

Approved: 2-25-97
Date

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS.

The meeting was called to order by Senator Lana Oleen at 11:00 a.m. on February 6, 1997 in Room 254-E of the Capitol.

All members were present.

Committee staff present: Mary Galligan, Legislative Research Department
Theresa Kiernan, Revisor of Statutes
Midge Donohue, Committee Secretary

Others attending: See attached list.

Mary Galligan, Legislative Research Department, briefed the committee on **SB 21**, which would provide for licensure to carry certain concealed weapons, and provided a memo dated February 6 outlining the provisions of the bill (Attachment #1). Major points discussed were: the application process for licensing, categories of handguns for which licenses may be issued, proficiency examination, background checks, reciprocity with other states, license renewal, time limits for application review, license modification, handling and possession of the gun and the display of license. She pointed out that private or public employers may prohibit the carrying of a concealed handgun on the premises of their businesses, and certain businesses would be required to display at each entrance to the premises "No Handguns" signs, in both English and Spanish, as well as meet other statutory requirements.

Ms. Galligan stated that all fees collected under the act would be credited to the Concealed Handgun License Account of the KBI General Fees Fund and could be expended only to pay KBI costs of implementing and administering the act; amounts exceeding those costs would be transferred to the Crime Victims Compensation Fund. She explained the process for suspension or revocation of a license, as well as the procedure for appeal upon denial, suspension or revocation. KBI authority and law enforcement officers' responsibilities were also discussed, including liability of public entities which is not addressed in the bill.

Ms. Galligan referenced the list of qualifications for licensure to carry concealed weapons which was also provided to the committee (Attachment #2).

Theresa Kiernan, Office of the Revisor of Statutes, reviewed **SCR 1606** which would provide for imposition of fees and training requirements for those individuals permitted to carry concealed weapons. She explained that, if adopted, the proposed amendment would be submitted to the voters of Kansas at the general election and, if passed, amend article 15 of the state constitution.

Proposed amendments to **SB 29**, which relates to accessible parking for the disabled, were discussed and the following action taken:

Senator Harrington made the motion that SB 29 be amended to impose a fine of \$200, instead of \$300, for an unclassified misdemeanor and that a court appearance not be required. Senator Biggs seconded the motion as presented, and the motion carried.

Senator Becker moved that language be adopted which requires that signs shall not be obscured by a vehicle parked in the space, and any existing upright sign, at any height, shall be enforceable against persons not displaying an accessible parking placard. Senator Jones seconded the motion, and the motion carried.

Senator Jones moved that "a handicap accessible ramp" be substituted for "entrance". Senator Harrington seconded the motion, and the motion carried.

Senator Biggs moved that "deposit snow, debris or any other property in a designated handicap accessible parking space or aisle that obstructs or prevents the use of such space or aisle" be included in (4), page 6, of the bill. Senator Becker seconded the motion, and the motion carried.

Senator Jones moved that the fine in Section 6 be not less than \$200 nor more than \$300. Senator Biggs

CONTINUATION SHEET

MINUTES OF THE SENATE FEDERAL & STATE AFFAIRS COMMITTEE, Room 254-E-Statehouse,
at 11:00 a.m. on February 6, 1997.

seconded the motion. The motion carried.

Senator Bleeker moved that all of Section 7 be stricken. Senator Schraad seconded the motion. The motion carried.

Senator Bleeker moved that the date of enactment be upon publication in the statute book. Senator Biggs seconded the motion, and the motion carried.

Senator Harrington moved that the bill be favorably reported to the full Senate as amended. Senator Jones seconded the motion. The motion carried.

The meeting adjourned at 12:30 p.m.. The next meeting is scheduled for February 10, 1997.

SENATE FEDERAL & STATE AFFAIRS COMMITTEE
GUEST LIST

DATE: 2-6-97

NAME	REPRESENTING
Bob Burke	SN Co DA.
JASON PITSEMBERGER	BRAD SMOOT
Vern Norwood	KDOA
James Clark	KCPAA
Nancy Lindberg	Atty Gen.
Kelly Huotala	City of Overland Park
Steve Joersch	Dept of Adm.
Harriet Ann Brown	Kansas Hosp. Assoc.
Steve Painter	Wichita Eagle
Helen Stephens	KPOA / KSA
R. Lipsy	AP
Glyde Gruber	Governors Office
Ashley K. Sherard	O.P. Chamber
Paul Shelby	OJA
Lashonda Ellingwood	Sen. Gorman's Intern
Jeff Budge	DOB
K. Lewis	JCP
Gary Robbins	Ks OAT OSEN
Harold Kietzel	Ks OSTEOPATHIC ASSN.
Jim Kamp	City of Topeka

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February 6, 1997

To: Senate Committee on Federal and State Affairs

From: Mary Galligan, Principal Analyst

Re: Provisions of 1997 S.B. 21

The bill would authorize state issued licenses to carry concealed handguns to state residents who are 21 years of age or older and who meet specified qualifications. The bill also would establish procedures for application for those licenses, suspension and revocation for cause and penalties for violation of the act. Special application and qualifications provisions would apply to retired law enforcement officers, active and retired judges and elected prosecuting attorneys. Special application fee provisions would be included for those categories of applicants and for indigent persons and persons who are 60 years of age and older. The following outline summarizes major provisions of the bill. References to sections of the bill are included parenthetically after each point.

Two-Step Application Process

I. Request for application

- Obtain request materials from: handgun dealer, KBI or any other person or entity approved by KBI. (Sec. 4(a))
- Completed request for application sent to KBI. (Sec. 4(a))
- Applicant corrects any defects that disqualify the person from receiving an application. (Sec. 4(b))

II. Initial Application

- A person who wishes to obtain a license to carry a concealed handgun would have to apply in person to a qualified handgun instructor to take the appropriate course in handgun proficiency, demonstrate handgun proficiency, and obtain a handgun proficiency certificate. (Sec.16(g))
- The certificate would have to be submitted as part of the application for licensure. (Sec. 3(a)(7))

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Attachment: #1

- The applicant must complete and submit the application on a KBI provided form that requires only the information specified by the law (Sec. 3(a)(1) and (b)).

Licenses for Retired Law Enforcement, Judicial Officers, and Elected Prosecuting Attorneys

Law enforcement officers under state law and who were employed full-time by a law enforcement agency and criminal investigators of the United States designated as a "special agents" could apply for a concealed license upon retirement. In the case of retired state or local law enforcement personnel, the application would have to be made on or before the first anniversary of the retirement date. Retired federal special agents could apply for a license at any time after retirement. The KBI could issue a concealed handgun license to a retired law enforcement officer or special agent if the applicant was honorably retired and physically and emotionally fit to possess a handgun. (Sec. 28 (a), (c), and (g))

"Honorably retired" in this context would mean the applicant:

- did not retire in lieu of any disciplinary action;
- was employed as a full-time peace officer for at least ten years by one agency; and
- is entitled to receive a pension or annuity for service as a law enforcement officer. (Sec. 28(c))

The KBI would have to issue concealed handgun licenses to active or retired judicial officers and elected prosecuting attorneys who represent the state in felony cases and who meet requirements that differ from requirements for other applicants. (Sec. 30(b), (e), and (h)) Active judicial officers and elected prosecuting attorneys would be eligible for licenses to carry a concealed handgun after receiving a proficiency certificate, but would not have to meet other eligibility requirements. (Sec. 30 (c),(d)(3), (f) and (h)) (Proficiency instruction requirements would differ for these applicants. See proficiency training discussion below.)

"Active judicial officer" would be defined to be a judge or justice of the supreme court, a court of appeals, a district court or a municipal court.

"Retired judicial officer" would be defined to be retired judges within the meaning of K.S.A. 20-2601, 20-2616 and 20-2620 and amendments thereto. (Sec. 30(a))

Two Categories of Handguns for Which Licenses May Be Issued

- SA: Any handguns that are not prohibited by law, whether semiautomatic or not; and
- NSA: Handguns that are not prohibited by law and that are not semiautomatic. (Sec. 6(f))

Proficiency Examination Prior to Licensure

- The course to teach handgun proficiency would have to contain training sessions divided into two parts. One part of the course would have to be classroom instruction and the other part would have to be range instruction and an actual demonstration by the applicant of the applicant's ability to safely and proficiently use the category of handgun for which the applicant seeks certification. (Sec. 16(a))
- An applicant could not receive a proficiency certificate unless the applicant demonstrates, at a minimum, the degree of proficiency that is required to effectively operate a 9-millimeter or .38-caliber handgun. (Sec.16(a))
- Handgun proficiency courses would have to be administered by qualified handgun instructors and include between ten hours and 15 hours of instruction on:
 - the laws that relate to weapons and to the use of deadly force;
 - handgun use, proficiency and safety;
 - nonviolent dispute resolution; and
 - proper storage practices for handguns with an emphasis on storage practices that eliminate the possibility of accidental injury to a child. (Sec. 16(b))
- The proficiency examination to obtain or to renew a license would have to be administered by a qualified handgun instructor and include:
 - a written section on the subjects required to be covered in the proficiency course; and
 - a physical demonstration of proficiency in the use of one or more handguns of specific categories and in handgun safety procedures. (Sec. 16(d))
- If a person successfully completes both the classroom and range proficiency requirements, the instructor would be required to endorse a certificate of handgun proficiency provided by the KBI. The certificate would have to indicate the category of handgun for which the applicant demonstrated proficiency during the examination. (Sec.17(b))
- Retired judicial officers would have to satisfy the same handgun proficiency requirements as other applicants. (Sec 30(f))
- The classroom instruction part of the proficiency course for active judicial officers and elected prosecutors would not be subject to a minimum hour requirement. The instruction would have to include instruction only on:
 - handgun use, proficiency and safety; and

- proper storage practices for handguns with an emphasis on storage practices that eliminate the possibility of accidental injury to a child. (Sec. 30(f) and (h))

- A retired law enforcement officer who obtains a concealed handgun license would be required to maintain, for the category of weapon licensed, the proficiency required for a law enforcement officer under K.A.R. 107-1-5 and amendments thereto. The KBI and local law enforcement agencies would be required to allow retired peace officers of the bureau or agency an opportunity to annually demonstrate the required proficiency. The proficiency would have to be reported to the KBI upon application and renewal.

- Requirements for handgun proficiency certification would be waived for applicants for licensure who take and successfully complete training to be qualified handgun instructors and who pay the training fee. (Sec.18(c))

Background Check

The KBI would:

- Conduct a criminal history record check through computerized criminal history system. (Sec. 5(a))

- Forward applications, except those from active or retired judicial officers, to the KBI director's local designee no later than 30 days after receiving the application from the applicant (Sec. 5(a) and Sec. 30(e)(2))

- The KBI's designee would conduct additional criminal history record check and investigation of local official records to verify accuracy of the application. The scope of the record check and investigation would be at the discretion of the KBI. (Sec. 5(b))
 - The local designee would be authorized, but not required, to submit to the KBI a written recommendation for approval or disapproval of the application. Any recommendation for disapproval would have to be accompanied by an affidavit stating personal knowledge or naming persons with personal knowledge of statutory grounds for denial of license. (Sec. 5(b))

 - A qualified handgun instructor could submit to the bureau a written recommendation for disapproval of the application for a license, renewal or modification of a license, accompanied by an affidavit stating personal knowledge or naming persons with personal knowledge of facts that lead the instructor to believe that an applicant is not qualified for handgun proficiency certification. (Sec.17(c))

(Sec. 6(b)(1)(B)(ii) and (iii) appear to make the designee's and instructor's affidavits grounds for denial.)

- Send applicant's fingerprints to the FBI for national criminal history check. (Sec. 5(b))

- Conduct appropriate background investigations to determine a retired judicial officer's eligibility for a license. (Sec. 30(e)(2))
- It does not appear that active judges and elected prosecutors would be subject to background checks. (Sec. 30(e) and (h))

Reciprocity with Other States

The KBI would be authorized, but not required, to issue a Kansas concealed handgun license to any person who has a valid license to carry a concealed handgun issued by another state without requiring that the person meet eligibility requirements or pay fees required by the bill only if the bureau determines that:

1. the eligibility requirements imposed by the other state are at least as rigorous as the Kansas requirements; and
2. the other state provides reciprocal licensing privileges to a person who holds a license issued under this act and applies for a license in the other state. (Sec. 35)

License Renewal

The licensee would have to:

- Complete a statutorily defined continuing education course in handgun proficiency and obtain a handgun proficiency certificate not more than six months before the date of application for renewal (Sec. 11(a))
 - The continuing education course for persons who wish to renew a license would be defined in rules and regulations of the KBI and would have to include at least four hours of instruction on one or more of the topics covered in the initial licensure course and other information the KBI director determines is appropriate. (Sec. 16(c))
 - The proficiency examination for license renewal would be the same as the examination for an original license. (Sec. 16(d))
 - An active judicial officer would not be required to attend the classroom instruction part of the continuing education proficiency course to renew a license. (Sec. 30(g))
- Submit an application for license renewal with the required fee. (Sec. 11(a)(3))
- If renewing by mail, sign and return a form that describes state law regarding the use of deadly force and places where it is unlawful for the holder of a license to carry a concealed handgun. (Sec. 11(d))

- Apply in person to a qualified handgun instructor to take the appropriate course in handgun proficiency, demonstrate handgun proficiency, and obtain a handgun proficiency certificate. (Sec.16(g))

Time Limits for Application Review

Within 30 days of receipt of initial application, the KBI would have to forward the application to the bureau's designee in the geographic area of applicant's residence. (Sec. 5(a))

Within 90 days (60 days after Jan. 1, 1998) of designee's receipt of application materials:

- issue the license, or notify the applicant in writing that the application was denied and the grounds for denial (Sec. 6(b)) (Maximum time from KBI receipt of completed initial application: 120 days (90 days after Jan 1, 1998))

Within 45 days after receipt of a license renewal or modification application, issue license or notify the applicant of denial in writing. (Sec. 10(c) and Sec. 11(c))

License Modification to Allow a Licensee to Carry a Handgun of a Different Category

The licensee must:

- Apply in person to a qualified handgun instructor to demonstrate the required knowledge and proficiency to obtain a handgun proficiency certificate in the appropriate category. (Sec.16(h));
- Complete a proficiency examination and obtain a handgun proficiency certificate not more than six months before the date of application for a modified license (Sec. 10(a))
 - The proficiency examination to modify a license must be administered by a qualified handgun instructor and must include a physical demonstration of proficiency in the use of one or more handguns of specific categories and in handgun safety procedures.(Sec.16(e))
- Submit required application materials and a \$25 fee to the KBI. (Sec 10(a))
- Upon receipt of a modified license, return the previously issued license to the bureau.(Sec.10(d))

Handling and Possession of Gun and Display of License

Licensees would be required to:

- display the handgun license and driver's license or identification certificate when a judge or a law enforcement officer asks to see the handgun license or when asked for identification while carrying a handgun; (Sec. 6(g) and (h))
- notify the KBI within 30 days of any address or name change and pay \$25 for a duplicate license; and (Sec. 8(a)(b) and (c))
- apply for a duplicate license within 30 days of losing, or having a license stolen or destroyed. (Sec. 8(g))

Licensees would be prohibited from:

- carrying a deliberately unconcealed handgun on or about the licensee's person unless the licensee would be justified under state law in using deadly force to protect the licensee or another person. (Sec. 37(a) and (h))
- intentionally, knowingly, or recklessly carrying a concealed or unconcealed handgun on or about the licensee's person:
 - On the premises of a microbrewery that is also licensed as a club or drinking establishment, if the business derives 51 percent or more of its income from the sale of alcoholic beverages for on-premises consumption (Sec. 37(b)(1)); ("Premises" for this and the following prohibitions would be defined to be a building or a portion of a building. The term would not include any public or private driveway, street, sidewalk or walkway, parking lot, parking garage or other parking area. (Sec. 37(f)(3))) (Violation of this provision would be a felony of the third degree. (Sec. 37(g))
 - on premises where a high school, collegiate or professional sporting event or interscholastic event is taking place, unless the licensee is a participant in the event and a handgun is used in the event (Sec. 37(b)(2);
 - on the premises of a correctional facility (Sec. 37(b)(3); (Violation of this provision would be a felony of the third degree. (Sec. 37(g))
 - on the premises of a licensed hospital or nursing home unless the handgun licensee has written authorization of the hospital or nursing home administration, as appropriate (Sec. 37(b)(4);
 - in an amusement park (37(b)(5); ("Amusement park" would be defined to be a permanent indoor or outdoor facility or park where amusement rides are available for use by the public, located in a county with a population of more than one million, encompassing at least 75 acres in surface area, enclosed with access only through controlled entries, open for operation more than 120 days in each calendar year and with security guards on the premises at all times. The term would not include any public or private driveway, street, sidewalk or walkway, parking lot, parking garage or other parking area (Sec. 37(f)(1));

- o on the premises of a church, synagogue or other established place of religious worship (Sec. 37(b)(6)); and
- o whether or not on or about the licensee’s person, at any meeting of a governmental entity (Sec. 37(c) and (d)).

Except as noted, violation of provisions prohibiting carrying a handgun listed above would be class A misdemeanors. (Sec. 37(g))

A licensee who is also licensed as a private detective or security officer under state law and employed as a private detective or security officer would be prohibited from violating any provision of the bill in the course and scope of the private detective or security officer's employment. (Sec. 37(e)) Any such violation would be a class A misdemeanor. (Sec. 37(g))

Being charged with or convicted of a felony would disqualify a person from having a concealed handgun license. Being charged with or convicted of a class A misdemeanor could result in license suspension or revocation and preclude relicensure for up to seven years.

Private or Public Employers May Prohibit Concealed Handguns

This bill would not prevent or otherwise limit a public or private employer from prohibiting licensees from carrying a concealed handgun on the premises of the business. (Sec. 32)

“No Handguns” Signs at Certain Businesses

Microbreweries that are also licensed as a club or drinking establishment and that derive 51percent or more of their income from the sale of alcoholic beverages for on-premises consumption and licensed hospitals and nursing homes would have to display at each entrance to the premises a sign that provides notice that it is illegal to carry a handgun on the premises.(Sec. 31(a)and (b)) Those signs would have to be in both English and Spanish, and meet other statutory specifications. (Sec. 31(c))

Fees

Application:

- Most applicants \$140 (Sec. 3(a)(6))
- Indigent applicants and applicants who are 60 or older \$70 (Sec. 33(a) and 34)
- Elected prosecuting attorney None (Sec. 30(h))
- Retired law enforcement officer \$25 (Sec. 28(d))
- Duplicate license fee \$25 (Sec. 8(d))

- Modification of license to permit carrying a handgun of a different class \$25 (Sec. 10(a))
- Handgun instructor training and renewal of instructor certificate \$100 (Sec. 18(c) and (d))

The bureau would have to require an applicant requesting a reduction of fee due to indigency to submit proof of indigency with the application materials. An applicant would qualify as indigent if the applicant's income is equal to or less than the federal poverty level. (Sec. 33(c))

The following fees would be set by the KBI at the level necessary to cover administrative costs:

- Application fee for active or retired judicial officers. (Sec. 30(d)(4))
- License renewal fee. (Sec 11(b))
- Providing copies of certain records. (Sec. 20)

The following fees would be set by the KBI in rules and regulations:

- A maximum fee of \$5 to cover the costs of the handgun proficiency certificates. (Sec. 17(a))
- Proration or waiver of the qualified handgun instructor training fee for employees of other governmental entities. (Sec. 18(c))
- License renewal fee. (Sec 11(b))

Required fees could only be paid by cashier's check, money order made payable to the KBI or other method approved by the bureau. Any fees received by the bureau under the act would be non-refundable. (Sec. 25)

Deposit of Fees

All fees collected under the act would be credited to the Concealed Handgun License Account of the KBI General Fees Fund. All moneys credited to that account could be expended only to pay the KBI's costs of implementing and administering the act. Any amounts in the account that would not be needed to implement the act would be transferred to the Crime Victims Compensation Fund. (Sec. 23)

Suspension or Revocation of license

The KBI would be authorized to suspend a license if the licensee: is convicted of disorderly conduct punishable as a class C misdemeanor; fails to display a license as required by the act; fails to notify the KBI of a change of address or name as required; carries a handgun of a different category than the license allows; has been charged with a crime conviction for which would result in ineligibility for a license; or fails to return a license after receiving a license for a different class of handgun. (Sec. 13(a))

- Licenses could be suspended for statutory reasons for a minimum of one year or a maximum of three years (Sec. 13(c))

Failure or refusal to display the license and identification as required by the bill would specifically be grounds for suspension and would be a class B misdemeanor. (Sec. 6(i)) Conviction of a class B misdemeanor could result in license revocation and prevent a person from being licensed for a minimum of five years (Sec. 2(a)(8), and 12(a)(3) and (c))

The KBI would be authorized to revoke a license if the licensee: (1) was not entitled to the license at the time it was issued; (2) gave false information on the application; (3) subsequently becomes ineligible for a license; or (4) is convicted of criminal use of weapons (K.S.A. 21-4201 *et seq.*) (Sec. 12(a))

- Any judgment of conviction entered by any court for criminal use of weapons (K.S.A. 21-4201 *et seq.*) must contain the handgun license number of the convicted licensee. A certified copy of the judgment would be conclusive and sufficient evidence to justify revocation of a license. (Sec. 14(c))

If a law enforcement officer believes a statutory basis for suspending or revoking a license exists, the officer would be required to prepare an affidavit on a form provided by the bureau stating the reason for the revocation or suspension of the license and giving the KBI all of the information available to the law enforcement officer at the time of the preparation of the form. The officer would have to attach the officer's reports relating to the license holder to the form and send the form and attachments to the KBI at its Topeka headquarters not later than the fifth working day after the date the form is prepared. The officer would have to send a copy of the form and attachments to the licensee. (Sec. 12(b) and 13(b))

Procedure to Appeal Denial, Suspension or Revocation of License

- The applicant or licensee could request a hearing on the action within 30 days of receiving notice of denial, revocation, or suspension. (Sec. 7(a))
- The licensee/applicant would have to make a written request for a hearing addressed to the KBI at its Topeka address. (Sec. 7(a))
- The request for hearing would have to reach the KBI in Topeka prior to the 50th day after the date of receipt of the written notice. (Sec. 7(a))

- The bureau would have to promptly schedule an administrative hearing pursuant to the Administrative Procedure Act (K.S.A. 77-501 *et seq.*) in the county of residence of the applicant or licensee. (Sec. 7(a))
- The administrative hearing officer would have to conduct a hearing to review the denial, revocation or suspension of the license. (Sec. 7(a))

The applicant/licensee would have to prove by a preponderance of the evidence that the KBI has acted improperly by denying the permit. (Sec. 7(d))

If a request is made for the administrative hearing officer to review a revocation or suspension and hold a hearing, the licensee would have to surrender the license on the date an order of suspension or revocation is entered by the administrative hearing officer. (Sec 12(b) and Sec 13(b))

A party adversely affected by a hearing officer's ruling following a hearing could appeal the ruling by following procedures set out under the Administrative Procedure Act. (K.S.A. 77-501 *et seq.*) (Sec. 7(b))

Application for License after Revocation or Suspension

A licensee whose license has been revoked may reapply as a new applicant for the issuance of a license after the second anniversary of the date of the revocation if the cause for revocation does not exist on the date of the second anniversary. If the cause of revocation exists on the date of the second anniversary after the date of revocation, the license holder may not apply for a new license until the cause for the revocation no longer exists and has not existed for a period of two years. (Sec. 12(c))

KBI Rule and Regulation Authority

The director would be authorized to adopt rules and regulations:

- To administer the act. (Sec. 22)
- To establish the contents of requests for an application in addition to statutorily required information. (Sec. 4(a))
- Establishing minimum standards for handgun proficiency, a course to teach handgun proficiency, and examinations to measure handgun proficiency. (Sec.16(a))
- Regarding information handgun proficiency instructors would be required to maintain. (Sec.16(i))
- Regarding any retraining courses required for renewal of qualified handgun instructor certificates. (Sec. 18(d))

- That prorate or waive the qualified handgun instructor training fee for employees of other governmental entities. (Sec. 18(c))
- Describing the form of the license in accordance with the statute (Sec. 6(e))
- Describing a license renewal or modification application form requiring an update of the information on the original completed application. (Sec. 10 (b) and 11(b))
- Establishing the license renewal fee in an amount that is sufficient to cover the actual cost to the bureau to renew a license. (Sec 11(b))
- Defining a continuing education course in handgun proficiency for a license holder who wishes to renew a license. (Sec.16(c))
- Defining other information that would have to be maintained in records of handgun instructors (Sec. 16(i))

Other KBI Authority

May be represented in an administrative hearing regarding denial, suspension or revocation of an application or license by a district attorney, county attorney, the Attorney General, or a member of the KBI. (Sec 7(a))

Utilize and introduce into evidence at a hearing regarding the denial, suspension or revocation of an application or license, authenticated, certified copies of governmental records to establish that events occurred which could result in the denial, revocation or suspension of a license including, but not limited to, records regarding convictions, judicial findings regarding mental competency, judicial findings regarding chemical dependency or other matters that may be established by governmental records.(Sec. 7(c))

May modify to another classification of gun, the license of a license holder who meets all the eligibility requirements and submits all the modification materials. (Sec. 10(c))

Monitor any class or training presented by a qualified handgun instructor. (Sec. 16(i))

Make public and distribute to the public at no cost lists of individuals who are certified as qualified handgun instructors by the bureau. (Sec. 20.)

KBI Duties

Making request for application and application for duplicate license available to interested parties. (Sec. 4(a) and Sec. 8(e))

Reviewing requests for applications and making preliminary determination of applicant's qualifications. (Sec. 4(a))

Sending application materials to all applicants who appear qualified based on request for application.(Sec. 4(a))

Responding in writing to any person who requests an application but who will not qualify for a license. The KBI must state in the response why the person does not qualify and provide an opportunity for the individual to correct the defect. (Sec. 4(b))

Conducting criminal history record check through computerized criminal history system. (Sec. 5(a))

Conducting appropriate background investigations to determine retired judicial officer's eligibility for a license. (Sec. 30(e)(2))

Issuing a license to any applicant who meets all statutory qualifications only for the category of handgun for which applicant has certificate of proficiency. (Sec. 6(a))

Issuing a license to any active judicial officer who submits a completed application and the required fee. (Sec. 30(e)(1))

Renewing the license of any licensee who meets all statutory qualifications (Sec. 11(c))

Notifying the sheriff of the county in which the licensee resides that a license has been issued or that a licensee has moved or changed name. (Sec. Sec 6(c) and Sec. 8(f))

When requested by local law enforcement, notifying them of licenses that have been issued to residents of the county and of licensees' name and address changes. (Sec. 6(c) and Sec. 8(f))

Notifying applicants or licensees in writing of denial (initial or renewal), revocation or suspension of license. (Sec. 7(a)and 11(c))

Conducting administrative hearing on application or license denial, suspension or revocation in the county of residence of the applicant or licensee. (Sec. 7(a))

Notifying licensees of impending license expiration and providing a renewal form at least 60 days prior to license expiration. (Sec. 11(b))

Renewing licenses of applicants who meet statutory qualifications and submit required renewal application. (Sec. 11(c))

Adopting a procedure for license renewal by mail. (Sec 11(d))

Providing law enforcement officials with affidavit forms for reporting their reasons to think a licensee should be suspended or revoked. (Sec.12(b) and 13(b))

Distributing standards, handgun proficiency course requirements and examinations on request to any qualified handgun instructor. (Sec.16(a))

Developing and distributing directions and materials for handgun proficiency course instruction, test administration and record keeping. All test results would have to be sent to the KBI, and the bureau would have to maintain a record of the results. (Sec.16(f))

Conducting a study to determine the effectiveness and feasibility of allowing applicants to take a written competency examination administered by a qualified handgun instructor in lieu of attending the required classroom instruction. The KBI would have to report the findings of the study to the Legislature by January 31, 1998. (Sec. 16(j))

Developing sequentially numbered handgun proficiency certificates and distributing them to qualified handgun instructors who administer the required handgun proficiency examination. (Sec. 17.(a))

Certifying qualified handgun instructors. (Sec. 18(a))

Providing training to individuals who apply for certification as qualified handgun instructors. (Sec.18(c))

Notifying a licensee of any request that is made for information relating to the licensee in connection with the handgun license and providing the name of the person or agency making the request. (Sec. 20)

Law Enforcement Officers' Responsibilities

If any law enforcement officer arrests and takes into custody a licensee who is carrying a handgun under the authority of the act, the law enforcement officer would be required to seize the handgun and license as evidence. (Sec. 14(a))

The provisions of K.S.A. 21-4203 *et seq.* relating to the disposition of weapons seized in connection with criminal offenses, apply to a handgun seized under this subsection. (Sec. 14(b))

A law enforcement officer acting in the lawful discharge of official duties would be authorized to disarm a licensee at any time when the officer reasonably believes that action would be necessary for the protection of the licensee, law enforcement officer, or other individuals. The officer would have to return the handgun to the licensee before discharging the licensee from the scene when the officer determined that the licensee would no longer be a threat, and providing that the licensee has not violated any provision of the bill, or has not committed any other violation that would result in the arrest of the license holder. (Sec. 36)

Liability of Public Entities

A court could not hold the state, an agency or subdivision of the state, an officer or employee of the state, a law enforcement officer or a qualified handgun instructor liable for damages caused by:

1. an action authorized under the act or failure to perform a duty imposed by the act; or
2. actions of an applicant or licensee that occur after the applicant received or was denied a license. (Sec. 15(a))

A cause of action in damages could not be brought against the state, an agency or subdivision of the state, an officer or employee of the state, a law enforcement officer or a qualified handgun instructor for any damage caused by the actions of an applicant or license holder under this act. (Sec. 15(b))

The KBI would not be responsible for any injury or damage inflicted on any person by an applicant or license holder arising or alleged to have arisen from an action taken by the bureau. (Sec. 15(c))

The immunities would not apply to acts or failures to act by the state, an agency or subdivision of the state, an officer of the state or a law enforcement officer when such acts or failures to act were capricious or arbitrary. (Sec. 15(d))

Handgun Proficiency Instructors

The director of the KBI may certify as a qualified handgun instructor a person who:

1. is certified by the Kansas Law Enforcement Training Commission and the Kansas Attorney General instruct others in the use of handguns.
2. regularly instructs others in the use of handguns and has graduated from a handgun instructor school that uses a nationally accepted course designed to train persons as handgun instructors; or
3. is certified by the National Rifle Association of America as a handgun instructor. (Sec. 18(a))

If the KBI determines that a reason exists to revoke, suspend, or deny a license to carry a concealed handgun with respect to a person who is a qualified handgun instructor or an applicant for certification as a qualified handgun instructor, the bureau shall take that action

against the person's certification as a qualified handgun instructor regardless of whether the person has a license issued under this act to carry a concealed handgun. (Sec. 18(f))

After certification, a qualified handgun instructor may conduct training for applicants for concealed handgun licenses. (Sec. 18(e))

A qualified handgun instructor would have to be qualified to instruct persons in:

1. laws that relate to weapons and to the use of deadly force;
2. handgun use, proficiency, and safety;
3. nonviolent dispute resolution; and
4. proper storage practices for handguns, including storage practices that eliminate the possibility of accidental injury to a child. (Sec. 18(b))

A qualified handgun instructor certificate would be valid for two years. To renew a certificate, the qualified handgun instructor would have to pay a fee of \$100 and take and successfully complete the retraining courses required by rule and regulation of the KBI. (Sec. 18(d))

A qualified handgun instructor would have to cooperate with the KBI in the bureau's efforts to monitor the instructor's presentation of training. An instructor would have to make available for inspection to the bureau all records maintained by the instructor. The instructor would have to keep a record of all certificates of handgun proficiency issued by the instructor and other information required by the bureau by rule and regulation. (Sec. 16(i))

Review of Denial, Revocation or Suspension of a Handgun Instructor Certificate

Procedures for the review of a denial, revocation or suspension of a concealed handgun license would apply to the review of a denial, revocation or suspension of an instructor's certificate. Notice provisions of relating to denial, revocation or suspension of handgun licenses would apply to the proposed denial, revocation or suspension of an instructor's certificate. (Sec. 19))

Certain Licensee Records Open to the Public

The KBI would be authorized, but not required to make public and distribute to the public at no cost lists of individuals who are certified as qualified handgun instructors by the bureau. (Sec. 20)

The KBI would be required to disclose to criminal justice agencies, or individuals upon written request and payment of a reasonable copying fee, whether a named individual or any individual named in a specified list is licensed to carry a concealed handgun. Information about an individual that could be disclosed would include the individual's name, date of birth, gender, race and zip code. (Sec. 20)

All records maintained under the act would be confidential and not subject to mandatory disclosure under the Open Records Act (K.S.A. 45-215 *et seq.*) except those specified in the act as open. (Sec. 20 and Sec. 21)

An applicant or licensee could be furnished a copy of such disposable records on request and the payment of a reasonable fee. (Sec. 20)

The KBI would have to provide, on request and payment of a reasonable fee to cover costs of copying, a statistical report that includes the number of licenses issued, denied, revoked or suspended by the bureau during the preceding month, listed by age, gender, race and zip code of the applicant or licensee. (Sec. 21)

Status of a License

The issuance of a license under the act would be a benefit to the license holder for purposes of the Kansas criminal code. "Benefit" would be defined to mean anything reasonably regarded as economic gain or advantage, including benefit to any other person in whose welfare the licensee is interested.(Sec. 26)

Licenses for Law Enforcement Officers

Upon written approval of the director, the bureau could issue to a law enforcement officer an alias license to carry a concealed handgun to be used in supervised activities involving criminal investigations. It would be a defense to prosecution for certain violations of the act that the defendant, at the time of the commission of the offense, had an alias license. (Sec. 27)

Private detectives and Security officers

Licensees who are also employed as a private detective or security officer and licensed under the K.S.A. 75-7601 and amendments thereto would have to continue to comply with those statutes and with K.S.A. 21-4201 *et seq.* and amendments thereto.(Sec. 29)

Existing Criminal Law Amended to Conform

Section 38 of the bill would amend K.S.A. 1996 Supp. 21-4201 which currently prohibits, among other thing, carrying concealed weapons. The amendment would provide that the prohibition would not apply to a licensee legally carrying a concealed handgun.

Effective Date

The bill would become effective on July 1, 1997.

1997 S.B. 21 QUALIFICATIONS FOR LICENSURE TO CARRY CONCEALED WEAPONS

PROVISION	1997 S.B. 21
Four-year term of license	Sec. 9
State issue	Sec. 6
Virtually no KBI discretion in issuance of license	Secs. 6, 28, 30
Legal state resident—six months (Appears not to apply to retired law enforcement or judicial officers.)	Sec. 2(a)(1)
Minimum age—21	Sec. 2(a)(2)
Licensure only to carry concealed handgun ¹	Sec. 2(a), <i>et al.</i>
Not of unsound mind ^{2,5}	Sec. 2(a)(7)
Not chemically dependant ^{3,5}	Sec. 2(a)(6)
Certificate of proficiency ⁵	Sec. 3(a)(7)
Not discharged less than honorably from military service during ten years prior to application	Sec. 2(a)(19)
Not charged with or convicted of a felony ^{4,5}	Sec. 2(a)(3) and (4)
Not charged with, or convicted in the five years preceding application, of an A or B misdemeanor or criminal use of weapons (ref. K.S.A. 21-4201) ^{4,5}	Sec. 2(a)(4)
Not a fugitive from justice for a felony or an A or B misdemeanor ⁴	Sec. 2(a)(5)
Not restricted under a court protective order or subject to a restraining order affecting the spousal relationship, not including a restraining order solely affecting property interests	Sec. 2(a)(13)
No charge or conviction of misdemeanor or felony domestic violence for five years prior to application (ref. K.S.A. 22-2309 and criminal statutes)	Sec. 2(a)(16)
No juvenile adjudication for felony during ten years prior to application	Sec. 2(a)(14)
No suicide attempt or assistance in a suicide attempt during ten years preceding date of application (ref. K.S.A. 21-3406)	Sec. 2(a)(17)
Never affiliated with street gang or other criminal enterprise as defined in state and federal law (ref. K.S.A. 21-4401 and 18 U.S.C. 1961)	Sec. 2(a)(20)
Qualified under state and federal law to purchase a handgun	Sec. 2(a)(9)
Not finally determined delinquent in making a child support payment	Sec. 2(a)(10)
No past due child support (The Committee may want to determine whether this subsection and 2(a)(10) are both necessary.)	Sec. 2(a)(18)
No misrepresentation or failure to disclose a material fact on an application submitted under the act	Sec. 2(a)(15)
Not delinquent in paying any state or local taxes	Sec. 2(a)(11)
Not finally determined in default of a state guaranteed higher education loan (ref. K.S.A. 72-7401)	Sec. 2(a)(12)
Self-declared knowledge of act of state laws regarding use of deadly force	Sec. 3(a)(8)
License fee for most applicants ⁶	\$140

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1. "Handgun" would be defined to be any firearm that is designed, made, or adapted to be fired with one hand. A "concealed handgun" would be defined as a handgun, the presence of which would not be openly discernible to the ordinary observation of a reasonable person. (Sec. 1(d) and (g))
 2. "Unsound mind" means the mental condition of a person who: (a) has been adjudicated mentally incompetent, mentally ill or not guilty of a criminal offense by reason of insanity; (b) has been diagnosed by a physician as being characterized by a mental disorder or infirmity that renders the person incapable of managing the person's self or the person's affairs, unless the person furnishes a certificate from a physician stating that the person is no longer disabled or under any medication for the treatment of a mental or psychiatric disorder; or (c) has been diagnosed by a physician as suffering from depression, manic depression, or post-traumatic stress syndrome, unless the person furnishes a certificate from a physician stating that the person is no longer disabled or under any medication for the treatment of a mental or psychiatric disorder. (Sec. 1(j))
 3. "Chemically dependent person" would be defined to be a person who frequently or repeatedly becomes intoxicated by excessive indulgence in alcohol or uses controlled substances or dangerous drugs so as to acquire a fixed habit and an involuntary tendency to become intoxicated or use those substances as often as the opportunity is presented. (Sec. 1(c)) "Intoxicated" would be defined to mean not having the normal use of mental or physical faculties by reason of the introduction of alcohol, a controlled substance, a drug, a dangerous drug, a combination of two or more of those substances or any other substance into the body or having a blood or breath alcohol concentration of 0.08 or greater.(Sec. 1(h)) A person who has been convicted twice during the 10 years preceding application of a class B misdemeanor or more serious crime that involves the use of alcohol or a controlled substance as a statutory element of the offense would also be considered a chemically dependent person and thus ineligible for a license. (Sec. 2(c))
 4. For purposes of qualifying for a license under the act, a felony would be defined as any crime designated as such by any state or federal law or if a potential sentence for the crime would be at least a year in a penitentiary; and a class A misdemeanor would be defined as a crime that is not a felony and conviction of which could result in confinement in a nonstate jail. (Sec. 2(b))
 5. The only qualifications for retired judicial officers. (Sec. 30(c))
 6. Application fee for retired state or local law enforcement officers and federal special agents would be \$25. (Sec. 28(d)) Fees for active and retired judicial officers would be set by the KBI at a level designed to cover administrative costs associated with issuance of license. (Sec. 30(d)(4)) The application, duplicate, or renewal fee would be waived for any elected prosecuting attorney. (Sec. 30(h)) Fee for indigent persons and persons 60 years of age or older would be \$70. (Sec. 33(a) and 34)