

CHAPTER 125
SENATE BILL No. 470

AN ACT concerning school districts; amending K.S.A. 72-5437 and K.S.A. 2007 Supp. 72-1397, 72-89c01 and 72-89c02 and repealing the existing sections; also repealing K.S.A. 72-5411.

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

Section 1. K.S.A. 2007 Supp. 72-89c01 is hereby amended to read as follows: 72-89c01. As used in K.S.A. 72-89c01 and 72-89c02, and amendments thereto:

(a) “Board of education” means the board of education of a unified school district or the governing authority of an accredited nonpublic school.

(b) “School” means a public school or an accredited nonpublic school.

(c) “Public school” means a school operated by a unified school district organized under the laws of this state.

(d) “Accredited nonpublic school” means a nonpublic school participating in the quality performance accreditation system.

(e) “Chief administrative officer of a school” means, in the case of a public school, the superintendent of schools or a designee of the superintendent and, in the case of an accredited nonpublic school, the person designated as chief administrative officer by the governing authority of the school.

(f) “Weapon” means (1) any weapon which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; (2) the frame or receiver of any weapon described in the preceding example; (3) any firearm muffler or firearm silencer; (4) any explosive, incendiary, or poison gas (A) bomb, (B) grenade, (C) rocket having a propellant charge of more than four ounces, (D) missile having an explosive or incendiary charge of more than ¼ ounce, (E) mine, or (F) similar device; (5) any weapon which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than ½ inch in diameter; (6) any combination of parts either designed or intended for use in converting any device into any destructive device described in the two immediately preceding examples, and from which a destructive device may be readily assembled; (7) any bludgeon, sandclub, metal knuckles or throwing star; (8) any knife, commonly referred to as a switch-blade, which has a blade that opens automatically by hand pressure applied to a button, spring or other device in the handle of the knife, or any knife having a blade that opens or falls or is ejected into position by the force of gravity or by an outward, downward or centrifugal thrust or movement; (9) any electronic device designed to discharge immobilizing levels of electricity, commonly known as a stun gun. The term “weapon” does not include within its meaning (1) an antique firearm; (2) any device which is neither designed nor redesigned for use as a weapon; (3) any device, although originally designed for use as a weapon, which is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device; (4) surplus ordinance sold, loaned, or given by the secretary of the army pursuant to the provisions of section 4684(2), 4685, or 4686 of title 10 of the United States Code; (5) class C common fireworks.

(g) “Controlled substance” has the meaning ascribed thereto in K.S.A. 65-4101, and amendments thereto.

(h) “Illegal drug” means a controlled substance but does not include a controlled substance that is legally possessed, used under the supervision of a licensed health-care professional or used under authority of any federal or state law.

(i) “Possession of a weapon or illegal drug” means knowingly having direct physical control over a weapon or illegal drug or knowingly having the power and the intention at a given time to exercise dominion or control over a weapon or illegal drug.

~~(j) “School safety violation” means: (1) The possession of a weapon or illegal drug at school, upon school property or at a school-supervised activity, or (2) an act or behavior committed at school, upon school property or at a school-supervised activity which resulted in, or was substantially likely to have resulted in, serious bodily injury to others.~~

~~(k) “Law enforcement agency” means the police department of a city if the school safety violation occurs within the corporate limits of a city~~

or the office of the county sheriff if the school safety violation occurs outside the corporate limits of a city.

⊕ (k) “Division” means the division of motor vehicles of the Kansas department of revenue.

Sec. 2. K.S.A. 2007 Supp. 72-89c02 is hereby amended to read as follows: 72-89c02. (a) ~~Whenever a pupil who has attained the age of 13 years has been expelled from school or suspended for an extended term in accordance with K.S.A. 72-8901 et seq. or 72-89a01 et seq., and amendments thereto, and such suspension or expulsion was imposed for committing a school safety violation, the chief administrative officer of the school from which the student was suspended or expelled shall notify the appropriate law enforcement agency of the suspension or expulsion. The notice shall be given within 10 days, excluding holidays and weekends, after the imposition of the expulsion or suspension. The notice shall include the pupil's name, address, date of birth, driver's license number, if available, a description of the school safety violation committed by the pupil and the date the pupil was expelled or suspended for an extended term. Following receipt of the notice, the law enforcement agency shall notify the division of the suspension or expulsion. The notice shall be given within 10 days, excluding holidays and weekends, of the date of receipt of notice from the chief administrative officer of the school from which the student was suspended or expelled. The notice shall include the pupil's name, address, date of birth, driver's license number, if available, a description of the school safety violation committed by the pupil and the date the pupil was expelled or suspended for an extended term~~ *found in possession of a weapon or illegal drug at school, upon school property or at a school supervised activity or has engaged in an act or behavior, committed at school, upon school property, or at a school-supervised activity which resulted in, or was substantially likely to have resulted in, serious bodily injury to others, the chief administrative officer of the school shall make a report of the pupil's act to the appropriate law enforcement agency. The report shall be given as soon as practicable, but not to exceed 10 days from the date of the pupil's act, excluding holidays and weekends, to the appropriate law enforcement agency. Upon receipt of the report, the law enforcement agency shall investigate the matter and give written notice to the division of the act committed by the pupil. The notice shall be given to the division of vehicles by the law enforcement agency as soon as practicable but not to exceed 10 days, excluding holidays and weekends, after receipt of the report and shall include the pupil's name, address, date of birth, driver's license number, if available, and a description of the act committed by the pupil.* A copy of the notice also shall be given to the pupil and to the parent or guardian of the pupil.

(b) If timely notice is not given to the appropriate law enforcement agency or to the division as specified in subsection (a), the division of vehicles shall not suspend the pupil's driver's license or privilege to operate a motor vehicle on the streets and highways of this state.

(c) If timely notice is given to the appropriate law enforcement agency and the division as specified in subsection (a), the division of vehicles immediately shall suspend the pupil's driver's license or privilege to operate a motor vehicle on the streets and highways of this state. The duration of the suspension shall be for a period of one year. Upon expiration of the period of suspension, the pupil may apply to the division for return of the license. If the license has expired, the pupil may apply for a new license, which shall be issued promptly upon payment of the proper fee and satisfaction of other conditions established by law for obtaining a license unless another suspension or revocation of the pupil's privilege to operate a motor vehicle is in effect. If the pupil does not have a driver's license, the pupil's driving privileges shall be revoked. If timely notice is given to the appropriate law enforcement agency and the division as required by subsection (a), no Kansas driver's license shall be issued to a pupil whose driving privileges have been revoked pursuant to this subsection for a period of one year:

(1) Immediately following the date of receipt by the division of notification from a law enforcement agency containing the description of the pupil's act, if the pupil is eligible to apply for a driver's license; or

(2) after the date the pupil will be eligible to apply for a driver's license, if the pupil is not eligible to apply for a driver's license on the date of receipt of the notification.

(d) If the pupil's driver's license or driving privilege has been revoked,

suspended or canceled for another cause, the suspension or revocation required by this section shall apply consecutively to the previous revocation, suspension or cancellation.

(e) Upon suspension or revocation of a pupil's driver's license or driving privilege to operate a motor vehicle as provided in this section, the division of vehicles shall immediately notify the pupil in writing. If the pupil makes a written request for hearing within 30 days after such notice of suspension or revocation, the division of vehicles shall afford the pupil an opportunity for a hearing as provided by K.S.A. 8-255, and amendments thereto, ~~except that~~. The scope of the hearing shall be limited to determination of whether *or not*: (1) Notice was given to the appropriate law enforcement agency and the division within the time specified in subsection (a); or (2) *there are reasonable grounds to believe the pupil was in possession of a weapon or illegal drug at school, upon school property, or at a school-supervised activity or was engaged in behavior at school, upon school property, or at a school-supervised activity, which resulted in, or was substantially likely to have resulted in, serious bodily injury to others.*

(f) For the purposes of this section, the term driver's license includes, in addition to any commercial driver's license and any class A, B, C or M driver's license, any restricted license issued under K.S.A. 8-237, and amendments thereto, any instruction permit issued under K.S.A. 8-239, and amendments thereto, and any farm permit issued under K.S.A. 8-296, and amendments thereto.

Sec. 3. K.S.A. 2007 Supp. 72-1397 is hereby amended to read as follows: 72-1397. (a) The state board of education shall not knowingly issue a license to or renew the license of any person who has been convicted of ~~any offense or attempt to commit any offense specified in subsection (c) of K.S.A. 21-4619 and amendments thereto:~~

- (1) *Rape, as defined in K.S.A. 21-3502, and amendments thereto;*
- (2) *indecent liberties with a child, as defined in K.S.A. 21-3503, and amendments thereto;*
- (3) *aggravated indecent liberties with a child, as defined in K.S.A. 21-3504, and amendments thereto;*
- (4) *criminal sodomy, as defined in subsection (a)(2) or (a)(3) of K.S.A. 21-3505, and amendments thereto;*
- (5) *aggravated criminal sodomy, as defined in K.S.A. 21-3506, and amendments thereto;*
- (6) *indecent solicitation of a child, as defined in K.S.A. 21-3510, and amendments thereto;*
- (7) *aggravated indecent solicitation of a child, as defined in K.S.A. 21-3511, and amendments thereto;*
- (8) *sexual exploitation of a child, as defined in K.S.A. 21-3516, and amendments thereto;*
- (9) *aggravated incest, as defined in K.S.A. 21-3603, and amendments thereto;*
- (10) *aggravated endangering a child, as defined in K.S.A. 21-3608a, and amendments thereto;*
- (11) *abuse of a child, as defined in K.S.A. 21-3609, and amendments thereto;*
- (12) *capital murder, as defined in K.S.A. 21-3439, and amendments thereto;*
- (13) *murder in the first degree, as defined in K.S.A. 21-3401, and amendments thereto;*
- (14) *murder in the second degree, as defined in K.S.A. 21-3402, and amendments thereto;*
- (15) *voluntary manslaughter, as defined in K.S.A. 21-3403, and amendments thereto;*
- (16) *involuntary manslaughter, as defined in K.S.A. 21-3404, and amendments thereto;*
- (17) *involuntary manslaughter while driving under the influence of alcohol or drugs, as defined in K.S.A. 21-3442, and amendments thereto;*
- (18) *sexual battery, as defined in K.S.A. 21-3517, and amendments thereto, when, at the time the crime was committed, the victim was less than 18 years of age or a student of the person committing such crime;*
- (19) *aggravated sexual battery, as defined in K.S.A. 21-3518, and amendments thereto;*
- (20) *attempt under K.S.A. 21-3301, and amendments thereto, to commit any act specified in this subsection;*

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

(22) *an act in another state or by the federal government that is comparable to any act described in this subsection; or*

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

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

~~(1) Has been convicted of a felony under the uniform controlled substances act; (2) has been convicted of a felony described in any section of article 34 of chapter 21 of the Kansas Statutes Annotated or an act described in K.S.A. 21-3412 or K.S.A. 21-3412a, and amendments thereto, if the victim is a minor or student; (3) has been convicted of a felony described in any section of article 35 of chapter 21 of the Kansas Statutes Annotated, other than an act specified in subsection (c) of K.S.A. 21-4619 and amendments thereto, or has been convicted of an act described in K.S.A. 21-3517 and amendments thereto, if the victim is a minor or student; (4) has been convicted of any act described in any section of article 36 of chapter 21 of the Kansas Statutes Annotated, other than an act specified in subsection (c) of K.S.A. 21-4619 and amendments thereto; (5) has been convicted of a felony described in article 37 of chapter 21 of the Kansas Statutes Annotated; (6) has been convicted of an attempt under K.S.A. 21-3301, and amendments thereto, to commit any act specified in this subsection; (7) has been convicted of any act which is described in K.S.A. 21-4301, 21-4301a or 21-4301c, and amendments thereto; (8) has been convicted in another state or by the federal government of an act similar to any act described in this subsection; or (9) has entered into a criminal diversion agreement after having been charged with any offense described in this subsection.~~

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

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

(3) *a felony described in any section of article 35 of chapter 21 of the Kansas Statutes Annotated, other than an act specified in subsection (a);*

(4) *any act described in any section of article 36 of chapter 21 of the Kansas Statutes Annotated, other than an act specified in subsection (a);*

(5) *a felony described in article 37 of chapter 21 of the Kansas Statutes Annotated;*

(6) *promoting obscenity, as described in K.S.A. 21-4301, and amendments thereto, promoting obscenity to minors, as described in K.S.A. 21-4301a, and amendments thereto, or promoting to minors obscenity harmful to minors, as described in K.S.A. 21-4301c, and amendments thereto;*

(7) *endangering a child, as defined in K.S.A. 21-3608, and amendments thereto;*

(8) *driving under the influence of alcohol or drugs in violation of K.S.A. 8-1567 or 8-2,144, and amendments thereto, when the violation is punishable as a felony;*

(9) *attempt under K.S.A. 21-3301, and amendments thereto, to commit any act specified in this subsection;*

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

(11) *an act committed in violation of a federal law or in violation of another state's law that is comparable to any act described in this subsection.*

(c) The state board of education may issue a license to or renew the license of a person who has been convicted of committing an offense or act described in subsection (b) or who has entered into a criminal diversion agreement after having been charged with an offense or act described in subsection (b) if the state board determines, following a hearing, that the person has been rehabilitated for a period of at least five years from the date of conviction of the offense or commission of the act or, in the case of a person who has entered into a criminal diversion agreement, that the person has satisfied the terms and conditions of the agreement. The state board of education may consider factors including, but not

limited to, the following in determining whether to grant a ~~certificate~~ license:

- (1) The nature and seriousness of the offense or act;
- (2) the conduct of the person subsequent to commission of the offense or act;
- (3) the time elapsed since the commission of the offense or act;
- (4) the age of the person at the time of the offense or act;
- (5) whether the offense or act was an isolated or recurring incident;

and

- (6) discharge from probation, pardon or expungement.

(d) Before any license is denied by the state board of education for any of the offenses or acts specified in subsections (a) and (b), the person shall be given notice and an opportunity for a hearing in accordance with the provisions of the Kansas administrative procedure act.

(e) The county or district attorney shall file a report with the state board of education indicating the name, address and social security number of any person who has been determined to have committed any offense or act specified in subsection (a) or (b) or to have entered into a criminal diversion agreement after having been charged with any offense or act specified in subsection (b). Such report shall be filed within 30 days of the date of the determination that the person has committed any such act or entered into any such diversion agreement.

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

Sec. 4. K.S.A. 72-5437 is hereby amended to read as follows: 72-5437. (a) All contracts of employment of teachers, as defined in K.S.A. 72-5436, and amendments thereto, except contracts entered into under the provisions of K.S.A. 72-5412a, and amendments thereto, shall be deemed to continue for the next succeeding school year unless written notice of termination or nonrenewal is served as provided in this subsection. Written notice to terminate a contract may be served by a board upon any teacher prior to the time the contract has been completed, and written notice of intention to nonrenew a contract shall be served by a board upon any teacher on or before May 1. A teacher shall give written notice to a board that the teacher does not desire continuation of a contract on or before May 15 or, if applicable, not later than 15 days after final action is taken by the board upon termination of professional negotiation absent a binding agreement under article 54 of chapter 72 of Kansas Statutes Annotated, whichever is the later date.

(b) Terms of a contract may be changed at any time by mutual consent of both a teacher and a board.

(c) *As used in this section, "teacher" means (1) a teacher as defined by K.S.A. 72-5436, and amendments thereto, and (2) any professional employee who is a retirant from school employment of the Kansas public employees retirement system.*

Sec. 5. K.S.A. 72-5411 and 72-5437 and K.S.A. 2007 Supp. 72-1397, 72-89c01 and 72-89c02 are hereby repealed.

Sec. 6. This act shall take effect and be in force from and after its publication in the Kansas register.

Approved April 24, 2008.

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