

**Report of the
Subcommittee on Occupational Licensing
to the
Joint Committee on Administrative Rules
and Regulations**

CHAIRPERSON: Representative Ron Highland

OTHER MEMBERS: Senator Oletha Faust-Goudeau and Representative John Carmichael

STUDY TOPIC

The Subcommittee was directed to review occupational licensing.

Occupational Licensing

Conclusions:

The Subcommittee recommends legislative review of the agencies listed in KSA 74-120(c) as exempt from requirements of KSA 74-120(b) to revise existing requirements to list the specific civil and criminal records that could disqualify an applicant from receiving a license, certification, or registration. The Subcommittee further recommends legislative review of the entities included in the definition of "municipality" referenced in KSA 74-120(c).

The Subcommittee recommends the State seek additional opportunities for entering into interstate compacts that would ease qualifying for a license, certification, or registration in Kansas while maintaining standards appropriate for Kansas for qualifications including training, education, and experience.

The Subcommittee urges state agencies to specifically ensure qualified military spouses are able to obtain licensure, certification, or registration in Kansas and the Legislature to monitor those efforts.

The Subcommittee urges agency and legislative review of qualifications and procedures for any license, certification, or registration to ensure these qualifications and procedures do not have the effect of disqualifying applicants for reasons, such as race, that are not *bona fide* qualifications for the occupation or profession.

The Subcommittee recommends legislators review the report of the Council of State Governments Justice Center concerning occupational licensing barriers for justice-involved persons reentering society.

The Subcommittee recommends legislators review the 2018 Arizona Right to Earn a Living Act (SB 1437), which specifies certain rights of individuals to seek review of rules and regulations that burden entry to or participation in an occupation, profession, or trade.

Proposed Legislation: None

BACKGROUND

The Chairperson of the Joint Committee on Administrative Rules and Regulations (JCARR) requested a Subcommittee on Occupational Licensing (Subcommittee) and appointed its members at the JCARR meeting of October 5, 2020. The Subcommittee was asked to look at barriers to occupational licensing including, but not limited to, barriers based on conviction after an applicant has fully completed a sentence.

COMMITTEE ACTIVITIES

The Subcommittee met *via* Zoom on December 17. In preparation for that meeting, documents from the Council of State Governments (CSG) Justice Center, the Kansas Department of Corrections (KDOC), the Mercatus Center at George Mason University, the Kansas State Department of Education (KSDE), and the National Conference of State Legislatures were distributed to members and posted on the JCARR's resource page,

<http://www.kslegresearch.org/KLRD-web/Committees/Committees-JCARR-Resources.html>.
(Additional documents were later added at the request of Subcommittee members.)

Various previously-distributed documents were discussed at the meeting, including a listing of disqualifications to occupational licensing prepared by KDOC and a report of the CSG Justice Center to the Reentry Subcommittee of the Kansas Criminal Justice Reform Commission.

Additional discussion topics included the Kansas Supreme Court's ruling in *Vakas v. Kansas Board of Healing Arts*, 248 Kan. 589, 808 P.2d 1355 (1991); 2020 SB 220, which would have added the Kansas State Board of Education (KSBE) to the list of agencies exempt from certain provisions of KSA 74-120; requirements of the KSDE for teacher certification; the role of interstate compacts in reducing barriers to occupational licensing; ensuring military spouses are able to transfer or obtain license, certification, or registration as needed; and Arizona's Right to Earn a Living Act, enacted in 2018.

Members of the Subcommittee requested information on specific agencies and municipalities subject to provisions of KSA 74-120, whether agencies had revised their qualifications since 2018 amendments to that statute, and members requested that the language of the Arizona Right to Earn a Living Act be provided.

CONCLUSIONS AND RECOMMENDATIONS

The Subcommittee recommends legislative review of the agencies listed in KSA 74-120(c) as exempt from requirements of KSA 74-120(a) and (b) that agencies revise existing requirements to list the specific civil and criminal records that could disqualify an applicant from receiving a license, certification, or registration.

The Subcommittee recommends legislative review of the entities included in the definition of "municipality" referenced in KSA 74-120(c), "any county, township, city, school district or other political or taxing subdivision of the state, or any agency, authority, institution or other instrumentality thereof."

The Subcommittee recommends the State seek additional opportunities for entering into interstate compacts that would ease qualifying for a license, certification, or registration in Kansas while maintaining standards appropriate for Kansas for qualifications including training, education, and experience.

The Subcommittee urges state agencies to specifically ensure qualified military spouses are able to obtain licensure, certification, or registration in Kansas and the Legislature to monitor those efforts.

The Subcommittee urges agency and legislative review of qualifications and procedures for any license, certification, or registration to ensure these qualifications and procedures do not have the effect of disqualifying applicants for reasons, such as race, that are not *bona fide* qualifications for the occupation or profession.

The Subcommittee recommends legislators review the report of the CSG Justice Center to the Kansas Criminal Justice Reform Commission concerning occupational licensing barriers for justice-involved persons reentering society.

The Subcommittee recommends legislators review the 2018 Arizona Right to Earn a Living Act (SB 1437), which specifies certain rights of individuals to seek review of rules and regulations that burden entry to or participation in an occupation, profession, or trade.