

HOUSE BILL No. 2370

By Committee on Commerce, Labor and Economic Development

2-11

1 AN ACT concerning occupational licensure; relating to criminal
2 convictions; prohibiting a conviction from disqualifying a person for
3 licensure; amending K.S.A. 74-120 and repealing the existing section.
4

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

6 Section 1. K.S.A. 74-120 is hereby amended to read as follows: 74-
7 120. (a) (1) Notwithstanding any other provision of law, any person, board,
8 commission or similar body that determines the qualifications of
9 individuals for licensure, certification or registration ~~may and is~~
10 ~~authorized or required to consider any felony criminal conviction of the~~
11 ~~applicant, but such a conviction shall not operate as a bar to licensure,~~
12 ~~certification or registration shall consider such conviction as provided in~~
13 ~~this section.~~

14 (2) *Any person, board, commission or similar body that determines*
15 *the qualifications of individuals for licensure, certification or registration*
16 *may consider any felony conviction of an application subject to the*
17 *provisions of this section.*

18 (3) *A criminal conviction shall not solely operate as a bar to*
19 *licensure, certification or registration. An applicant shall not be denied*
20 *licensure, certification or registration because of a criminal conviction*
21 *that is not directly related to the specific duties and responsibilities*
22 *required by the activity requiring licensure, certification or registration in*
23 *a way that would present risk to public safety as determined by an*
24 *individualized evaluation of the applicant and the applicant's criminal*
25 *conviction. Such evaluation shall include:*

26 (A) *The nature and seriousness of the crime for which the applicant*
27 *was convicted;*

28 (B) *the age of the applicant at the time the crime was committed;*

29 (C) *the amount of time that has passed since the crime was*
30 *committed;*

31 (D) *the circumstances of the offense, including any aggravating or*
32 *mitigating circumstances or social conditions surrounding the commission*
33 *of the crime; and*

34 (E) *any evidence of rehabilitation related to the applicant's current*
35 *fitness for licensure, certification or registration.*

36 (b) (1) ~~Within 180 days of the effective date of this section, Any~~

1 person, board, commission or similar body that determines the
2 qualifications of individuals for licensure, certification or registration shall
3 ~~revise their existing requirements to~~ list the specific civil and criminal
4 records that could disqualify an applicant from receiving a license,
5 certification or registration. Such person, board, commission or similar
6 body may only list ~~any disqualifying~~ criminal records or civil court records
7 that are directly related to ~~protecting the general welfare and the duties and~~
8 ~~responsibilities for such entities~~ *the specific duties and responsibilities*
9 *required by the activity requiring licensure, certification or registration*
10 *that would present a risk to public safety* and in no case shall ~~non-specific~~
11 *nonspecific* terms, such as moral turpitude or good character, or any arrests
12 that do not result in a conviction be used to disqualify an individual's
13 application for licensure, certification or registration.

14 (2) If an individual has a criminal record or civil court record that
15 would disqualify the individual from receiving a license, certification or
16 registration, other than a conviction for a crime that is a felony or a class A
17 misdemeanor or any conviction for which issuance of such license,
18 certification or registration could conflict with federal law, and the
19 individual has not been convicted of any other crime in the five years
20 immediately preceding the application for licensure, certification or
21 registration, such record shall not be used to disqualify the individual for
22 licensure, certification or registration for more than five years after the
23 person satisfied the sentence imposed.

24 (3) An individual with a civil or criminal record may petition the
25 person, board, commission or similar body responsible for licensure,
26 certification or registration at any time for ~~an informal, a written advisory~~
27 ~~opinion~~ concerning whether the individual's civil or criminal record will
28 disqualify the individual from obtaining such license, certification or
29 registration. This petition shall include details of the individual's civil or
30 criminal record. In response to such petition, the person, board,
31 commission or similar body responsible for licensure, certification or
32 registration shall issue ~~an informal, a written advisory~~ opinion ~~which that~~
33 ~~shall not~~ be binding upon such person, board, commission or similar body
34 *if the applicant has no subsequent criminal convictions, pending criminal*
35 *charges or previously undisclosed convictions related to a potentially*
36 *disqualifying criminal record*. The person, board, commission or similar
37 body responsible for licensure, certification or registration shall respond to
38 such petition within 120 days of receiving the petition from the applicant
39 and may charge up to \$50 for the review and issuance of ~~an informal, a~~
40 ~~written advisory~~ opinion in response to such petition.

41 (4) All persons, boards, commissions or similar licensing bodies shall
42 adopt and publicly maintain all necessary rules and regulations for the
43 implementation of this section.

1 (c) (1) If a person, board, commission or similar body that
 2 determines qualifications for licensure, certification or registration
 3 determines that an applicant's criminal record is disqualifying after the
 4 evaluation required by subsection (a)(3) or in a written opinion issued
 5 pursuant to subsection (b)(3), such person, board, commission or similar
 6 body shall notify the applicant, in writing, of:

7 (A) The reasons for the denial or disqualification;

8 (B) findings for each of the evaluation components listed in
 9 subsection (a)(3);

10 (C) the earliest date the applicant may reapply for licensure,
 11 certification or registration or the earliest date the applicant may petition
 12 the person, board or commission for review; and

13 (D) any additional evidence of rehabilitation that may be considered
 14 upon reapplication or review.

15 (2) Written notification provided pursuant to this subsection shall
 16 demonstrate the reasons for denial of licensure, certification or
 17 registration by clear and convincing evidence after an evaluation pursuant
 18 to subsection (a)(3) or the reasons for disqualification described in a
 19 written opinion issued by subsection (b)(3).

20 (e)(d) ~~The provisions of subsection (b)~~ This section shall not apply to
 21 the: consideration of criminal records for licensure, certification or
 22 registration when consideration of a criminal conviction is required by
 23 federal law and the provisions of this section conflict with such federal
 24 law

25 ~~(1) Kansas commission on peace officers' standards and training;~~

26 ~~(2) Kansas highway patrol;~~

27 ~~(3) board of accountancy;~~

28 ~~(4) behavioral sciences regulatory board;~~

29 ~~(5) state board of healing arts;~~

30 ~~(6) state board of pharmacy;~~

31 ~~(7) emergency medical services board;~~

32 ~~(8) board of nursing;~~

33 ~~(9) Kansas real estate commission;~~

34 ~~(10) office of the attorney general;~~

35 ~~(11) department of insurance;~~

36 ~~(12) any municipality as defined in K.S.A. 75-6102, and amendments~~
 37 ~~thereto; and~~

38 ~~(13) any profession that has an educational requirement for licensure~~
 39 ~~that requires a degree beyond a bachelor's degree.~~

40 Sec. 2. K.S.A. 74-120 is hereby repealed.

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