~  
41 ~~convicted of any act described in any section of article 36 of chapter 21~~  
42 ~~of the Kansas Statutes Annotated, other than an act specified in subsec-~~  
43 ~~tion (c) of K.S.A. 21-4619 and amendments thereto (a); (5) has been~~

1 convicted of a felony described in article 37 of chapter 21 of the Kansas  
2 Statutes Annotated, ~~(6) has been convicted of a violation of K.S.A. 8-1567~~  
3 ~~or 8-2,144, and amendments thereto, punishable as a felony, (7) has been~~  
4 ~~convicted of an attempt under K.S.A. 21-3301, and amendments thereto,~~  
5 ~~or a conspiracy under K.S.A. 21-3302, and amendments thereto, to com-~~  
6 ~~mit any act specified in this subsection, (7) (8) has been convicted of any~~  
7 ~~act which is described in K.S.A. 21-4301, 21-4301a or 21-4301c, and~~  
8 ~~amendments thereto, (8) (9) has been convicted in another state or by~~  
9 ~~the federal government of an act similar to any act described in this sub-~~  
10 ~~section, or (9) (10) has entered into a criminal diversion agreement after~~  
11 ~~having been charged with any offense described in this subsection.~~

12 ~~—(c)—The state board of education may issue a license to or renew the~~  
13 ~~license of a person who has been convicted of committing an offense or~~  
14 ~~act described in subsection (b) or who has entered into a criminal diver-~~  
15 ~~sion agreement after having been charged with an offense or act described~~  
16 ~~in subsection (b) if the state board determines, following a hearing, that~~  
17 ~~the person has been rehabilitated for a period of at least five years from~~  
18 ~~the date of conviction of the offense or commission of the act or, in the~~  
19 ~~case of a person who has entered into a criminal diversion agreement,~~  
20 ~~that the person has satisfied the terms and conditions of the agreement.~~  
21 ~~The state board of education may consider factors including, but not~~  
22 ~~limited to, the following in determining whether to grant a certificate~~  
23 ~~license:~~

- 24 ~~—(1)—The nature and seriousness of the offense or act,~~  
25 ~~—(2)—the conduct of the person subsequent to commission of the of-~~  
26 ~~fense or act,~~  
27 ~~—(3)—the time elapsed since the commission of the offense or act,~~  
28 ~~—(4)—the age of the person at the time of the offense or act,~~  
29 ~~—(5)—whether the offense or act was an isolated or recurring incident;~~  
30 ~~and~~

31 ~~—(6)—discharge from probation, pardon or expungement.~~  
32 ~~—(d)—Before any license is denied by the state board of education for~~  
33 ~~any of the offenses or acts specified in subsections (a) and (b), the person~~  
34 ~~shall be given notice and an opportunity for a hearing in accordance with~~  
35 ~~the provisions of the Kansas administrative procedure act.~~

36 ~~—(e)—The county or district attorney shall file a report with the state~~  
37 ~~board of education indicating the name, address and social security num-~~  
38 ~~ber of any person who has been determined to have committed any of-~~  
39 ~~fense or act specified in subsection (a) or (b) or to have entered into a~~  
40 ~~criminal diversion agreement after having been charged with any offense~~  
41 ~~or act specified in subsection (b). Such report shall be filed within 30~~  
42 ~~days of the date of the determination that the person has committed any~~  
43 ~~such act or entered into any such diversion agreement.~~

1 —(f) ~~The state board of education shall not be liable for civil damages~~  
2 ~~to any person refused issuance or renewal of a license by reason of the~~  
3 ~~state board's compliance, in good faith, with the provisions of this section.~~

4 **Section 1. K.S.A. 2007 Supp. 72-1397 is hereby amended to**  
5 **read as follows: 72-1397. (a) The state board of education shall not**  
6 **knowingly issue a license to or renew the license of any person who**  
7 **has been convicted of** ~~any offense or attempt to commit any offense~~  
8 ~~specified in subsection (c) of K.S.A. 21-4619 and amendments thereto.~~

- 9 (1) *Rape, as defined in K.S.A. 21-3502, and amendments thereto;*  
10 (2) *indecent liberties with a child, as defined in K.S.A. 21-3503, and*  
11 *amendments thereto;*  
12 (3) *aggravated indecent liberties with a child, as defined in K.S.A. 21-*  
13 *3504, and amendments thereto;*  
14 (4) *criminal sodomy, as defined in subsection (a)(2) or (a)(3) of K.S.A.*  
15 *21-3505, and amendments thereto;*  
16 (5) *aggravated criminal sodomy, as defined in K.S.A. 21-3506, and*  
17 *amendments thereto;*  
18 (6) *indecent solicitation of a child, as defined in K.S.A. 21-3510, and*  
19 *amendments thereto;*  
20 (7) *aggravated indecent solicitation of a child, as defined in K.S.A.*  
21 *21-3511, and amendments thereto;*  
22 (8) *sexual exploitation of a child, as defined in K.S.A. 21-3516, and*  
23 *amendments thereto;*  
24 (9) *aggravated incest, as defined in K.S.A. 21-3603, and amendments*  
25 *thereto;*  
26 (10) **[aggravated]** *endangering a child, as defined in K.S.A. ~~21-3608~~*  
27 ***[21-3608a]**, and amendments thereto;*  
28 (11) *abuse of a child, as defined in K.S.A. 21-3609, and amendments*  
29 *thereto;*  
30 (12) *capital murder, as defined in K.S.A. 21-3439, and amendments*  
31 *thereto;*  
32 (13) *murder in the first degree, as defined in K.S.A. 21-3401, and*  
33 *amendments thereto;*  
34 (14) *murder in the second degree, as defined in K.S.A. 21-3402, and*  
35 *amendments thereto;*  
36 (15) *voluntary manslaughter, as defined in K.S.A. 21-3403, and*  
37 *amendments thereto;*  
38 (16) *involuntary manslaughter, as defined in K.S.A. 21-3404, and*  
39 *amendments thereto;*  
40 (17) *involuntary manslaughter while driving under the influence of*  
41 *alcohol or drugs, as defined in K.S.A. 21-3442, and amendments thereto;*  
42 (18) *sexual battery, as defined in K.S.A. 21-3517, and amendments*  
43 *thereto, when[, at the time the crime was committed,] the victim was*

1 *less than 18 years of age ~~at the time the crime was committed~~ [or a*  
2 ***student of the person committing such crime***];

3 (19) *aggravated sexual battery, as defined in K.S.A. 21-3518, and*  
4 *amendments thereto;*

5 (20) *attempt under K.S.A. 21-3301, and amendments thereto, to com-*  
6 *mit any act specified in this subsection;*

7 (21) *conspiracy under K.S.A. 21-3302, and amendments thereto, to*  
8 *commit any act specified in this subsection;*

9 (22) *an act in another state or by the federal government that is com-*  
10 *parable to any act described in this subsection; or*

11 (23) *an offense in effect at any time prior to the effective date of this*  
12 *act that is comparable to an offense as provided in this subsection.*

13 ***(b) Except as provided in subsection (c), the state board of ed-***  
14 ***ucation shall not knowingly issue a license to or renew the license***  
15 ***of any person who has been convicted of, or has entered into a criminal***  
16 ***diversion agreement after having been charged with:***

17 ~~(1) Has been convicted of a felony under the uniform controlled sub-~~  
18 ~~stances act, (2) has been convicted of a felony described in any section of~~  
19 ~~article 34 of chapter 21 of the Kansas Statutes Annotated or an act de-~~  
20 ~~scribed in K.S.A. 21-3412 or K.S.A. 21-3412a, and amendments thereto,~~  
21 ~~if the victim is a minor or student, (3) has been convicted of a felony~~  
22 ~~described in any section of article 35 of chapter 21 of the Kansas Statutes~~  
23 ~~Annotated, other than an act specified in subsection (c) of K.S.A. 21-4619~~  
24 ~~and amendments thereto, or has been convicted of an act described in~~  
25 ~~K.S.A. 21-3517 and amendments thereto, if the victim is a minor or stu-~~  
26 ~~dent, (4) has been convicted of any act described in any section of article~~  
27 ~~36 of chapter 21 of the Kansas Statutes Annotated, other than an act~~  
28 ~~specified in subsection (c) of K.S.A. 21-4619 and amendments thereto,~~  
29 ~~(5) has been convicted of a felony described in article 37 of chapter 21~~  
30 ~~of the Kansas Statutes Annotated, (6) has been convicted of an attempt~~  
31 ~~under K.S.A. 21-3301, and amendments thereto, to commit any act spec-~~  
32 ~~ified in this subsection, (7) has been convicted of any act which is de-~~  
33 ~~scribed in K.S.A. 21-4301, 21-4301a or 21-4301c, and amendments~~  
34 ~~thereto, (8) has been convicted in another state or by the federal govern-~~  
35 ~~ment of an act similar to any act described in this subsection, or (9) has~~  
36 ~~entered into a criminal diversion agreement after having been charged~~  
37 ~~with any offense described in this subsection.~~

38 (1) *A felony under the uniform controlled substances act;*

39 (2) *a felony described in any section of article 34 of chapter 21 of the*  
40 *Kansas Statutes Annotated, other than an act specified in subsection (a),*  
41 *or a battery, as described in K.S.A. 21-3412, and amendments thereto, or*  
42 *domestic battery, as described in K.S.A. 21-3412a, and amendments*  
43 *thereto, if the victim is a minor or student;*

- 1       (3) *a felony described in any section of article 35 of chapter 21 of the*  
 2 *Kansas Statutes Annotated, other than an act specified in subsection (a);*  
 3 ~~*or sexual battery, as described in K.S.A. 21-3517, and amendments*~~  
 4 ~~*thereto, if the victim is a minor or student;*~~
- 5       (4) *any act described in any section of article 36 of chapter 21 of the*  
 6 *Kansas Statutes Annotated, other than an act specified in subsection (a);*
- 7       (5) *a felony described in article 37 of chapter 21 of the Kansas Statutes*  
 8 *Annotated;*
- 9       (6) *promoting obscenity, as described in K.S.A. 21-4301, and amend-*  
 10 *ments thereto, promoting obscenity to minors, as described in K.S.A. 21-*  
 11 *4301a, and amendments thereto, or promoting to minors obscenity harm-*  
 12 *ful to minors, as described in K.S.A. 21-4301c, and amendments thereto;*
- 13       **[(7) endangering a child, as defined in K.S.A. 21-3608, and**  
 14 **amendments thereto;]**
- 15       ~~(7)~~ **[(8)]** *driving under the influence of alcohol or drugs in violation*  
 16 *of K.S.A. 8-1567 or 8-2,144, and amendments thereto, when the violation*  
 17 *is punishable as a felony;*
- 18       ~~(8)~~ **[(9)]** *attempt under K.S.A. 21-3301, and amendments thereto, to*  
 19 *commit any act specified in this subsection;*
- 20       ~~(9)~~ **[(10)]** *conspiracy under K.S.A. 21-3302, and amendments thereto,*  
 21 *to commit any act specified in this subsection; or*
- 22       ~~(10)~~ **[(11)]** *an act ~~in another state or by the federal government~~*  
 23 ***[committed in violation of a federal law or in violation of another***  
 24 ***state's law]*** *that is comparable to any act described in this subsection.*
- 25       **(c) The state board of education may issue a license to or renew**  
 26 **the license of a person who has been convicted of committing an**  
 27 **offense or act described in subsection (b) or who has entered into a**  
 28 **criminal diversion agreement after having been charged with an**  
 29 **offense or act described in subsection (b) if the state board deter-**  
 30 **mines, following a hearing, that the person has been rehabilitated**  
 31 **for a period of at least five years from the date of conviction of the**  
 32 **offense or commission of the act or, in the case of a person who has**  
 33 **entered into a criminal diversion agreement, that the person has**  
 34 **satisfied the terms and conditions of the agreement. The state board**  
 35 **of education may consider factors including, but not limited to, the**  
 36 **following in determining whether to grant a certificate [license]:**
- 37       **(1) The nature and seriousness of the offense or act;**  
 38       **(2) the conduct of the person subsequent to commission of the**  
 39 **offense or act;**  
 40       **(3) the time elapsed since the commission of the offense or act;**  
 41       **(4) the age of the person at the time of the offense or act;**  
 42       **(5) whether the offense or act was an isolated or recurring in-**  
 43 **cident; and**

- 1       **(6) discharge from probation, pardon or expungement.**  
2       **(d) Before any license is denied by the state board of education**  
3 **for any of the offenses or acts specified in subsections (a) and (b),**  
4 **the person shall be given notice and an opportunity for a hearing**  
5 **in accordance with the provisions of the Kansas administrative pro-**  
6 **cedure act.**  
7       **(e) The county or district attorney shall file a report with the**  
8 **state board of education indicating the name, address and social**  
9 **security number of any person who has been determined to have**  
10 **committed any offense or act specified in subsection (a) or (b) or to**  
11 **have entered into a criminal diversion agreement after having been**  
12 **charged with any offense or act specified in subsection (b). Such**  
13 **report shall be filed within 30 days of the date of the determination**  
14 **that the person has committed any such act or entered into any such**  
15 **diversion agreement.**  
16       **(f) The state board of education shall not be liable for civil dam-**  
17 **ages to any person refused issuance or renewal of a license by rea-**  
18 **son of the state board's compliance, in good faith, with the provi-**  
19 **sions of this section.**  
20       **[New Sec. 2. (a) A teacher shall not read, use or display in a**  
21 **school any material for which an affirmative defense to prosecution**  
22 **may be asserted under subsection (b)(2) of K.S.A. 21-4301a or sub-**  
23 **section (c)(2) of 21-4301c, and amendments thereto, unless such**  
24 **use, reading or display has been approved by the board of education**  
25 **of the school district in which such school is located.**  
26       **[(b) A principal of a school shall not allow any person to read,**  
27 **use or display in a school any material for which an affirmative**  
28 **defense to prosecution may be asserted under subsection (b)(2) of**  
29 **K.S.A. 21-4301a or subsection (c)(2) of 21-4301c, and amendments**  
30 **thereto, unless such use, reading or display has been approved by**  
31 **the board of education of the school district in which such school**  
32 **is located.]**  
33       Sec. ~~2~~ **[3.]** K.S.A. 2007 Supp. 72-1397 is hereby repealed.  
34       Sec. ~~3~~ **[4.]** This act shall take effect and be in force from and after  
35 its publication in the Kansas register.