

SESSION OF 2020

**SUPPLEMENTAL NOTE ON SUBSTITUTE FOR SENATE  
BILL NO. 366**

As Recommended by Senate Committee on  
Commerce

**Brief\***

Sub. for SB 366 would shorten the period of time required for various licensing bodies to issue registrations, certifications, and licenses (credentials) to allow a “military servicemember,” as that term would be redefined by the bill, and a “military spouse,” as that term is currently defined by law, to lawfully engage in their respective occupations in Kansas.

The bill also would expedite licensing bodies’ procedures for other individuals intending to live and work in Kansas. Licensing bodies would be required to issue the applicable credential to an “applicant,” as that term would be defined by the bill, if the applicant filed a “complete application,” as that term would be defined by the bill, and meets the following conditions:

- If an applicant holds a valid current credential issued by another state, district, or territory of the United States and qualifies under the applicable Kansas law by endorsement, reinstatement, or reciprocity statutes, then the military servicemember or spouse would be issued with the appropriate credential within 15 days from the date of the submission of a completed application or within 45 days for all other applicants. Currently, military servicemembers and spouses may be issued their credentials within 60 days; or

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\*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

- If an applicant does not qualify under the applicable Kansas law by endorsement, reinstatement, or reciprocity statutes, then the applicant would receive a probationary credential within the time periods specified above if that individual also:
  - Holds a valid current credential from another state, district, or territory of the United States that is substantially equivalent to the requirements in Kansas, which would be a change from current law that requires other states' credential policies to be equivalent to Kansas;
  - Has not committed an act that in the other jurisdiction would be considered grounds for limitation, suspension, or revocation of the credential, which is a requirement of current law;
  - Has not been disciplined, under investigation, or required to give up credentials, which is a requirement of current law;
  - Does not have a criminal record;
  - Shows proof of solvency, bonding, or insurance as required by the licensing body;
  - Pays the applicable fees, which is a requirement of current law; and
  - Signs an affidavit stating the application is true and accurate, which is a requirement of current law.

The probationary period continues to be for six months, as provided by current law. However, the bill would provide for the temporary credential to become permanent upon completion of the probationary period. Applicants that have not worked in their occupation for the preceding two years could be required by the licensing body to complete additional testing, training, monitoring, or continuing education.

However, bill would limit additional requirements to those matters that are materially different from or additional to Kansas law.

An applicant who meets the following conditions and requirements, would be granted a six-month probationary occupational credential:

- Worked in an occupation that was not a regulated profession in the other state;
- Worked in the occupation for at least three of the four immediately preceding years;
- Has not committed an act that in the other jurisdiction would be considered grounds for limitation, suspension, or revocation of the credential, which is a requirement of current law;
- Has not been disciplined, under investigation, or required to give up credentials, which is a requirement of current law;
- Does not have a criminal record;
- Shows proof of solvency, bonding, or insurance as required by the licensing body;
- Pays the applicable fees, which is a requirement of current law; and
- Signs an affidavit stating the application is true and accurate, which is a requirement of current law.

An applicant who holds a “private certification,” as that term would be defined by the bill, would be granted a six-month probationary occupational credential if that individual would meet the following conditions and requirements:

- Holds a current and valid private certification and worked in a state that does not regulate the occupation;
- Worked for at least two years in the occupation;
- Is in good standing by the organization that issued the private certification;
- Has not been disciplined, under investigation, or required to give up credentials, which is a requirement of current law;
- Does not have a criminal record;
- Shows proof of solvency, bonding, or insurance as required by the licensing body;
- Pays the applicable fees, which is a requirement of current law; and
- Signs an affidavit stating the application is true and accurate, which is a requirement of current law.

If a licensing body would determine an applicant's private certification or work experience is insufficient to protect the health, safety, and welfare of the public, the individual would be issued a temporary permit for a limited time to practice the occupation while completing any specific requirements stipulated by the licensing body, unless the licensing body would find on specific grounds that issuing a credential would jeopardize the health, safety, and welfare of the public.

The bill would not be construed to conflict with federal law, multi-state compact, rule, regulation, reciprocal, or other statutory provision, or to prohibit a licensing body from denying a credential based upon the possible endangerment of the public health, safety, or welfare. The bill would require all proceedings to be conducted in accordance with the

Kansas Administrative Procedure Act and would be reviewable under the Kansas Judicial Review Act.

The bill would apply to all licensing bodies in the executive branch, including, but not limited to: the Abstracters' Board of Examiners, the Board of Accountancy, the Board of Adult Care Home Administrators, the Secretary for Aging and Disabilities (with respect to KSA 65-5901, *et seq.* and KSA 65-6503, *et seq.*), the Kansas Board of Barbering, the Behavioral Sciences Regulatory Board, the Kansas State Board of Cosmetology, the Kansas Dental Board, the State Board of Education, the Kansas Board of Examiners in Fitting and Dispensing of Hearing Instruments, the Board of Examiners in Optometry, the State Board of Healing Arts, the Secretary of Health and Environment (with respect to KSA 82a-1201, *et seq.*), the Commissioner of Insurance (with respect to KSA 40-241 and 40-4901, *et seq.*), the State Board of Mortuary Arts, the Board of Nursing, the State Board of Pharmacy, the Kansas Real Estate Commission, the Real Estate Appraisal Board, the State Board of Technical Professions, and the State Board of Veterinary Examiners.

Starting on July 1, 2020, each licensing body listed in the bill would annually report information to the Director of Legislative Research (Director) by August 31, which would allow for the analysis of applications by applicant type (military servicemember, military spouse, and non-military), occupation type, and the number of applications received, granted, denied, the average time between receipt of the application and the completion of the application, the average time between receipt of a complete application to the issuance of a credential (temporary or permanent), and identification by category of applicant where the licensing body failed to meet the time limits specified in the bill and the reasons for the failure. Licensing bodies would be required to provide the information in a manner that would maintain applicants' confidentiality.

By January 15 of the succeeding year, the Director would report an analysis of the compilation to the Governor; the House Committee on Appropriations; the House Committee on Commerce, Labor and Economic Development; the Senate Committee on Commerce; and the Senate Committee on Ways and Means.

## **Background**

The bill was introduced by the Senate Committee on Commerce at the request of Senator Lynn.

In the Senate Committee hearing, Representative Croft provided proponent testimony, stating approximately 1 out of 20 workers required some kind of government-issued credential 60 years ago. Today, an estimated 1 out of 4 requires a credential. Representative Croft stated the bill would encourage new employment in Kansas. Representatives from Americans for Prosperity in Kansas, the Greater Kansas City Chamber of Commerce, the Kansas Chamber, the Opportunity Solutions Project, and the Wichita Regional Chamber of Commerce also spoke in favor of the bill. Written-only proponent testimony was provided by representatives from the Goldwater Institute and Institute for Justice.

Opponent testimony was provided by the American Institute of Architects, Kansas Commission on Peace Officer's Standards and Training, Kansas Medical Society, Kansas State Board of Technical Professions, and State Board of Healing Arts, expressing concern the bill would place an excessive administrative burden on their respective operations that could adversely affect the health, safety, and welfare of the Kansas public by placing the burden of proof on licensing bodies that out-of-state applicants were not qualified for their respective credentials. Written-only opponent testimony was provided by individuals and representatives of the Kansas Board of Examiners in

Optometry, Kansas Optometric Association, and various law enforcement associations.

Neutral testimony was provided by representatives from the Department of Commerce, Kansas State Department of Education, and State Board of Pharmacy who identified various provisions of the bill that would be inconsistent with the agencies' various credentialing frameworks. Written-only neutral testimony was provided by the Kansas Board of Accountancy, Kansas Chiropractic Association, and the Kansas Real Estate Commission.

Prior to recommending a substitute bill, the Senate Committee amended the bill to:

- Clarify the definition of “applicant” as that term could apply to certain law enforcement personnel;
- Define “completed application,” which would exclude time to complete criminal background checks;
- Change the time period for applicants to receive credentials, from 10 days to 15 days for military servicemembers and spouses and from 10 days to 45 days for all other applicants;
- Specify if an applicant is not qualified under Kansas law, then additional conditions and qualifications would need to be met; and
- Require the Director of Legislative Research to conduct certain performance analyses and report the findings to the Governor and certain standing legislative committees.

According to the fiscal note prepared by the Division of the Budget on the bill as introduced, the boards of Accountancy, Barbering, Cosmetology, and Examiners in Fitting and Dispensing of Hearing Instruments; and the

departments of Aging and Disability Services, Education, Health and Environment, and Insurance indicate the legislation would not have a fiscal effect on their respective agencies. The Kansas Dental Board, and the boards of Technical Professions, Mortuary Arts, Examiners in Optometry, and Real Estate Appraisal each indicate the bill would affect their budgets, but the fiscal effects cannot be estimated. The following agencies identify the bill would increase expenditures in FY 2021 by the following estimated amounts.

<b>Agency</b>	<b>Other Funds</b>	<b>FTE Positions</b>
Board of Healing Arts	\$606,695	8.0
Board of Pharmacy	\$111,750	1.5
Real Estate Commission	\$15,000	-
Board of Veterinary Examiners	\$30,000	-
Board of Nursing	\$110,000	2.0
Behavioral Science Regulatory Board	\$86,400	2.0
<b>Total</b>	<b>\$959,845</b>	<b>13.5</b>

Any fiscal effect associated with the bill is not reflected in *The FY 2021 Governor's Budget Report*.