

HOUSE BILL No. 2283

By Committee on Children and Seniors

2-11

1 AN ACT concerning nurse aide trainees; criminal background checks.

2
3 *Be it enacted by the Legislature of the State of Kansas:*

4 Section 1. (a) A sponsor of a nurse aide training program for nurse
5 aide trainee I and nurse aide trainee II shall obtain from the secretary for
6 aging and disability services any criminal history record information on an
7 applicant who may be approved to attend such nurse aide training
8 program. The criminal history record information check shall be
9 completed before the applicant attends such nurse aide training program. If
10 the applicant does not pass the criminal history information check, the
11 sponsor shall deny such applicant entry into such nurse aide training
12 program and shall return any fees paid to the nurse aide training program
13 the applicant.

14 (b) As used in sections 1 and 2, and amendments thereto:

15 (1) "Department" means the Kansas department for aging and
16 disability services.

17 (2) "Nurse aide trainee I" means an individual in the process of
18 completing part I of a 90-hour nurse aide course.

19 (3) "Nurse aide trainee II" means an individual who has successfully
20 completed part I of a 90-hour nurse aide course.

21 (4) "Secretary" means the secretary for aging and disability services.

22 (5) "Sponsor" means an individual approved by the secretary to run a
23 nurse aide training program to train nurse aides.

24 Sec. 2. (a) (1) No person shall attend any nurse aide training program
25 if such person has been convicted of, or has been adjudicated a juvenile
26 offender because of having committed an act which if done by an adult
27 would constitute the commission of, capital murder, pursuant to K.S.A. 21-
28 3439, prior to its repeal, or K.S.A. 2012 Supp. 21-5401, and amendments
29 thereto, first degree murder, pursuant to K.S.A. 21-3401, prior to its repeal,
30 or K.S.A. 2012 Supp. 21-5402, and amendments thereto, second degree
31 murder, pursuant to subsection (a) of K.S.A. 21-3402, prior to its repeal, or
32 subsection (a) of K.S.A. 2012 Supp. 21-5403, and amendments thereto,
33 voluntary manslaughter, pursuant to K.S.A. 21-3403, prior to its repeal, or
34 K.S.A. 2012 Supp. 21-5404, and amendments thereto, assisting suicide,
35 pursuant to K.S.A. 21-3406, prior to its repeal, or K.S.A. 2012 Supp. 21-
36 5407, and amendments thereto, mistreatment of a dependent adult,

1 pursuant to K.S.A. 21-3437, prior to its repeal, or K.S.A. 2012 Supp. 21-
2 5417, and amendments thereto, rape, pursuant to K.S.A. 21-3502, prior to
3 its repeal, or K.S.A. 2012 Supp. 21-5503, and amendments thereto,
4 indecent liberties with a child, pursuant to K.S.A. 21-3503, prior to its
5 repeal, or subsection (a) of K.S.A. 2012 Supp. 21-5506, and amendments
6 thereto, aggravated indecent liberties with a child, pursuant to K.S.A. 21-
7 3504, prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5506,
8 and amendments thereto, aggravated criminal sodomy, pursuant to K.S.A.
9 21-3506, prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-
10 5504, and amendments thereto, indecent solicitation of a child, pursuant to
11 K.S.A. 21-3510, prior to its repeal, or subsection (a) of K.S.A. 2012 Supp.
12 21-5508, and amendments thereto, aggravated indecent solicitation of a
13 child, pursuant to K.S.A. 21-3511, prior to its repeal, or subsection (b) of
14 K.S.A. 2012 Supp. 21-5508, and amendments thereto, sexual exploitation
15 of a child, pursuant to K.S.A. 21-3516, prior to its repeal, or K.S.A. 2012
16 Supp. 21-5510, and amendments thereto, sexual battery, pursuant to
17 K.S.A. 21-3517, prior to its repeal, or subsection (a) of K.S.A. 2012 Supp.
18 21-5505, and amendments thereto, or aggravated sexual battery, pursuant
19 to K.S.A. 21-3518, prior to its repeal, or subsection (b) of K.S.A. 2012
20 Supp. 21-5505, and amendments thereto, an attempt to commit any of the
21 crimes listed in this subsection (a)(1), pursuant to K.S.A. 21-3301, prior to
22 its repeal, or K.S.A. 2012 Supp. 21-5301, and amendments thereto, a
23 conspiracy to commit any of the crimes listed in this subsection (a)(1),
24 pursuant to K.S.A. 21-3302, prior to its repeal, or K.S.A. 2012 Supp. 21-
25 5302, and amendments thereto, or criminal solicitation of any of the
26 crimes listed in this subsection (a)(1), pursuant to K.S.A. 21-3303, prior to
27 its repeal, or K.S.A. 2012 Supp. 21-5303, and amendments thereto, or
28 similar statutes of other states or the federal government.

29 (2) A sponsor may allow an applicant to attend a nurse aide trainee
30 program if the applicant was convicted of any of the following and five or
31 more years have elapsed since the applicant satisfied the sentence imposed
32 or was discharged from probation, a community correctional services
33 program, parole, postrelease supervision, conditional release or a
34 suspended sentence; or if five or more years have elapsed since the
35 applicant has been finally discharged from the custody of the
36 commissioner of juvenile justice or from probation or has been adjudicated
37 a juvenile offender, whichever time is longer: A felony conviction for a
38 crime which is described in: (A) Article 34 of chapter 21 of the Kansas
39 Statutes Annotated, prior to its repeal, or article 54 of chapter 21 of the
40 Kansas Statutes Annotated, or K.S.A. 2012 Supp. 21-6104, 21-6325, 21-
41 6326 or 21-6418, and amendments thereto, except those crimes listed in
42 subsection (a)(1); (B) articles 35 or 36 of chapter 21 of the Kansas Statutes
43 Annotated, prior to their repeal, or article 55 or 56 of chapter 21 of the

1 Kansas Statutes Annotated, or K.S.A. 2012 Supp. 21-6419 through 21-
2 6421, and amendments thereto, except those crimes listed in subsection (a)
3 (1) and K.S.A. 21-3605, prior to its repeal, or K.S.A. 2012 Supp. 21-5606,
4 and amendments thereto; (C) K.S.A. 21-3701, prior to its repeal, or K.S.A.
5 2012 Supp. 21-5801, and amendments thereto; (D) an attempt to commit
6 any of the crimes listed in this subsection (a)(2), pursuant to K.S.A. 21-
7 3301, prior to its repeal, or K.S.A. 2012 Supp. 21-5301, and amendments
8 thereto; (E) a conspiracy to commit any of the crimes listed in subsection
9 (a)(2) pursuant to K.S.A. 21-3302, prior to its repeal, or K.S.A. 2012 Supp.
10 21-5302, and amendments thereto; (F) criminal solicitation of any of the
11 crimes listed in subsection (a)(2) pursuant to K.S.A. 21-3303, prior to its
12 repeal, or K.S.A. 2012 Supp. 21-5303, and amendments thereto; or (G)
13 similar statutes of other states or the federal government.

14 (b) The secretary shall have access to any criminal history record
15 information in the possession of the Kansas bureau of investigation
16 regarding any criminal history information, convictions under K.S.A. 21-
17 3437, 21-3517 and 21-3701, prior to their repeal, or K.S.A. 2012 Supp. 21-
18 5417, subsection (a) of 21-5505 and 21-5801, and amendments thereto,
19 adjudications of a juvenile offender which if committed by an adult would
20 have been a felony conviction, and adjudications of a juvenile offender for
21 an offense described in K.S.A. 21-3437, 21-3517 and 21-3701, prior to
22 their repeal, or K.S.A. 2012 Supp. 21-5417, subsection (a) of 21-5505 and
23 21-5801, and amendments thereto, concerning persons working in an adult
24 care home. The secretary shall have access to these records for the purpose
25 of determining whether or not the applicant meets the requirements of this
26 section. The Kansas bureau of investigation may charge to the department
27 a reasonable fee for providing criminal history record information under
28 this subsection.

29 (c) For the purpose of complying with this section, the sponsor of a
30 nurse aide training program shall request from the department information
31 regarding any criminal history, convictions under K.S.A. 21-3437, 21-
32 3517 and 21-3701, prior to their repeal, or K.S.A. 2012 Supp. 21-5417,
33 subsection (a) of 21-5505 and 21-5801, and amendments thereto,
34 adjudications of a juvenile offender which if committed by an adult would
35 have been a felony conviction, and adjudications of a juvenile offender for
36 an offense described in K.S.A. 21-3437, 21-3517 and 21-3701, prior to
37 their repeal, or K.S.A. 2012 Supp. 21-5417, subsection (a) of 21-5505 and
38 21-5801, and amendments thereto, and which relates to a person who
39 would work in the adult care home, and is being considered for entrance
40 into a nurse aide training program, for the purpose of determining whether
41 such person is subject to the provision of this section. No sponsor or
42 employee of a nurse aide training program which trains nurse aides shall
43 be liable for civil damages resulting from any decision to accept or refuse

1 to accept a person based on such nurse aide training program's compliance
2 with the provisions of this section if such nurse aide training program acts
3 in good faith to comply with this section.

4 (d) The secretary shall charge each sponsor requesting information
5 under this section a fee equal to cost, not to exceed \$10, for each name
6 about which an information request has been submitted to the department
7 under this section.

8 (e) (1) The secretary shall provide each sponsor requesting
9 information under this section with the criminal history record information
10 concerning any criminal history information and convictions under K.S.A.
11 21-3437, 21-3517 and 21-3701, prior to their repeal, or K.S.A. 2012 Supp.
12 21-5417, subsection (a) of 21-5505 and 21-5801, and amendments thereto,
13 in writing and within three working days of receipt of such information
14 from the Kansas bureau of investigation. The criminal history record
15 information shall be provided regardless of whether the information
16 discloses that the subject of the request has been convicted of an offense
17 enumerated in subsection (a).

18 (2) When an offense enumerated in subsection (a) exists in the
19 criminal history record information, and when further confirmation
20 regarding criminal history record information is required from the
21 appropriate court of jurisdiction or Kansas department of corrections, the
22 secretary shall notify each sponsor that requests information under this
23 section in writing and within three working days of receipt from the
24 Kansas bureau of investigation that further confirmation is required. The
25 secretary shall provide to the sponsor requesting information under this
26 section information in writing within three working days of receipt of such
27 information from the appropriate court of jurisdiction or Kansas
28 department of corrections regarding confirmation regarding the criminal
29 history record information.

30 (3) Whenever the criminal history record information reveals that the
31 subject of the request has no criminal history on record, the secretary shall
32 provide notice to each sponsor requesting information under this section,
33 in writing and within three working days after receipt of such information
34 from the Kansas bureau of investigation.

35 (4) The secretary shall not provide each sponsor requesting
36 information under this section with the juvenile criminal history record
37 information which relates to a person subject to a background check as is
38 provided by K.S.A. 2012 Supp. 38-2326, and amendments thereto, except
39 for adjudications of a juvenile offender for an offense described in K.S.A.
40 21-3701, prior to its repeal, or K.S.A. 2012 Supp. 21-5801, and
41 amendments thereto. The secretary shall notify the sponsor that requested
42 the information, in writing and within three working days of receipt of
43 such information from the Kansas bureau of investigation, whether

1 juvenile criminal history record information received pursuant to this
2 section reveals that the sponsor would or would not be prohibited by this
3 section from enrolling the subject of the request for information and
4 whether such information contains adjudications of a juvenile offender for
5 an offense described in K.S.A. 21-3701, prior to its repeal, or K.S.A. 2012
6 Supp. 21-5801, and amendments thereto.

7 (5) A sponsor who receives criminal history record information under
8 this subsection shall keep such information confidential, except that the
9 sponsor may disclose such information to the person who is the subject of
10 the request for information. A violation of this paragraph (5) shall be an
11 unclassified misdemeanor punishable by a fine of \$100.

12 (f) For purposes of this section, the Kansas bureau of investigation
13 shall report any criminal history information, convictions under K.S.A. 21-
14 3437, 21-3517 and 21-3701, prior to their repeal, or K.S.A. 2012 Supp. 21-
15 5417, subsection (a) of 21-5505 and 21-5801, and amendments thereto,
16 adjudications of a juvenile offender which if committed by an adult would
17 have been a felony conviction, and adjudications of a juvenile offender for
18 an offense described in K.S.A. 21-3437, 21-3517 and 21-3701, prior to
19 their repeal, or K.S.A. 2012 Supp. 21-5417, subsection (a) of 21-5505 and
20 21-5801, and amendments thereto, to the secretary when a background
21 check is requested.

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