



Justice Center
THE COUNCIL OF STATE GOVERNMENTS

Justice Reinvestment in Kansas

Update to the Reentry Subcommittee
September 9, 2020

Presentation Overview

1 Justice Reinvestment in
Kansas

2 Housing

3 Education and
Employment

4 Next Steps



Justice Center

THE COUNCIL OF STATE GOVERNMENTS

We are a national nonprofit, nonpartisan organization that combines the power of a membership association, serving state officials in all three branches of government, with policy and research expertise to develop strategies that increase public safety and strengthen communities.

How We Work

- We bring people together
- We drive the criminal justice field forward with original research
- We build momentum for policy change
- We provide expert assistance

Our Goals

- Break the cycle of incarceration
- Advance health, opportunity, and equity
- Use data to improve safety and justice



What is Justice Reinvestment?

A data-driven approach to improve public safety, reduce corrections and related criminal justice spending, and reinvest savings in strategies that can decrease crime and reduce recidivism.

The Justice Reinvestment Initiative is funded principally by the U.S. Department of Justice's **Bureau of Justice Assistance (BJA)** with additional funding from **The Pew Charitable Trusts**.

Technical assistance for states participating in the Justice Reinvestment Initiative is provided by the **CSG Justice Center** and **Community Resources for Justice's Crime and Justice Institute**.

The Kansas Criminal Justice Reform Commission (KCJRC) has guided the CSG Justice Center analysis.

Based on the KCJRC goals, CSG Justice Center staff have requested data for the Justice Reinvestment Initiative to begin exploring ways to

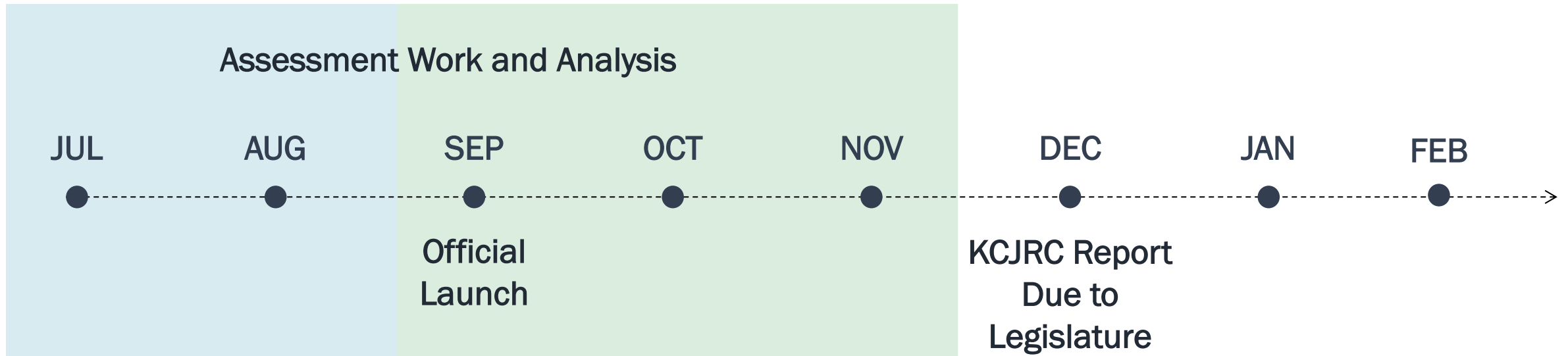
- Prioritize prison for people who pose a threat to public safety and **manage expensive prison population growth/pressure;**
- Increase support for **victims of crime;**
- **Strengthen community supervision and resources** to change behavior and reduce recidivism/revocations; and
- Break the cycle of recidivism by ensuring that criminal justice system practitioners have the resources they need in facilities and in the community to help people succeed, including **access to mental health/substance use treatment, and employment/housing support.**

The Kansas Criminal Justice Reform Commission (KCJRC) has guided the CSG Justice Center analysis.

KCJRC Subcommittees will be able to use the analyses and insights we gather to guide their work as they attempt to

- Understand the scale and nuance of problems;
- Identify recommendations to move closer to desired outcomes;
- Build support and pass policy recommendations; and
- Create implementation plans that include data monitoring for accountability.

The Justice Reinvestment assessment of housing, education, and employment seeks to examine systems, policies, and practices driving challenges in Kansas.



The CSG Justice Center's core Justice Reinvestment team in Kansas



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The CSG Justice Center's behavioral health and housing assessment team in Kansas



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Presentation Goals

Housing

1. Discuss the intersection of reentry, homelessness, and the criminal justice system.
2. Review the CSG Justice Center's housing assessment activities.
3. Discuss opportunities for addressing key housing challenges for people being diverted from or reentering the community from the justice system.

Homelessness is correlated with criminal justice system involvement.

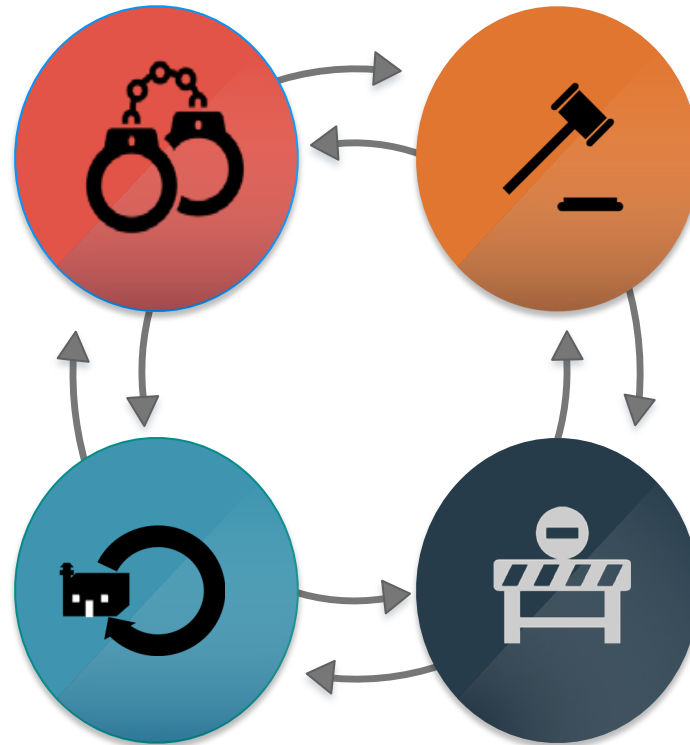
- Of the **11 million** people admitted to jail annually, about **15 percent** report experiencing homelessness in the year prior to arrest.
- Since 2011, the number of people experiencing homelessness has fallen, while the **number of people entering shelters from correctional institutions has risen.**
- Rates of homelessness are **higher** among people who have **mental illnesses and co-occurring substance use disorders.**
- People in jail with behavioral health symptoms are **1.5 times more likely to experience homelessness** than other incarcerated people.

Greg A. Greenberg and Robert A. Rosenheck, "Jail Incarceration, Homelessness, and Mental Health: A National Study" (Psychiatry Services, 2008), ps.psychiatryonline.org/doi/full/10.1176/ps.2008.59.2.170. , "Jail Incarceration, Homelessness, and Mental Health: A National Study," Psychiatry Services 59, No. 2 (2008): <https://ps.psychiatryonline.org/doi/pdfplus/10.1176/ps.2008.59.2.170>.
Office of Planning and Development, "The 2017 Annual Homeless Assessment Report (AHAR) to Congress: Part 2: Estimates of Homelessness in the United States," U.S. Department of Housing and Urban Development, October 2018, <https://www.hudexchange.info/resources/documents/2017-AHAR-Part-2.pdf>; CSG Justice Center staff analysis of HUD AHAR data, 2019.

There is a cyclical relationship between housing instability and criminal justice involvement.

1. Local regulations, laws, and codes contribute to criminalizing behaviors associated with experiencing homelessness.

4. Lack of stable housing upon exit from jail contributes to supervision failure, increases risk of recidivism.



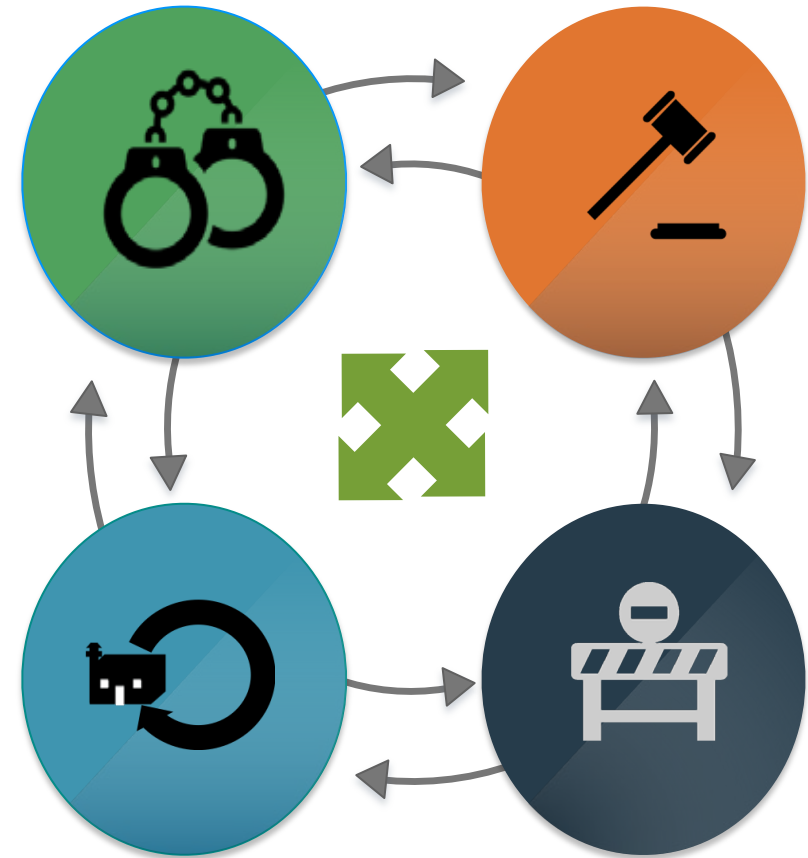
2. Lack of stable housing is viewed as a risk factor and reduces courts' willingness to divert people from jail or prison.

3. Criminal history serves as a barrier to housing, contributing to housing instability and homelessness.

There is a cyclical relationship between housing instability and criminal justice involvement.

At the middle of it all:

There is a lack of understanding of true scope of the problem, collaborative strategies, and investment in effective intervention from the homeless and criminal justice systems.



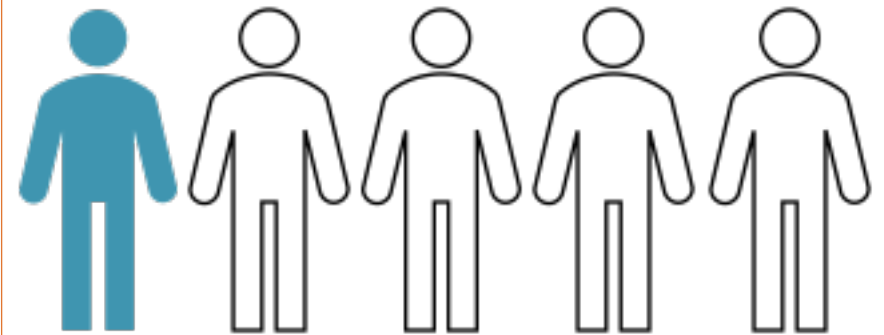
Since July 2020, CSG Justice Center staff have connected with 29 Kansas stakeholders across 15 organizations to discuss housing needs and challenges.

- Reentry Subcommittee of the Kansas Criminal Justice Reform Commission
- Mental Health and Substance Abuse Subcommittee
- Kansas Department of Corrections' (KDOC) Reentry and Housing Specialists
- Kansas Department of Aging and Disability Services (KDADS)
- Kansas Housing Resources Corporation (KHRC) – to discuss statewide challenges
- Kansas Statewide Homeless Coalition (KSHC) – to discuss statewide challenges
- Topeka Housing Authority
- Stakeholders in Douglas, Ellis, and Sedgwick Counties

Since July 2020, CSG Justice Center staff have connected with 29 Kansas stakeholders across 15 organizations to discuss housing needs and challenges.

- Southeast Kansas Community Action Program
- Mid-Kansas Community Action Program
- Northeast Kansas Community Action Program
- Central Kansas Mental Health Center
- Horizons Mental Health Center
- Johnson County Mental Health Center
- Bert Nash Community Mental Health Center

20 percent of people leaving
KDOC facilities each year have no
stable housing.



KDOC has created multiple programs to help people find housing as they reenter the community, yet these programs are unable to meet the high demand for housing.

- Due to the availability of housing supports, behavioral health resources, and public assistance services across the state, and regardless of the county of conviction, KDOC often releases people without a residence on file to **5 counties** in the central and eastern part of the state—**Douglas, Johnson Sedgwick, Shawnee, and Wyandotte**. These areas become oversaturated with individuals needing housing support and resources struggle to meet the demand.
- Currently, KDOC offers the Kansas Supportive Housing for Offenders Program (KSHOP), which finds and secures housing and provides additional wraparound services for up to **18 people** reentering the community in **Topeka, Olathe, Kansas City and Wichita** at any given time. The number varies based on client behaviors and needs.

KDOC has created multiple programs to help people find housing as they reenter the community, yet these programs are unable to meet the high demand for housing.

- There are about **40 master release housing units**—houses and/or apartments leased by KDOC to house people needing a transition period—primarily located in the central and eastern parts of the state.
- There are **4 housing specialists** in the central and eastern part of the state—**Kansas City, Wichita, Olathe, and Topeka**—and they are not able to support everyone with housing insecurity reentering the community.
- KDOC is unable to meet the needs of clients that could return to the western parts of the state.

Identification, cross-system coordination, and eligibility criteria are key housing challenges for people being diverted from or reentering the community from the justice system.

Issues

- There is no standard assessment process in jails or prisons to identify people who have housing insecurity or who are at risk of homelessness.
- There are no formal agreements between KHRC, KDOC, KDADS, and other key agencies on communication and coordination efforts.

Opportunities

- Develop policy requiring a consistent method of screening in jails and prisons to track people experiencing housing insecurity or who are at risk of homelessness.
- Develop policy requiring ongoing collaboration among state agencies to address mental illness, substance use disorders, and housing for people in the justice system.

Identification, cross-system coordination, and eligibility criteria are key housing challenges for people being diverted from or reentering the community from the justice system.

Issue

- There is limited housing stock across the state, particularly in western Kansas. It is hard for people to find housing even without a criminal record.

Opportunity

- Work with the Rural Prosperity Task Force and the Housing and Homeless Subcommittees to assist in identifying issues and addressing challenges for people in the justice system in the state.

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The CSG Justice Center's education and employment assessment team in Kansas



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Presentation Goals

Education and Employment

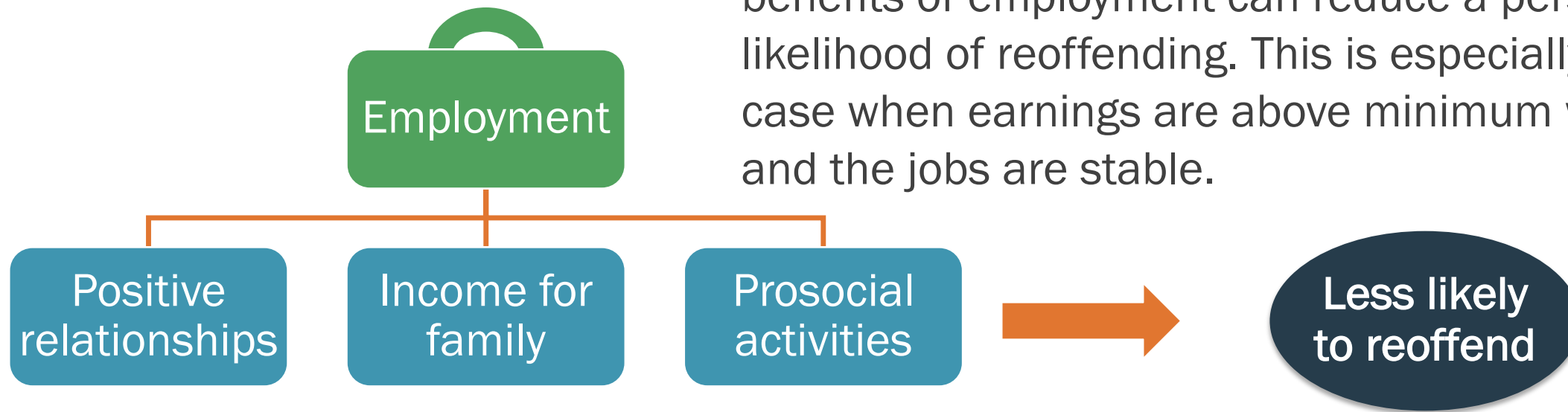
1. Review CSG Justice Center's education and employment assessment activities.
2. Discuss the intersection of reentry, education, and employment.
3. Discuss opportunities for mitigating structural barriers to career pathways.

Since July 2020, CSG Justice Center staff have connected with 20 Kansas stakeholders across 12 organizations to discuss education and employment needs and challenges.

- Reentry Subcommittee of the Kansas Criminal Justice Reform Commission
- KDOC Education and Reentry Departments
- Kansas Governor's Office
- Kansas Department of Children and Families
- Kansas Department of Commerce
- Kansas Board of Regents
- Kansas Consortium on Correctional Higher Education (KCCHE)
- Kansas Board of Cosmetology
- Butler Community College
- Workforce Alliance (Wichita Workforce Board)
- WorkforceONE Elmore Center
- Zephyr Products Inc.

Employment is an important factor in a person's successful reentry.

Employment not only creates income for families but also creates stronger positive relationships, opportunities to engage in prosocial activities and fewer risky activities. It can also improve mental health. All these benefits of employment can reduce a person's likelihood of reoffending. This is especially the case when earnings are above minimum wage, and the jobs are stable.



Graffam et al., "Variables affecting successful reintegration as perceived by offenders and professionals," *Journal of Offender Rehabilitation* 40, no. 1-2 (2004): 147-171; Christy Visher, Sara Debus, and Jennifer Yahner, *Employment After Prison: A Longitudinal Study of Releases in Three States* (Washington, DC: Urban Institute, Justice Policy Center, 2008); Robert J. Sampson and John H. Laub, *Crime in the Making: Pathways and Turning Points Through Life* (Cambridge, MA: Harvard University Press, 1995).

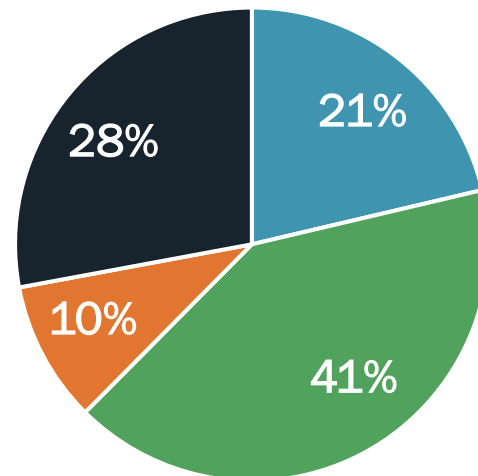
An estimated 46 percent of people on parole in 2019 were unemployed, in contrast to a statewide unemployment rate of 3.2 percent at the time.

As of **July 2020**, the statewide unemployment rate was **7.2 percent**.

In 2019, nearly 80 percent of high-demand jobs in Kansas required a high school diploma or a higher level of education.

High-Demand Occupations by Education Requirement

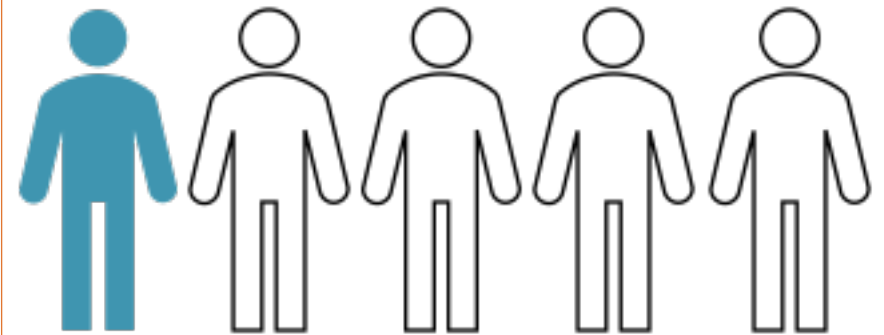
- Less than a HSD
- HSD or equivalent
- AA, Post Secondary, Some College
- BS/BA or higher



Nearly **3,500 people** in Kansas prisons **do not have** a high school diploma or GED.

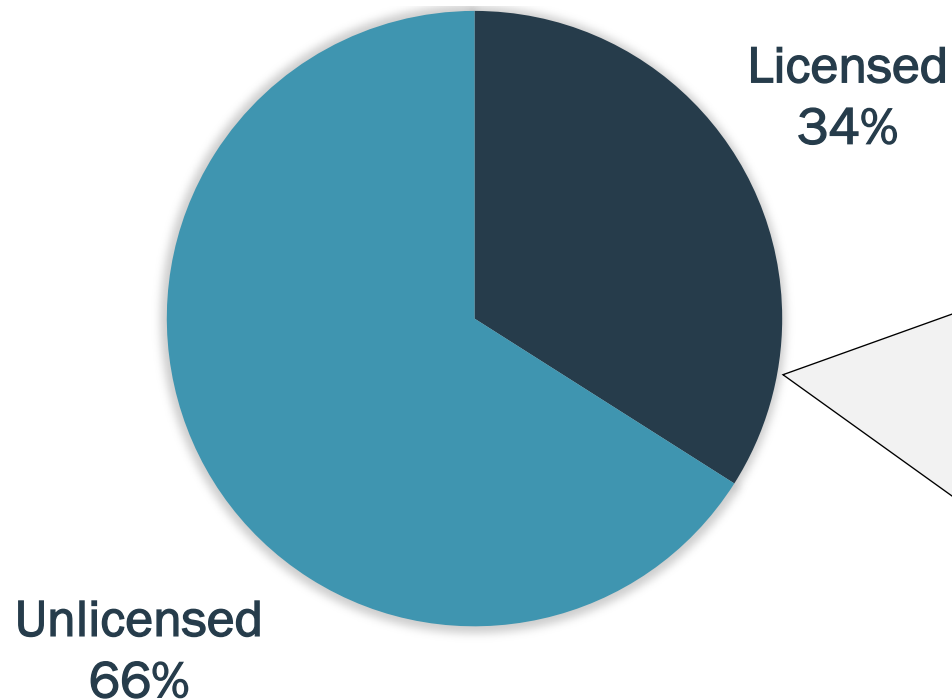
KDOC is able to provide education and training services to only about **700 people each year.**

1 in 5 Kansas workers are
employed in licensed or
certified jobs.



Licensure is required for a significant portion of the Kansas workforce across a range of jobs.

A 2017 survey showed **34%** of 102 **low- to middle-income jobs** in Kansas require licensure



Athletic trainer	Bartender	Drywall installation contractor
Veterinary technician	Vegetation pesticide handler	Makeup Artist
Barber	Pest control applicator	Milk Sampler
Cosmetologist	Funeral attendant	Pharmacy technician
Skin care specialist	Landscape contractor	Wildlife control operator
Manicurist	Earth driller	(and many more...)
EMT	Psychiatric technician	
Mobile home installer	Fire alarm installer	
Bus driver (general transit)		
Animal breeder		

Most in-demand jobs in Kansas are included in the health care sector.



Nationwide, **25 percent of licensed workers** are employed in the health care industry.

Jobs at all levels of the health care sector are among the **most in demand** in Kansas and offer relatively high wages and significant opportunity for upward mobility.

Ryan Nunn, "Improving health care through occupational licensing reform," Brookings, August 28, 2018, <https://www.brookings.edu/opinions/improving-health-care-through-occupational-licensing-reform>.

"Kansas Industry and Occupational Outlook, 2012–2022," <https://klic.dol.ks.gov/admin/gsipub/htmlarea/uploads/Projections%202022%20Statewide%20Dashboard.pdf>.

Access to any Kansas license can be restricted by a felony conviction, and specific licenses are subject to additional conviction-based restrictions.

Types of Legal Barriers Affecting Licensure

MANDATORY	DISCRETIONARY
<ul style="list-style-type: none">• MUST be imposed if someone has a disqualifying conviction• Kansas law imposes around 100 mandatory licensing barriers targeted at specific types of licenses.	<ul style="list-style-type: none">• MAY be imposed if someone has a disqualifying conviction, subject to the discretion of the licensing entity.• Kansas law authorizes the imposition of around 150 discretionary licensing barriers targeted at specific licenses.• Kansas statute grants all licensing bodies the authority to disqualify applicants with felony convictions.

Access to any Kansas license can be restricted by a felony conviction, and specific licenses are subject to additional conviction-based restrictions.

Types of Legal Barriers Affecting Licensure

DISCRETIONARY

- Kansas statute grants **all licensing bodies** the authority to disqualify applicants with **felony convictions**.

General authority to deny licensure due to a felony conviction

“Notwithstanding any other provision of law, any person, board, commission or similar body that determines the qualifications of individuals for licensure, certification or registration **may consider any felony conviction of the applicant, but such a conviction shall not operate as a bar** to licensure, certification or registration.”

K.S.A. § 74-120 (a) (enacted 1972).

In 2018, amendments to Kansas law started to bring the state into alignment with national best practices

K.S.A. § 74-120	
Prior to 2018	2018 amendments (L. 2018, ch. 86)
<p>Practically unlimited discretion to deny applicants based upon felony convictions.</p> <p>No guidance for licensing bodies or applicants about how convictions are to be evaluated or factored into decision-making.</p>	<p>Preexisting felony disqualification provision is untouched but is limited by new provisions.</p> <ul style="list-style-type: none">Licensing bodies must now list the “specific criminal records” that may disqualify an applicant.Listed offenses must be “directly related to protecting the general welfare and the duties and responsibilities for such entities.”Non-specific terms may not be used (e.g., “moral turpitude,” “good character”). <p>An applicant cannot be disqualified based on a conviction after five conviction-free years. This provision does not apply to disqualifications based on felonies or Class A misdemeanors.</p> <p>Grant prospective applicants the right to petition licensing bodies for a non-binding written advisory opinion on whether their criminal history will be disqualifying. The opinion may be sought at any time, even prior to a person’s pursuit of educational or other general qualifications for licensure.</p>

While the 2018 law represents an important first step to maximize access to licensure and minimize risks to public safety, it falls short in significant ways.

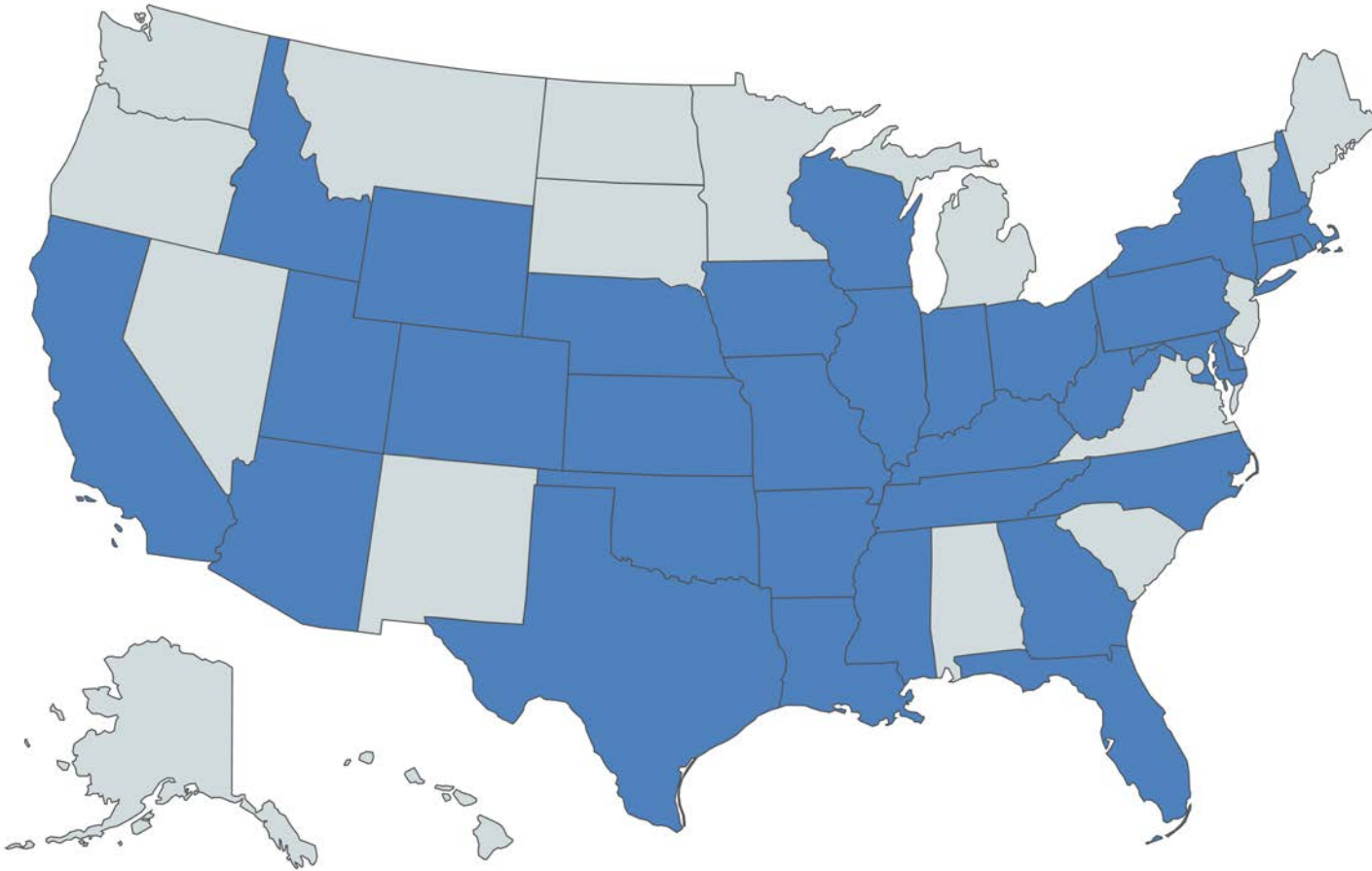
None of the new provisions apply to the following entities or professions:

- Any profession that has an educational requirement for licensure that requires a degree beyond a bachelor's degree
- Any municipality
- Kansas Commission on Peace Officers' Standards and Training
- Kansas Highway Patrol
- Board of Accountancy
- Behavioral Sciences Regulatory Board
- State Board of Healing Arts
- State Board of Pharmacy
- Emergency Medical Services Board
- Board of Nursing
- Kansas Real Estate Commission
- Office of The Attorney General
- Department Of Insurance

Despite occupational licensing reform in 2018, Kansas **still imposes a broad range of significant legal and regulatory barriers** that limit or prohibit people convicted of certain crimes from accessing occupational, professional, and business licensing opportunities.

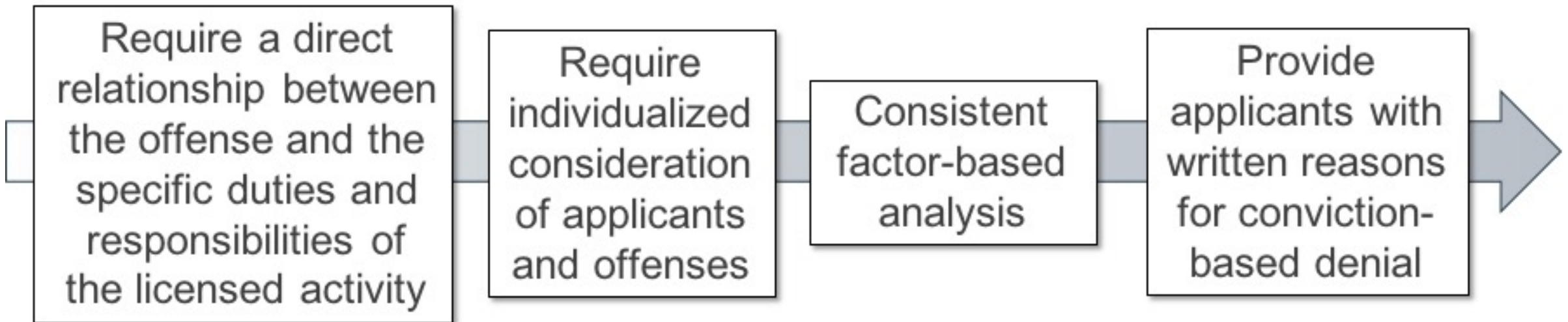
These barriers are often without regard for the actual risk the person getting the license may or may not pose to the public.

Since 2015, 33 states have enacted major licensing reforms to ensure that barriers to licensing are no broader than necessary to protect legitimate public safety interests.



To the degree possible, barriers should be implemented in such a way that minimizes the potential disqualification of workers whose participation in a licensed activity would pose no increased risk to the public.

Kansas can adapt and adopt standards to further promote fair, consistent, and transparent application of occupational licensing barriers.



Require a direct relationship between the offense and the specific duties and responsibilities of the licensed activity.

- **Kansas does not currently require** that the specific duties and responsibilities of the license be considered, only that listed statutory offenses be “directly related to protecting the general welfare and the duties and responsibilities of the [licensing bodies]” (*not* the licensed activity itself).
- **Over 20 states** now require a direct (or “substantial”) relationship between the offense and the duties and responsibilities of the licensed activity.
- In 2019, **Oklahoma** enacted legislation that, like Kansas, requires licensing bodies to list potentially disqualifying convictions. Unlike Kansas, however, the Oklahoma law requires that “any disqualifying offense shall substantially **relate to the duties and responsibilities** of the occupation and pose a reasonable threat to public safety.” 59 Okl. St. § 4000.1(C).

Require individualized consideration of applicants and offenses.

28 states now require individualized consideration.

- Iowa's recently enacted law is among the most robust, generally prohibiting denial unless an “unreasonable risk to public safety exists because the offense directly relates to the duties and responsibilities of the profession.”
- Iowa Code § 272C.15: an offense “directly relates” if either “the actions taken in furtherance of an offense are actions customarily performed within the scope of practice of a licensed profession,” or “the circumstances under which offense was committed are circumstances customary to a licensed profession.”
- In addition to individualized consideration of the offense, Iowa, like many states, also requires individualized consideration of applicants.
- The new Iowa law does not just apply to discretionary barriers, but also purports to override most mandatory barriers.

Create a factor-based statutory framework for consistently assessing applicants and their offenses.

Factors generally include time since conviction; the nature, severity, and circumstances of the offense; age at the time crime was committed; and evidence of rehabilitation. **Iowa's** new law is relatively detailed in describing the factors that must be assessed:

- a. The **nature and seriousness of the crime** for which the applicant was convicted
- b. The **amount of time that has passed** since the commission of the crime. There is a **rebuttable presumption that an applicant is rehabilitated** and an appropriate candidate for licensure five years after the date of the applicant's release from incarceration, provided that the applicant was not convicted of [certain violent and sexual offenses and has not been subsequently convicted.]

Create a factor-based statutory framework for consistently assessing applicants and their offenses

- c. The **circumstances** relative to the offense, including any **aggravating and mitigating circumstances or social conditions** surrounding the commission of the offense
- d. The **age** of the applicant at the time the offense was committed
- e. Any **treatment** undertaken by the applicant
- f. Any **letters of reference** submitted on behalf of the applicant
- g. All other relevant **evidence of rehabilitation** and present fitness of the applicant

Provide applicants with written reasons for conviction-based denial.

- 12 states require written notice of the specific reasons for a conviction-based denial.
- The new Iowa law provides, “A determination ... that an applicant’s criminal conviction is specifically listed as a disqualifying conviction and the offense directly relates to the duties and responsibilities of the applicant’s profession must be documented in written findings for [each of the statutorily prescribed factors for individualized consideration] sufficient for a review by a court.”
- As the Iowa law contemplates, written notice not only encourages consistent application of the law, but also creates a basis for appeal by applicants unjustly denied.

Make pre-application eligibility determinations binding unless there are new convictions or pending charges, or additional convictions come to light.

- Under current law, **pre-application determinations are entirely non-binding.**
- **This undermines the purpose** of those determinations, which is to ensure that prospective licensees can invest in pursuing credentials without uncertainty about whether their criminal history will ultimately be disqualifying.
- Among the 17 states that have created pre-application determinations, the vast majority make them binding except where new convictions or charges arise or come to light.

Eliminate or narrowly tailor exemptions from the requirements of fair chance licensing laws.

- **11 licensing bodies are exempt** from the Kansas law, as are **all municipalities,** and **all professions requiring more than a bachelor's degree.**
- Properly implemented fair chance licensing frameworks help ensure that qualified workers can obtain licensure and minimize legitimate risks to public safety.
- Limited exceptions are often appropriate and not uncommon in the laws of other states, but broad unreasoned exceptions to these frameworks undermine the ability of states to achieve the dual goals of expanding opportunity while increasing public safety.

Directly address mandatory licensing barriers.

- Mandatory barriers are **inherently inflexible** and far more likely than discretionary ones to result in the **disqualification of workers who pose no safety risks**.
- Mandatory licensing barriers should be evaluated to ensure that the offenses that trigger them are limited to those that will *always* suggest significant public safety risks in the context of licensed activities.
- Many states, including Iowa, have taken a broader and more efficient approach by **expanding their fair licensing laws to generally override the mandatory nature** of barriers that would otherwise serve as absolute bars to licensure, essentially converting them to discretionary barriers.

Implementing licensing reforms that align with national best practices can increase fairness, consistency, and opportunity and minimize risk with little, if any, additional costs.

- Most Kansas licensing bodies are **already required to review the criminal history** of applicants, either at the time of application or subject to a pre-application eligibility determination.
- Clearly defining the scope and processes for considering applicants with convictions provides licensing bodies with a useful **framework to guide the work they are already doing**. Such reforms provide licensing bodies with added **assurance that their decision-making comports with the authority granted** to them under the law and **unburden them** from much of the responsibility of “wrestling in the dark” with public safety considerations that are often far outside of their areas of expertise.

Key Takeaways

1. Licensure is required for **a significant portion of the Kansas workforce** in jobs covering a broad range of income and education levels.
2. In addition to the nearly **300 legal barriers** to licensure faced by workers with certain convictions, Kansas law gives **all** licensing entities broad discretion to exclude workers with felonies.
3. Licensing bodies are unclear about how they should apply the 2018 law: ***How do we determine whether an offense is “directly related to protecting the general welfare and the duties and responsibilities [of the body]?” How do we decide whether someone with a potentially disqualifying listed offense should ultimately be denied?***

Key Takeaways

4. Without clear guidance, licensing restrictions are likely to **exclude qualified low/no-risk workers and be inconsistently imposed** within and among agencies and boards.
5. Legislatively, **much more can be done** to support the goals that the 2018 amendments sought to achieve. Further **implementation of national best practices** can greatly expand licensing opportunities while minimizing risks to public safety at **little to no increased cost**.

Housing Assessment Next Steps

CSG Justice Center staff may connect with the following stakeholders:

- Mirror Inc.
- Additional Community Mental Health Centers
- KDADS substance use project staff
- Interim Housing Projects (IH) point of contact
- Projects for Assistance in Transition from Homelessness (PATH) point of contact
- Supported Housing Funds (SHF) point of contact
- Homeless and emergency shelters (urban and rural)
- USDA Rural Development Kansas
- Permanent Supportive Housing providers (urban and rural)
- Transitional Housing providers (urban and rural)

Education and Employment Assessment Next Steps

CSG Justice Center staff are planning to connect with the following stakeholders to assess opportunities to mitigate structural barriers to career pathways for people with criminal records and understand Kansas's investment in workforce programming for the reentry population.

- Additional Community Colleges
- Additional Workforce Boards
- Education and employment focused reentry providers in the community
- Reentry navigators of job specialists
- People in the justice system
- Community supervision officers in areas with high levels of people on supervision
- Kansas Department of Labor
- A few licensing boards (including Nursing and Technical Professions)

Education/Employment and Housing Assessment Next Steps

Final administrative and legislative recommendations will be provided to respective subcommittees and the full Kansas Criminal Justice Reform Commission in **October 2020**.

Thank You!

Join our distribution list to receive updates and announcements:

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