

{As Amended by Senate Committee of the Whole}

{As Amended by House Committee of the Whole}

Session of 2021

Substitute for HOUSE BILL No. 2066

By Committee on Commerce, Labor and Economic Development

2-3

1 AN ACT concerning occupational regulation; relating to occupational
2 licenses for certain applicants; temporary emergency licenses;
3 electronic credentials; amending K.S.A. 2020 Supp. 48-3406 and
4 repealing the existing section.

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

7 Section 1. K.S.A. 2020 Supp. 48-3406 is hereby amended to read as
8 follows: 48-3406. (a) For the purposes of this section:

9 (1) *"Applicant" means an individual who is a military spouse,*
10 *military servicemember or an individual who has established or intends to*
11 *establish residency in this state. "Applicant" with respect to law*
12 *enforcement certification by the Kansas commission on peace officers'*
13 *standards and training means an applicant who has met the employment*
14 *requirement pursuant to K.S.A. 74-5605(a), and amendments thereto.*

15 (2) *"Complete application" means the licensing body has received all*
16 *forms, fees, documentation, a signed affidavit stating that the*
17 **application information, including necessary prior employment**
18 **history, is true and accurate}** *and any other information required or*
19 *requested by the licensing body for the purpose of evaluating the*
20 *application, consistent with this section and the rules and regulations*
21 *adopted by the licensing body pursuant to this section. If the licensing*
22 *body has received all such forms, fees, documentation and any other*
23 *information required or requested by the licensing body, an application*
24 *shall be deemed to be a complete application even if the licensing body*
25 *has not yet received a criminal background report from the Kansas bureau*
26 *of investigation.*

27 (3) *"Licensing body" means an official, agency, board or other entity*
28 *of the state which authorizes individuals to practice a profession in this*
29 *state and issues a license, registration, certificate, permit or other*
30 *authorization to an individual so authorized;*

31 ~~(2)(4)~~ *"Military servicemember" means a current member of the*
32 ~~army, navy, marine corps, air force, air or army~~ *any branch of the United*
33 *States armed services, United States military reserves or national guard of*
34 *any state, coast guard or any branch of the military reserves of the United*

1 States; and or a former member with an honorable discharge.

2 (3)(5) "Military spouse" means the spouse of an individual who is
3 currently in active service in any branch of the armed forces of the United
4 States a military servicemember.

5 (6) "Private certification" means a voluntary program in which a
6 private organization grants nontransferable recognition to an individual
7 who meets personal qualifications and standards relevant to performing
8 the occupation as determined by the private organization.

9 **{(7) "Scope of practice" means the procedures, actions, processes
10 and work that a person may perform under a government issued
11 license, registration or certification.}**

12 (b) Notwithstanding any other provision of law, any licensing body
13 shall:

14 (1)—, upon submission of a ~~completed~~ complete application, issue a
15 license, registration or certification to a ~~nonresident military spouse~~ an
16 applicant **{as provided by this section}**, so that the ~~nonresident military
17 spouse applicant~~ may lawfully practice the person's occupation; and

18 (2)— upon submission of a ~~completed~~ application within six months
19 following release from military service, issue a license, registration or
20 certification to a military servicemember with an honorable discharge so
21 that the military servicemember may lawfully practice the military
22 servicemember's occupation.

23 (c) ~~A military servicemember with an honorable discharge or~~
24 ~~nonresident military spouse~~ An applicant who holds a valid current
25 license, registration or certification in another state, district or territory of
26 the United States shall receive a license, registration or certification ~~under~~
27 subsection (b) of this section:

28 (1) If the applicant qualifies under the applicable Kansas licensure,
29 registration or certification by endorsement, reinstatement or reciprocity
30 statutes, then pursuant to applicable licensure, registration or certification
31 by endorsement, reinstatement or reciprocity statutes of the licensing body
32 of this state for the ~~profession~~ license, registration or certification within
33 ~~60~~ 15 days from the date a complete application was submitted if the
34 applicant is a military servicemember or military spouse or within 45 days
35 from the date a complete application was submitted for all other
36 applicants; or

37 (2) if the applicant does not qualify under the applicable licensure,
38 registration or certification by endorsement, reinstatement or reciprocity
39 statutes of the licensing body of this state, or if the Kansas professional
40 practice act does not have licensure, registration or certification by
41 endorsement, reinstatement or reciprocity statutes, then the applicant ~~shall~~
42 **{may}** receive a license, registration or certification as provided herein if,
43 at the time of application, the ~~military servicemember or nonresident~~

1 ~~military spouse applicant:~~

2 (A) Holds a *valid* current license, registration or certification in
3 another state, district or territory of the United States with licensure,
4 registration or certification requirements that the licensing body
5 determines ~~are equivalent to~~ *authorize a similar scope of practice as* those
6 established by the licensing body of this state, *or holds a certification*
7 *issued by another state for practicing the occupation but this state*
8 *requires an occupational license, and the licensing body of this state*
9 *determines that the certification requirements certify a similar scope of*
10 *practice as the licensing requirements established by the licensing body of*
11 *this state;*

12 (B) *has worked for at least one year in the occupation for which the*
13 *license, certification or registration is sought;*

14 (C) has not committed an act in any jurisdiction that would have
15 constituted grounds for the limitation, suspension or revocation *of the*
16 *license, certificate or registration*, or that the applicant has never been
17 censured or had other disciplinary action taken or had an application for
18 licensure, registration or certification denied or refused to practice an
19 occupation for which the ~~military servicemember or nonresident military~~
20 ~~spouse applicant~~ seeks licensure, registration or certification;

21 ~~(D)~~(D) has not been disciplined by a licensing, registering, certifying
22 or other credentialing entity in another jurisdiction and is not the subject of
23 an unresolved complaint, review procedure or disciplinary proceeding
24 conducted by a licensing, registering, certifying or other credentialing
25 entity in another jurisdiction nor has surrendered their membership on any
26 professional staff in any professional association or society or faculty for
27 another state or jurisdiction while under investigation or to avoid adverse
28 action for acts or conduct similar to acts or conduct ~~which~~ *that* would
29 constitute grounds for disciplinary action in a Kansas practice act;

30 ~~(D)~~(E) *does not have a disqualifying criminal record as determined*
31 *by the licensing body of this state under Kansas law;*

32 (F) *provides proof of solvency, financial standing, bonding or*
33 *insurance if required by the licensing body of this state, but only to the*
34 *same extent as required of any applicant with similar credentials or*
35 *experience;*

36 (G) pays any fees required by the licensing body of this state; and

37 ~~(E)~~(H) submits with the application a signed affidavit stating that the
38 application information, including necessary prior employment history, is
39 true and accurate.

40 Upon receiving ~~such affidavit~~ *a complete application {and the*
41 **provisions of subsection (c)(2) apply and have been met by the**
42 **applicant}**, the licensing body shall issue the license, registration or
43 certification within ~~60~~ 15 days from the date a complete application was

1 submitted by a military servicemember or military spouse, or within 45
2 days from the date a complete application was submitted by an applicant
3 who is not a military servicemember or military spouse, to the ~~military~~
4 ~~servicemember or nonresident military spouse~~ applicant on a probationary
5 basis, but may revoke the license, registration or certification at any time if
6 the information provided in the application is found to be false. ~~Any~~ The
7 probationary ~~license issued under this subsection to a military~~
8 ~~servicemember or nonresident military spouse~~ period shall not exceed six
9 months. Upon completion of the probationary period, the license,
10 certification or registration shall become a non-probationary license,
11 certification or registration.

12 (d) Any ~~person~~ applicant who has not been in the active practice of
13 the occupation during the two years preceding the application for which
14 the applicant seeks a license, registration or certification ~~under subsections~~
15 ~~(b) and (e)~~ **{subsection (c)(2)}** may be required to complete such
16 additional testing, training, ~~mentoring~~, monitoring or *continuing* education
17 as the Kansas licensing body may deem necessary to establish the
18 applicant's present ability to practice ~~with reasonable skill and safety in a~~
19 ~~manner that protects the health and safety of the public, as provided by~~
20 ~~subsection (k)~~ **{(j)}**.

21 (e) ~~A nonresident military spouse~~ Upon submission of a complete
22 application, an applicant ~~shall~~ **{may}** receive an occupational license,
23 registration or certification ~~under subsection (b)~~ based on the applicant's
24 work experience in another state, if the applicant:

25 (1) Worked in a state that does not use an occupational license,
26 registration ~~or~~ **{}** certification **{or private certification}** to regulate an
27 occupation, but this state uses an occupational license, registration or
28 certification to regulate the occupation;

29 (2) worked for at least three years in the occupation during the four
30 years immediately preceding the application; and

31 (3) satisfies the requirements of subsection ~~(e)(2)(B)~~ **{(c)(2)(C)}**
32 through (H).

33 (f) Upon submission of a complete application, an applicant ~~shall~~
34 **{may}** receive an occupational license, registration or certification under
35 subsection (b) based on the applicant's holding of a private certification
36 and work experience in another state, if the applicant:

37 (1) Holds a private certification and worked in a state that does not
38 use an occupational license or government certification to regulate an
39 occupation, but this state uses an occupational license or government
40 certification to regulate the occupation;

41 (2) worked for at least two years in the occupation;

42 (3) holds a current and valid private certification in the occupation;

43 (4) is held in good standing by the organization that issued the

1 *private certification; and*

2 (5) *satisfies the requirements of subsection—(e)(2)(B) **{(c)(2)(C)}***
3 *through (H).*

4 (g) *An applicant* licensed, registered or certified under this section
5 shall be entitled to the same rights and subject to the same obligations as
6 are provided by the licensing body for Kansas residents, except that
7 revocation or suspension of ~~a nonresident military spouse's~~ *an applicant's*
8 license, registration or certificate in the ~~nonresident military spouse's~~
9 *applicant's* state of residence or any jurisdiction in which the ~~nonresident~~
10 ~~military spouse applicant~~ held a license, registration or certificate shall
11 automatically cause the same revocation or suspension of such ~~nonresident~~
12 ~~military spouse's applicant's~~ license, registration or certificate in Kansas.
13 No hearing shall be granted to ~~a nonresident military spouse~~ *an applicant*
14 where such ~~nonresident military spouse's applicant's~~ license, registration
15 or certificate is subject to such automatic revocation or suspension, except
16 for the purpose of establishing the fact of revocation or suspension of the
17 ~~nonresident military spouse's applicant's~~ license, registration or certificate
18 by the ~~nonresident military spouse's applicant's~~ state of residence *or*
19 *jurisdiction in which the applicant held a license, registration or*
20 *certificate.*

21 ~~(f)(h)~~ In the event the licensing body determines that the license,
22 registration or certificate currently held by ~~the military servicemember or~~
23 ~~nonresident military spouse~~ *an applicant* under subsection ~~(e)(2)(A)~~ is **{(c)**
24 **(2) or the work experience or private credential held by an applicant**
25 **under subsections (e) or (f),}** *who is a* ~~nonresident~~ *military spouse or*
26 *nonresident military servicemember* does not ~~equivalent to those~~ authorize
27 *a similar scope of practice as* ~~that~~ **{the license, registration or**
28 **certification}** issued by the licensing body of this state, the licensing body
29 ~~may~~ *shall* issue a temporary permit for a limited period of time to allow
30 ~~the military servicemember or nonresident military spouse applicant~~ to
31 lawfully practice the ~~military servicemember's or nonresident military~~
32 ~~spouse's applicant's~~ occupation while completing any specific
33 requirements that are required in this state for licensure, registration or
34 certification that ~~was~~ *were* not required in the state, district or territory of
35 the United States in which the ~~military servicemember or nonresident~~
36 ~~military spouse applicant~~ was licensed, registered, certified or otherwise
37 credentialed, *unless the licensing body finds, based on specific grounds,*
38 *that issuing a temporary permit would jeopardize the health and safety of*
39 *the public.*

40 (i) *In the event the licensing body determines that the license,*
41 *registration or certification currently held by an applicant under*
42 *subsection—(e)(2)(A) **{(c)(2) or the work experience or private credential***
43 *held by an applicant under subsections (e) or (f), who is not a*

1 ~~nonresident~~ military spouse or ~~nonresident~~ military servicemember, does
2 not authorize a similar scope of practice as ~~that~~ **{the license, registration**
3 **or certification}** issued by the licensing body of this state, the licensing
4 body ~~shall~~ **{may}** issue a temporary permit for a limited period of time to
5 allow the applicant to lawfully practice the applicant's occupation while
6 completing any specific requirements that are required in this state for
7 licensure, registration or certification that was not required in the state,
8 district or territory of the United States in which the applicant was
9 licensed, registered, certified or otherwise credentialed, unless the
10 licensing body finds, based on specific grounds, that issuing a temporary
11 permit would jeopardize the health and safety of the public.

12 (j) ~~In the event that the licensing body determines that the private~~
13 ~~certification or work experience currently held by the applicant under~~
14 ~~subsection (e) or (f) is not sufficient to establish the applicant's present~~
15 ~~ability to practice in a manner that protects the health and safety of the~~
16 ~~public, the applicant may be required to complete such additional testing,~~
17 ~~training, monitoring or continuing education as the licensing body deems~~
18 ~~necessary. The applicant shall be issued a temporary permit for a limited~~
19 ~~period of time to allow the applicant to lawfully practice the occupation~~
20 ~~while completing any specific requirements unless the licensing body~~
21 ~~finds, based on specific grounds, that issuing a temporary permit would~~
22 ~~jeopardize the health and safety of the public.~~

23 ~~(k)~~—Any testing, continuing education or training requirements
24 administered under subsection (d), (h); **{or}** ~~(i) or (j)~~ shall be limited to
25 Kansas law that regulates the occupation and that are materially different
26 from or additional to the law of another state, or shall be limited to any
27 materially different or additional body of knowledge or skill required for
28 the occupational license, registration or certification in Kansas.

29 ~~(g)~~~~(f)~~**{(k)}** A licensing body may grant licensure, registration,
30 certification or a temporary permit to any person who meets the
31 requirements under this section but was separated from such military
32 service under less than honorable conditions or with a general discharge
33 under honorable conditions.

34 ~~(m)~~**{(l)}** Nothing in this section shall be construed to apply in conflict
35 with or in a manner inconsistent with federal law or a multistate compact,
36 or a rule or regulation or a reciprocal or other applicable statutory
37 provision that would allow an applicant to receive a license. Nothing in
38 this section shall be construed as prohibiting a licensing body from
39 denying any application for licensure, registration or certification, or
40 declining to grant a temporary or probationary license, if the licensing
41 body determines that granting the application may ~~endanger~~ **{jeopardize}**
42 the health and safety of the public.

43 ~~(n)~~**{(m)}** Nothing in this section shall be construed to be in conflict

1 with any applicable Kansas statute defining the scope of practice of an
2 occupation. The scope of practice as provided by Kansas law shall apply
3 to applicants under this section.

4 ~~(n)~~**{(n)}** Notwithstanding any other provision of law, during a state of
5 emergency declared by the legislature, a licensing body may grant a
6 temporary emergency license to practice any profession licensed, certified,
7 registered or regulated by the licensing body to an applicant whose
8 qualifications the licensing body determines to be sufficient to protect
9 health and safety of the public and may prohibit any unlicensed person
10 from practicing any profession licensed, certified, registered or regulated
11 by the licensing body.

12 ~~(o)~~**{(o)}** Licensing bodies may provide electronic credentials to
13 persons regulated by the licensing body. For purposes of this subsection,
14 "electronic credential" means an electronic method by which a person
15 may display or transmit to another person information that verifies a
16 person's certification, licensure, registration or permit. A licensing body
17 may prescribe the format or requirements of the electronic credential to be
18 used by the licensing body. Any statutory or regulatory requirement to
19 display, post or produce a credential issued by a licensing body may be
20 satisfied by the proffer of an electronic credential authorized by the
21 licensing body. A licensing body may use a third-party electronic
22 credential system that is not maintained by the licensing body. Such
23 electronic credential system shall include a verification system that is
24 operated by the licensing body or its agent on behalf of the licensing body
25 for the purpose of verifying the authenticity and validity of electronic
26 credentials issued by the licensing body.

27 ~~(p)~~**{(p)}** Each licensing body ~~may~~ shall adopt rules and regulations
28 necessary to implement and carry out the provisions of this section.

29 ~~(q)~~**{(q)}** This section shall not apply to the practice of law or the
30 regulation of attorneys pursuant to K.S.A. 7-103, and amendments thereto.

31 ~~(r)~~**{(r)}** ~~The state board of healing arts shall not be exempt from the~~
32 ~~provisions of this section, except that the board~~ **{and the state board of**
33 **technical professions, with respect to an applicant who is seeking a**
34 **license to practice professional engineering or engage in the practice of**
35 **engineering, as defined in K.S.A. 74-7003, and amendments thereto,}**
36 ~~may deny any~~ **{an}** application for licensure, registration or certification,
37 or decline to grant a temporary or probationary license, if the board
38 determines the applicant's qualifications are not substantially equivalent
39 to those established by the board. **{Such boards shall not otherwise be**
40 **exempt from the provisions of this act.}**

41 ~~(s)~~**{(s)}** This section shall apply to all licensing bodies not excluded
42 under subsection ~~(s)~~ **{(q)}**, including, but not limited to:

43 (1) The abstracters' board of examiners;

- 1 (2) *the board of accountancy;*
- 2 (3) *the board of adult care home administrators;*
- 3 (4) *the secretary for aging and disability services, with respect to*
- 4 *K.S.A. 65-5901 et seq. and K.S.A. 65-6503 et seq., and amendments*
- 5 *thereto;*
- 6 (5) *the Kansas board of barbering;*
- 7 (6) *the behavioral sciences regulatory board;*
- 8 (7) *the Kansas state board of cosmetology;*
- 9 (8) *the Kansas dental board;*
- 10 (9) *the state board of education;*
- 11 (10) *the Kansas board of examiners in fitting and dispensing of*
- 12 *hearing instruments;*
- 13 (11) *the board of examiners in optometry;*
- 14 (12) *the state board of healing arts, as provided by subsection—(s)*
- 15 *{(r)};*
- 16 (13) *the secretary of health and environment, with respect to K.S.A.*
- 17 *82a-1201 et seq., and amendments thereto;*
- 18 (14) *the commissioner of insurance, with respect to K.S.A. 40-241*
- 19 *and 40-4901 et seq., and amendments thereto;*
- 20 (15) *the state board of mortuary arts;*
- 21 (16) *the board of nursing;*
- 22 (17) *the state board of pharmacy;*
- 23 (18) *the Kansas real estate commission;*
- 24 (19) *the real estate appraisal board;*
- 25 (20) *the state board of technical professions{, as provided by*
- 26 **subsection (r)}; and**
- 27 (21) *the state board of veterinary examiners.*
- 28 ~~(t)~~**{(t)}** *All proceedings pursuant to this section shall be conducted in*
- 29 *accordance with the provisions of the Kansas administrative procedure act*
- 30 *and shall be reviewable in accordance with the Kansas judicial review act.*
- 31 ~~(u)~~**{(u)}** *Commencing on July 1, 2021, and each year thereafter, each*
- 32 *licensing body listed in subsection—(t)(1) {(s)(1)} through (21) shall*
- 33 *provide a report for the period of July 1 through June 30 to the director of*
- 34 *legislative research by August 31 of each year, providing information*
- 35 *requested by the director of legislative research to fulfill the requirements*
- 36 *of this subsection. The director of legislative research shall develop the*
- 37 *report format, prepare an analysis of the reports and submit and present*
- 38 *the analysis to the office of the governor, the committee on commerce,*
- 39 *labor and economic development of the house of representatives, the*
- 40 *committee on commerce of the senate, the committee on appropriations of*
- 41 *the house of representatives and the committee on ways and means of the*
- 42 *senate by January 15 of the succeeding year. The director's report may*
- 43 *provide any analysis the director deems useful and shall provide the*

1 following items, detailed by applicant type, including military
2 servicemember, military spouse and non-military individual:

3 (1) The number of applications received under the provisions of this
4 section;

5 (2) the number of applications granted under this section;

6 (3) the number of applications denied under this section;

7 (4) the average time between receipt of the application and
8 completion of the application;

9 (5) the average time between receipt of a complete application and
10 issuance of a license, certification or registration; and

11 (6) identification of applications submitted under this section where
12 the issuance of credentials or another determination by the licensing body
13 was not made within the time limitations pursuant to this section and the
14 reasons for the failure to meet such time limitations.

15 All information shall be provided by the licensing body to the director
16 of legislative research in a manner that maintains the confidentiality of all
17 applicants and in aggregate form that does not permit identification of
18 individual applicants.

19 Sec. 2. K.S.A. 2020 Supp. 48-3406 is hereby repealed.

20 Sec. 3. This act shall take effect and be in force from and after its
21 publication in the ~~statute book~~ *{Kansas register}*.