

SESSION OF 2024

**SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2484**

As Amended by House Committee on Health  
and Human Services

**Brief\***

HB 2484, as amended, would establish the Social Work Licensure Compact (Compact) to facilitate interstate practice of regulated social workers. The bill would also amend law to add the background check procedure for the Social Work Licensure Act and add a fee relating to the multistate licenses under the Compact.

The Compact's uniform provisions are detailed below.

***Purpose (Section 1)***

The purpose of the Compact would be to facilitate interstate practice of regulated social workers with the goal of improving public access to competent social work services. The Compact would preserve the regulatory authority of states to protect public health and safety through the current system of state licensure.

The Compact's objectives would include:

- Increasing public access to social work services;
- Reducing overly burdensome and duplicative requirements associated with holding multiple licenses;

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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>

- Enhancing the member states' ability to protect the public's health and safety;
- Encouraging the cooperation of member states in regulating multistate practice;
- Promoting mobility and addressing workforce shortages by eliminating the necessity for licenses in multiple states through the mutual recognition of other member state licenses;
- Supporting military families;
- Facilitating the exchange of licensure and disciplinary information among member states;
- Authorizing all member states to hold a regulated social worker accountable for abiding by a member state's laws, regulations, and applicable professional standards in the member state where the client is located at the time care is rendered; and
- Allowing for the use of telehealth to facilitate increased access to regulated social work services.

***Definitions (Section 2)***

The Compact would define various terms used throughout the Compact, including:

- “Compact Commission” (Commission) would mean the government agency whose membership consists of all states that have enacted the Compact, known as the Social Work Licensure Compact Commission, and that operates as an instrumentality of the member states;
- “Multistate authorization to practice” would mean a legally authorized privilege to practice, which is

equivalent to a license, associated with a multistate license permitting the practice of social work in a remote state;

- “Multistate license” would mean a license to practice as a regulated social worker issued by a home state licensing authority that authorizes the regulated social worker to practice in all member states under multistate authorization to practice;
- “Regulated social worker” would mean any clinical, master’s or bachelor’s social worker licensed by a member state regardless of the title used by that member state; and
- “Social Work” or “social work services” would mean the application of social work theory, knowledge, methods, and ethics and the professional use of self to restore or enhance social, psychosocial, or biopsychosocial functioning of individuals, couples, families, groups, organizations, and communities through the care and services provided by a regulated social worker as set forth in the member state’s statutes and regulations in the state where the services are being provided.

### ***State Participation in the Compact (Section 3)***

Participation in the Compact would require a state to currently:

- License and regulate the practice of social work at either the clinical, master’s, or bachelor’s category;
- Require applicants for licensure to graduate from a program that is:
  - Operated by a college or university recognized by the licensing authority; or

- Accredited, or in candidacy by an institution that subsequently becomes accredited, by either the Council for Higher Education Accreditation, or its successor; or the United States Department of Education; and
- Corresponds to the licensure sought as required by the Compact;
- Require applicants for clinical licensure to complete a period of supervised practice; and
- Have a mechanism in place for receiving, investigating, and adjudicating complaints about licensees.

To maintain membership, member states participating in the Compact would be required to:

- Require applicants for a multistate license pass a qualifying national exam for the corresponding category of multistate license as required by the Compact;
- Participate fully in the Commission's data system, including using the Commission's unique identifier;
- Notify the Commission of any adverse action or the availability of investigative information regarding a licensee;
- Implement procedures for considering the criminal history records of applicants for a multistate license, including the submission of fingerprints or other biometric-based information by applicants for the purpose of obtaining an applicant's criminal history record information from the Federal Bureau of Investigation (FBI) and the agency responsible for retaining that state's criminal records;
- Comply with the rules of the Commission;

- Require an applicant to obtain or retain a license in the home state and meet the home state's qualifications for licensure or renewal of licensure as well as all other applicable state laws;
- Authorize a licensee holding a multistate license in any member state to practice in accordance with the terms of the Compact and rules of the Commission; and
- Designate a delegate to participate in the Commission meetings.

The Compact would require each state to designate the categories of social work licensure that are eligible for issuance of a multistate license for applicants in that member state. When a member state does not meet the requirements for participation in the Compact at any particular category of social work licensure, such member state may choose, but is not obligated to, issue a multistate license to applicants that otherwise meet the requirements of the Compact for issuance of a multistate license in such category or categories of licensure.

The Compact would provide for the state to charge a fee for granting the privilege to practice.

#### ***Social Worker Participation in the Compact (Section 4)***

##### *Any Multistate License*

An applicant for any multistate license under the Compact's terms would be required to meet the following requirements:

- Hold or be eligible for an active, unencumbered license in the home state;

- Pay any applicable fees, including any state fee, for the multistate license;
- Submit, in connection with an application for a multistate license, fingerprints or other biometric data for the purpose of obtaining criminal history record information from the FBI and the agency responsible for retaining that state's criminal records;
- Notify the home state of any adverse action, encumbrance, or restriction on any professional license taken by any member state or nonmember state within 30 days after the date the action is taken;
- Meet any continuing competence requirements established by the home state; and
- Abide by the laws, regulations, and applicable standards in the member state where the client is located at the time care is rendered.

#### *Clinical Multistate License*

An applicant for a clinical-category multistate license under the Compact's terms would be required to meet the following requirements:

- Fulfill a competency requirement by one of the following:
  - Passage of a clinical-category qualifying national exam;
  - Licensure of the applicant in their home state at the clinical category, beginning prior to the requirement of a qualifying national exam by the home state and accompanied by a period of continuous social work licensure; or

- The substantial equivalency of the competency requirements set by Commission rule;
- Attainment of at least a master's degree in social work from a program that meets the requirements of the Compact; and
- Fulfill a practice requirement, by demonstrating completion of:
  - A period of postgraduate supervised clinical practice equal to a minimum of 3,000 hours;
  - A minimum of two years of full-time postgraduate supervised clinical practice; or
  - The substantial equivalency of the foregoing practice requirements as determined by the Commission.

#### *Master's Multistate License*

An applicant for a master's-category multistate license under the Compact's terms would be required to meet the following requirements:

- Fulfill a competency requirement by completing one of the following:
  - Passage of a master's-category qualifying national exam;
  - Licensure of the applicant in their home state at the master's category, beginning prior to the requirement of a qualifying national exam by the home state at the master's category and accompanied by a continuous period of social work licensure thereafter; or
  - The substantial equivalency of the competency requirements set by the Commission; and

- Attainment of at least a master's degree in social work from a program that meets the requirements of the Compact.

#### *Bachelor's Multistate License*

An applicant for a bachelor's-category multistate license under the Compact's terms would be required to meet the following requirements:

- Fulfill a competency requirement by completing one of the following:
  - Passage of a bachelor's-category qualifying national exam;
  - Licensure of the applicant in their home state at the bachelor's category, beginning prior to the requirement of a qualifying national exam by the home state and accompanied by a period of continuous social work licensure thereafter, or
  - Substantial equivalency of the competency requirements set by the Commission; and
- Attainment of at least a bachelor's degree in social work from a program that meets the requirements of the Compact.

#### *License Renewal*

Under the Compact, a licensee providing social work under the privilege to practice would be required to adhere to the license renewal requirements of the home state as well as the Compact's requirements for the license.

#### *Adherence to Remote State Laws and Regulations*

Under the Compact, a licensee providing social work under the privilege to practice would be required to adhere to

the laws and regulations of the remote state and be subject to that state's regulatory authority. In accordance with due process and the state's laws, the remote state would be able to remove a licensee's privilege to practice in the remote state for a specific period of time, impose fines, or take other necessary actions to protect the health and safety of its citizens.

#### *Multistate License Encumbrance*

If a licensee's multistate license is encumbered, the Compact would require the licensee to lose their privilege to practice in any remote state until the multistate license is no longer encumbered. If a licensee's multistate license is encumbered in a remote state, the Compact states the licensee's authorization to practice could be deactivated in the remote state until the multistate license is no longer encumbered.

#### ***Issuance of a Multistate License (Section 5)***

The Compact would provide for the home state to determine the applicant's eligibility for a multistate license. If the home state determines the applicant is eligible for a multistate license, the home state would issue the multistate license and designate the category of license (bachelor's, master's, or clinical).

The Compact would require member states to recognize the license to practice social work in their state at the category designated on the license by home state.

#### ***Authority of Interstate Compact Commission and Member State Licensing Authorities (Section 6)***

The Compact would clarify neither the Compact nor any rule of the Commission related to the Compact would be able to:

- Be construed to limit, restrict, or in any way reduce the ability of a member state to enact and enforce laws, regulations, or other rules related to the practice of social work in that state, where those laws, regulations, or other rules are not inconsistent with the provisions of this Compact;
- Affect the requirements established by a member state for the issuance of a single-state license;
- Be construed to limit, restrict, or in any way reduce the ability of a member state to take adverse action against a licensee's single-state license to practice social work in that state;
- Be construed to limit, restrict, or in any way reduce the ability of a remote state to take adverse action against a licensee's multistate authorization to practice in that state; or
- Be construed to limit, restrict, or in any way reduce the ability of a licensee's home state to take adverse action against a licensee's multistate license based upon information provided by a remote state.

***Reissuance of a Multistate License by a New Home State  
(Section 7)***

The Compact would provide for a regulated social worker to hold a home state license in only one member state at a time. If the licensee changes primary state of residence by moving between two member states, the licensee would be required to file an application for obtaining a new home state license based on a privilege to practice, pay all applicable fees, and notify the current home state in accordance with applicable rules adopted by the Commission.

Upon receiving an application for a new home state license, the new home state would be required to verify that the current multistate license is active, unencumbered, and is eligible for reissuance under the terms of the Compact and rules of the Commission. The multistate license issued by the former home state would be deactivated and all member states would be notified.

The Compact would require the new home state, prior to reissuing, to conduct the procedures regarding consideration of the criminal history records for the licensee, which may include the submission of fingerprints or other biometric-based information by the applicant.

The Compact would permit the new home state to require completion of jurisprudence requirements if they are required for initial licensure in the new home state.

If the licensee cannot meet the criteria of reissuance of a multistate license, the new home state would be allowed to apply its requirements for issuing a new single-state license.

The Compact would also provide that for a regulated social worker who changes primary state of residence by moving from a member state to a non-member state or from a non-member state to a member state, the state requirements would apply issuance of a single-state license in the new state.

The Compact would not interfere with a licensee's ability to hold a single-state license in multiple states. For the purposes of the Compact, a licensee could only hold one home state license and only one multistate license.

The Compact would not affect the requirements established by a member state for the issuance of a single-state license.

### ***Military Families (Section 8)***

The Compact would require an active duty military member or their spouse to designate a home state where the individual has a multistate license. The individual would be able to retain the home state designation during the period the service member is on active duty.

### ***Adverse Actions (Section 9)***

The Compact would provide a remote state the authority to take adverse action against a regulated social worker's multistate authorization to practice within that member state and to issue subpoenas for hearings and investigations as enforced by a court of competent jurisdiction and payment of witness-related expenses as set forth in the Compact.

The Compact would allow only the home state to take adverse action against a regulated social worker's multistate license issued by the home state.

For purposes of taking adverse action, the Compact would require the home state to give the same priority and effect to reported conduct received from a member state as it would if the conduct had occurred within the home state. The home state would apply its own state laws to determine appropriate action.

The Compact would require the home state to complete any pending investigations of a regulated social worker who changes primary state of residence during the course of the investigations. The home state would have the authority to take appropriate action and promptly report the conclusions of the investigation to the administrator of the data system. The administrator of the data system would be required to promptly notify the home state of any adverse actions.

The Compact would allow a member state, if permitted by state law, to recover the costs of investigations and

dispositions of cases resulting from any adverse action taken from the affected regulated social worker. A member state would be able to take adverse action based on the factual findings of the remote state following its own procedures for taking adverse action.

Under the Compact, member states would be allowed to participate with other member states in joint investigations of licensees. Member states would be required to share any investigative, litigation, or compliance materials related to any joint or individual investigation initiated under the Compact.

If adverse action is taken by the home state against the multistate license of a licensee, the regulated social worker's multistate authorization to practice in all other member states would be deactivated until all encumbrances have been removed from the multistate license. All home state disciplinary orders that impose adverse action against the license of a regulated social worker would be required to include a statement that the regulated social worker's authorization to practice is deactivated in all member states while awaiting settlement of the order.

If a member state takes adverse action, it would be required to promptly notify the administrator of the data system, who would be required to promptly notify the home state of any adverse actions by remote states.

Nothing in the Compact would override a member state's decision that participation in an alternative program may be used in lieu of adverse action.

Nothing in the Compact would authorize a member state to demand the issuance of subpoenas for witnesses or production of evidence from another member state for lawful actions within that member state.

Nothing in the Compact would authorize a member state to impose disciplinary action against a regulated social

worker who holds a multistate authorization to practice for lawful actions within another member state.

***Establishment of Social Work Licensure Compact Commission (Section 10)***

The Compact would provide for the creation of a joint government agency to be formally identified as the Social Work Licensure Compact Commission (Commission). The Commission would comprise all states that have adopted the Compact. The Commission will come into effect after seven states have adopted the Compact. [Note: As of February 12, 2024, Missouri and South Dakota have enacted the Compact. Legislation is pending in 26 states, including Kansas.]

***Membership, Voting, and Meetings***

The Compact would require each member state to have a limit of one delegate selected by the member state's licensing board. The delegate would be either a current member of the licensing board at the time of appointment, who is a regulated social worker or public member of the state licensing authority, or an administrator of the licensing board or their designee.

The Compact would require the Commission to establish by rule a term of office. The Commission could also establish term limits for delegates. Any delegate could be recommended to be removed or suspended from office by the Commission. The member state licensing board would be required to fill any vacancy occurring on the Commission within 60 days.

Each delegate would be entitled to one vote with regard to all matters before the Commission requiring a vote. Delegates would be required to vote in person or other means as provided in the bylaws, which could include telephone, videoconference, or other means of communication.

The Compact would require the Commission to meet at least once during each calendar year; additional meetings would be held as set forth in the bylaws. The Commission would be able to meet by telecommunication, videoconference, or other similar electronic means.

#### *Powers of the Commission*

The Compact would provide the following powers for the Commission:

- Establish the fiscal year of the Commission;
- Establish a code of conduct and conflict of interest policies;
- Establish and amend rules and bylaws;
- Maintain its financial records in accordance with the bylaws;
- Meet and take actions consistent with the provisions of the Compact, the Commission's rules, and bylaws;
- Initiate and conclude legal proceedings or actions in the name of the Commission, provided that the standing of any state licensing board to sue or be sued under applicable law would not be affected;
- Maintain and certify records and information provided to a member state as the authenticated business records of the Commission, and designating an agent to do so on the Commission's behalf;
- Purchase and maintain insurance and bonds;

- Borrow, accept, or contract for services of personnel, including, but not limited to, employees of a member state;
- Conduct an annual financial review;
- Hire employees, elect or appoint officers, fix compensation, define duties, grant individuals appropriate authority to carry out the purposes of the Compact, and establish the Commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;
- Assess and collect fees;
- Accept and receive, utilize, and dispose of any and all appropriate gifts, donations, grants of money, other sources of revenue, equipment, supplies, materials, and services, provided that at all times the Commission would avoid any appearance of impropriety or conflict of interest;
- Lease, purchase, retain, own, hold, improve, or use any undivided interest in any real, personal, or mixed property;
- Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any real, personal, or mixed property;
- Establish a budget and make expenditures;
- Borrow money;
- Appoint committees, including standing committees composed of members, state regulators, state legislators or their representatives, consumer representatives, and such other interested persons as may be designated in the Compact and its bylaws;

- Provide and receive information from and cooperate with law enforcement agencies;
- Establish and elect an Executive Committee, including a chairperson and vice-chairperson;
- Determine whether a state's adopted language is materially different from the model compact language such that the state would not qualify for participation in the Compact; and
- Perform other functions as may be necessary or appropriate to achieve the purposes of the Compact.

#### *Executive Committee Powers*

The Compact would provide for the Executive Committee to have the power to act on behalf of the Commission within the terms of the Compact.

The Compact would provide for the Executive Committee to have the following duties and responsibilities:

- Oversee the day-to-day activities of the administration of the Compact, including enforcement and compliance with the provisions of the Compact, its rules and bylaws, and other such duties as deemed necessary;
- Recommend to the Commission changes to the rules or bylaws, changes to the Compact legislation, fees charged to Compact member states, fees charged to licensees, and other fees;
- Ensure Compact administration services are appropriately provided, contractual or otherwise;
- Prepare and recommend the budget;

- Maintain financial records on behalf of the Commission;
- Monitor Compact compliance of member states and provide compliance reports to the Commission;
- Establish additional committees as necessary;
- Exercise the powers and duties of the Commission during the interim between Commission meetings, except for adopting or amending rules, adopting or amending bylaws, and exercising any other powers and duties expressly reserved to the Commission by rule or bylaw; and
- Other duties as provided in rules or bylaws.

#### *Executive Committee Membership*

The Executive Committee would be composed of 11 members, including:

- The chairperson and vice-chairperson of the Commission, to be voting members of the Executive Committee;
- Five voting members elected by the Commission from the current membership of the Commission; and
- Up to four nonvoting members from four recognized national social work organizations, selected by their respective organizations.

The Compact would allow the Commission to remove any member of the Executive Committee as provided in bylaws.

The Executive Committee would be required to meet at least annually.

*Meetings of the Commission and Executive Committee*

The Compact would require all Executive Committee meetings to be open to the public, and public notice of meetings would be required seven days in advance of the meeting date with notification provided on its website of the Commission and as determined by the Commission to provide notice to persons with an interest in the business of the Commission.

The Compact would permit the Commission to hold special meetings to conduct emergency business. Public notice would be required 48 hours in advance to all Commissioners on the Commission's website and notice as provided by the Commission's rules. The Commission's legal counsel would certify that the need for the meeting qualifies as an emergency.

The Commission or the Executive Committee or other committees of the Commission would be able to meet in a closed, non-public meeting if the discussion would include:

- Non-compliance of a member state with its obligations under the Compact;
- The employment, compensation, discipline, or other matters, practices, or procedures related to specific employees;
- Current or threatened discipline of a licensee by the Commission or by a member state's licensing authority;
- Current, threatened, or reasonably anticipated litigation;

- Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;
- Accusing any person of a crime or formally censuring any person;
- Trade secrets or commercial or financial information that is privileged or confidential;
- Information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;
- Investigative records compiled for law enforcement purposes;
- Information related to any investigative reports prepared by or on behalf of or for use of the Commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the Compact;
- Matters specifically exempted from disclosure by federal or member state law; or
- Other matters as promulgated by the Commission by rule.

If a meeting or portion of a meeting would be closed, the Commission's Presiding Officer would state that the meeting be closed and would reference each relevant exempting provision. References would be recorded in the minutes.

The Compact would require the Commission to keep minutes on all matters discussed in a meeting, providing a full and accurate summary of actions taken, reasons for those actions, and views expressed. All documents considered in connection with an action would be identified in the minutes. Minutes and documents of a closed meeting would remain

sealed, subject to release by a majority vote of the Commission or order of a court of competent jurisdiction.

The Commission would also be required to adopt and provide an annual report to the member states.

#### *Financing of the Commission*

The Compact would require the Commission to pay or provide for the payment of the reasonable expenses of its establishment, organization, and ongoing activities. The Commission would be allowed to accept any and all appropriate revenue sources, donations, or grants of money, equipment, supplies, materials, and services.

The Commission would be able to levy and collect an annual assessment from each member state or impose fees on other parties to cover the cost of the operations and activities of the Commission and its staff, which would be required to be a total amount sufficient to cover its approved annual budget. The aggregate annual assessment amount would be allocated based upon a formula determined by the Commission.

The Compact would not allow the Commission to incur obligations of any kind prior to securing adequate funds to cover the cost. The Commission would not be able to pledge the credit of any member state without the authority of the member state.

The Commission would be required to keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission would be audited yearly by a certified or licensed public accountant, and the report of the audit would be included in the annual report of the Commission.

### *Qualified Immunity, Defense, and Indemnification*

The Compact would specify that members, officers, the executive director, employees, and representatives of the Commission would be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of action within the scope of Commission employment, duties, or responsibilities; such immunity would not apply in instances of intentional, willful, or wanton misconduct. The procurement of insurance of any type by the Commission would not in any way compromise or limit the immunity granted under this Compact.

The Compact would direct the Commission to defend any member, officer, executive director, employee, or representative of the Commission in any civil action seeking to impose liability occurring within the scope of Commission employment, as long as such action was not a result of intentional, willful, or wanton misconduct. The Compact would not prohibit a person from retaining their own counsel.

The Compact would require the Commission to indemnify and hold harmless any member, officer, executive director, employee, or representative of the Commission for the amount of any settlement or judgment obtained against the person within the scope of commission employment, duties, or responsibilities, provided that the act did not result from the intentional, willful, or wanton misconduct of the person.

Nothing in the Compact would be construed as a limitation on the liability of any licensee for professional malpractice or misconduct, which would be governed solely by any other applicable state laws.

Nothing in the Compact would be interpreted to waive or otherwise abrogate a member state's state action immunity or state action affirmative defense with respect to antitrust

claims under the Sherman Act, Clayton Act, or any other state or federal antitrust or anticompetitive law or regulation.

[*Note:* The Sherman Act and Clayton Act are federal antitrust laws.]

Nothing in this Compact would be construed to be a waiver of sovereign immunity by the member states or by the Commission.

### ***Data System (Section 11)***

The bill would require the Commission to provide for the development, maintenance, operation, and utilization of a coordinated data system on all applicants for a multistate license in member states.

As permitted by member state laws, member states would be required to submit a uniform data set to the data system on all individuals to whom the Compact is applicable as required by the rules of the Commission, including:

- Identifying information;
- Licensure data;
- Adverse actions against a license or privilege to practice;
- Non-confidential information related to alternative program participation and related details;
- Any denial of application for licensure, and the reasons for such denial;
- Current significant investigative information; and
- Other information that may facilitate the administration of this Compact or the protection of

the public, as determined by the rules of the Commission.

The Compact would provide that the records and information provided to a member state pursuant to the Compact or through the data system, when certified by the Commission or an agent of the Commission, would constitute the authenticated business records of the Commission and would be entitled to any associated hearsay exception in any relevant judicial, quasi-judicial, or administrative proceedings in a member state.

The Compact would provide that investigative information pertaining to a licensee in any member state would only be available to other member states. The Commission would be required to promptly notify all member states of any adverse action taken against a licensee or an individual applying for license. Adverse action information pertaining to a licensee in any member state would be available to any other member state.

Member states contributing information to the data system would be able to designate information that could not be shared with the public without express permission of the contributing state.

Under the Compact, information submitted to the data system that is subsequently expunged either by federal laws or the laws of the member state would be removed from the data system.

### ***Rulemaking (Section 12)***

The Compact would require the Commission to promulgate reasonable rules to effectively and efficiently implement and administer the purposes and provisions of the Compact. In the event the Commission exceeds its rulemaking authority, as determined by a court of competent jurisdiction, beyond the scope and purposes of the Compact, those rules by the Commission would be invalid.

The rules of the Commission would have the force of law in each member state, except that where the rules of the Commission conflict with the laws of the member state that establish the member state's laws, regulations, and applicable standards that govern the practice of social work as held by a court of competent jurisdiction, the rules of the Commission would be ineffective in that state to the extent of the conflict.

The Compact would provide for the Commission to exercise its rulemaking powers. Rules would become binding on the day following adoption or the date specified in the rule or amendment, whichever is later.

The Compact would provide for a majority of member state legislatures to reject a rule by enactment of a statute or resolution within four years of the date of adoption of the rule. Such rule would have no further force or effect in any member state.

Rules or amendments to rules would be required to be adopted at a regular or special meeting of the Commission.

### ***Public Hearings***

The Compact would require the Commission to hold a public hearing and allow persons to provide oral and written comments, data, facts, opinions, and arguments prior to adoption of a proposed rule. The Commission would also be

required to provide notice of the proposed rule at least 30 days in advance of the meeting at which the Commission will hold a public hearing on the proposed rule. The notice would be required to be posted on the website of the Commission or other publicly accessible platform; to persons who have requested notice of the Commission's notices of proposed rulemaking, and as determined by rules of the Commission.

The notice of proposed rulemaking would be required to include:

- The time, date, and location of the public hearing at which the Commission will hear public comments on the proposed rule and, if different, the time, date and location of the meeting where the Commission will consider and vote on the proposed rule;
- If the hearing is held via telecommunication, videoconference, or other electronic means, the mechanism for access to the hearing in the notice of proposed rulemaking;
- The text of the proposed rule and the reason for the rule;
- A request for comments on the proposed rule from any interested person; and
- The manner in which interested persons may submit written comments.

The Compact would require the Commission to record all hearings and make available to the public the recording and all written comments and documents received by the Commission. A separate hearing would not be required for each proposed rule.

The Compact would require a majority vote of all members to take final action on the proposed rule. The Commission would be able to adopt changes to the proposed

rule, provided that the changes do not enlarge the original purpose of the proposed rule. If changes would be made, the Commission would need to provide an explanation of reasons for any substantive changes as well as an explanation of reason why substantive changes were not made if recommendations were received by commenters.

The Compact would require the Commission to determine a reasonable effective date of adopted rules. Except in cases of emergency rulemaking, the effective date would not be earlier than 30 days after issuance of notice that the rule was adopted or amended.

### *Emergency Rulemaking*

The Commission, upon determination that an emergency exists, would be able to consider and adopt an emergency rule with 48 hours' notice with an opportunity for comment or hearing, provided the usual rulemaking procedures provided in the Compact be retroactively applied to the rule as soon as possible, or no later than 90 days after the effective date of the rule. Emergency rules would be defined as those that would be adopted immediately in order to:

- Meet an imminent threat to public health, safety, or welfare;
- Prevent a loss of Commission or member state funds;
- Meet a deadline for the promulgation of an administrative rule that is established by federal law or rule; or
- Protect the public health and safety.

### *Rule Revisions*

The Compact would provide for the Commission or an authorized committee of the Commission to direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of revisions would be posted on the Commission's website.

The Compact would provide for revisions to be subject to challenge by any person for a period of 30 days after posting. Revisions could only be challenged on grounds that the revision results in a direct material change to the rule. Challenges would be required to be made in writing and delivered to the Commission prior to the end of the notice period. If no challenge is made, the revision would take effect without further action. If the revision is challenged, it would not take effect without approval of the Commission. The Compact would provide that the rulemaking requirements of member states would not apply.

### ***Oversight, Dispute Resolution, and Enforcement (Section 13)***

#### *Oversight*

The Compact would provide that the executive and judicial branches in each member state would enforce and implement the Compact. Unless specifically provided in the Compact, judicial proceedings and venue would be appropriate in the location of the principal office of the Commission. The Commission could waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings. The Compact would not affect or limit the selection or propriety of venue in any action against a licensee for professional malpractice, misconduct, or any such similar matter.

Under the Compact, the Commission would be entitled to receive service of process and have standing to intervene in any such proceeding for all purposes. Failure to provide service of process to the Commission would render a judgment or order void as to the Commission, the Compact, and promulgated rules.

*Default, Technical Assistance, and Termination*

Under the Compact, if the Commission determines that a member state has defaulted in performance of its obligations or responsibilities under the Compact or its rules, the Commission would:

- Provide written notice to the defaulting state and other member states of the nature of the default, the proposed means of curing the default, and any other action to be taken by the Commission; and
- Offer training and specific technical assistance regarding the default.

A state that fails to cure a default would be subject to termination from the Compact upon affirmative vote of a majority of the member states. A cure of the default would not relieve the offending state of obligations or liabilities incurred during the period of default.

The Compact would state that termination of membership would be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate would be required to be provided by the Commission to the defaulting state's governor, the majority and minority leaders of the defaulting state's legislature, the defaulting state's licensing authority, and each of the member states' licensing authorities. A terminated state would be responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

The Compact would state that immediately upon the termination of a state's membership from the Compact, the state would immediately provide notice to all licensees within that state of such termination. The terminated state would continue to recognize all licenses granted pursuant to the Compact for a minimum of six months after the date of said notice of termination.

The Compact would state the Commission would not bear any costs related to a state that is found to be in default or that has been terminated from the Compact, unless agreed upon in writing between the Commission and the defaulting state.

The defaulting state would be able to appeal the action of the Commission by petitioning the United States District Court for the District of Columbia or the federal district where the Commission has its principal offices. The prevailing member would be awarded all costs of such litigation, including reasonable attorney fees.

#### *Dispute Resolution*

The Compact would provide that, upon request of a member state, the Commission would attempt to resolve disputes related to the Compact that arise among member states and between member and non-member states.

The Compact would require the Commission to promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

#### *Enforcement*

Under the Compact, the Commission would enforce the provisions and rules of the Compact. By majority vote, the Commission would be able to initiate legal action in the United States District Court for the District of Columbia or the federal district where the Commission has its principal offices

against a member state to enforce compliance with the provisions and promulgated rules of the Compact. The relief sought would be able to include both injunctive relief and damages. In the event judicial enforcement would be necessary, the prevailing party would be awarded all costs of such litigation, including reasonable attorney fees. The remedies included in the Compact would not be the exclusive remedies of the Commission; other remedies available under federal or state law could be pursued.

Under the Compact, a member state would be able to enforce the Compact against the Commission. The member would be able to initiate legal action in the United States District Court for the District of Columbia or the federal district where the Commission has its principal offices against a member state to enforce compliance with the provisions and promulgated rules of the Compact. The relief sought would be able to include both injunctive relief and damages. In the event judicial enforcement would be necessary, the prevailing party would be awarded all costs of such litigation, including reasonable attorney fees.

### ***Effective Date, Withdrawal, and Amendment (Section 14)***

The Compact would be effective on the date in which the Compact statute is enacted into law in the seventh member state. At that time, the Commission would convene and review the enactment of the charter member states and would determine if the statutes enacted by each of the seven states is materially different from the model Compact statute. If the Commission would find that there was a materially different enactment by a state, the state would be permitted to follow the default process of the Compact. The Compact would permit the Commission to remain in effect in the event that there was a default or withdrawal by one of the seven states. Any state that would join the Compact subsequent to the Commission's initial review of the seven states would also have the statutes enacted by the state reviewed by the Commission to determine if the statute are materially different from the model Compact.

The Compact would provide that all actions taken for the benefit of the Commission or in furtherance of the Compact prior to the effective date of the Compact or the Commission coming into existence would be considered to be actions of the Commission unless specifically repudiated by the Commission. Any state that would join the Compact subsequent to the Commission's initial adoption of the rules would be subject to the rules as they exist on the date in which the Compact becomes law in that state.

Any member state would be able to withdraw from the Compact by repealing the Compact statute. A member state's withdrawal would not take effect until 180 days after enactment of the repealing statute. The Compact would state that immediately upon the withdrawal of a state's membership from the Compact, the state would provide notice to all licensees within the state. The withdrawing state would continue to recognize all licenses granted pursuant to the Compact for a minimum of 180 days after the date of said notice of withdrawal. Withdrawal from the Compact would not affect the continuing requirement of the withdrawing state's

licensing authority to comply with the investigative and adverse action reporting requirements of the Compact prior to the effective date of withdrawal.

Nothing in the Compact would be construed to invalidate or prevent any social work licensure agreement or other cooperative arrangement between a member state and a non-member state that does not conflict with the provisions of the Compact.

The Compact would be amendable by member states; no amendment to the Compact would become effective and binding upon any member state until enacted into the laws of all member states.

***Construction and Severability (Section 15)***

The provision of the Compact and the Commission's rulemaking authority would be liberally construed so as to effectuate the purposes and the implementation and administration of the Compact. Provisions of the Compact expressly authorizing or requiring the promulgation of rules would not be construed to limit the Commission's rulemaking authority solely for those purposes.

The provisions of the Compact would be severable if found to be contrary to the constitution of any member state or state seeking participation in the Compact, or of the United States. If provisions of the Compact would be found to be invalid, the validity of the remainder of the Compact and its applicability would not be affected.

The provisions of the Compact would allow the Commission to deny a state's participation in the Compact or terminate a member state's participation in the Compact if it determines that a constitutional requirement of a member state is a material departure from the Compact. If the Compact were to be found contrary to the constitution of any member state, the Compact would remain in full force and

effect in the remaining member states; portions of the Compact not in conflict with the state's constitution would remain in effect in the affected member state.

***Consistent Effect and Conflict with Other State Laws  
(Section 16)***

The Compact would state a licensee providing services in a remote state under a multistate authorization to practice would adhere to the laws and regulations, including laws, regulations, and applicable standards, of the remote state where the client is located at the time care is rendered.

Nothing in the Compact would prevent the enforcement of any other law of a member state that is not inconsistent with the Compact.

Any laws in a member state in conflict with the Compact would be superseded to the extent of the conflict. All permissible agreements between the Commission and the members states would be binding in accordance with their terms.

***Background Checks (Amending KSA 2023 Supp. 65-6314)***

The bill would add the following requirements for applicants for licensure under the Social Work Licensure Act:

- All applicants for initial licensure, renewal, or reinstatement would be required to submit to a state and national criminal history record check;
- The Behavioral Sciences Regulatory Board (BSRB) could require applicants for renewal of a license to submit to a state and national history record check if the applicant had submitted a history record check in the last five years;

- All applicants for a multistate license would have to be fingerprinted and the BSRB would submit the fingerprints to both the Kansas Bureau of Investigation (KBI) and the FBI for a search of the state and federal databases;

#### *Permitted Use of Information*

The bill would identify that fingerprints and criminal history record information would be used to identify a person and determine if the person has a record of criminal history in this state or another jurisdiction.

The bill would allow the BSRB to use the the information obtained from fingerprinting and the criminal history for purposes of verifying the identification of the person and in the official determination of the qualifications and fitness of the person to be issued or to maintain a license of multistate practice privilege under the Compact.

The bill would allow the KBI to release criminal history record information related to adult convictions to the BSRB for the requested social work license applicant.

The bill would allow local and state law enforcement officers and agencies to assist the BSRB in taking and processing of fingerprints of applicants for multistate licensure and would be permitted to release all records of adult convictions to the BSRB.

The bill would also permit the KBI to charge a reasonable fee for conducting a criminal history record check.

### *Confidentiality of Records*

The bill would make fingerprints and criminal history record information received through the licensure process confidential nor would it be available through the Kansas Open Records Act. This provision would expire on July 1, 2029, unless renewed and reenacted by the Legislature.

The bill would prohibit disclosure or use of any information received through the licensure process except for its intended purpose. Unauthorized disclosure or use would be a class A nonperson misdemeanor and would also constitute grounds for removal from office.

The bill would define “licensee” as a person who has:

- Submitted an original application;
- Submitted an application for renewal or reinstatement of a license; or
- A person who currently holds a social work license as issued by the BSRB.

### ***License Fee***

The bill would provide for the BSRB to establish a fee of not more than \$25 for a new license or renewal fee for a home state license with privilege to practice under the Compact, in addition to any other applicable fee.

### **Background**

The bill was introduced by Representative S. Ruiz.

### ***House Committee on Health and Human Services***

In the House Committee hearing on January 23, 2024, **proponent** testimony was provided by representatives of the BSRB, Council of State Governments, Fresenius Medical Care, Integrated Psychiatric Consultants, the Kansas Chapter of the National Association of Social Workers, and a practicing social worker. Proponents generally stated the bill would substantially change state licensure for social workers, including mobility of licensees, continuity of care to clients, and allowance of additional telehealth practice in Kansas, and would allow licensees with a multistate license to provide telehealth practice into other Compact member states.

Written-only proponent testimony was provided by representatives of AdventHealth Shawnee Mission; Fort Hays State University; United States Department of Defense, State Liaison Office; two representatives of Pittsburg State University; and five private citizens.

No other testimony was provided.

The House Committee amended the bill to include a background check procedure for the Social Work Licensure Act and amend the fee relating to the multistate licenses under the Compact.

### **Fiscal Information**

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, BSRB anticipates that enough states will enact the Compact during the 2024 Legislative session that the Compact Commission would begin meeting in the fall of 2024. It is estimated that the Compact would become functional in January 2025. If this timeline holds, it is estimated that the loss in revenue for FY 2025 would be \$38,410, then the full reduction in revenue would be realized in FY 2026 and each year thereafter (\$76,820).

However, as a fee-funded agency, by statute, the BSRB is required to contribute 10.0 percent of all revenue to the State General Fund (SGF), up to \$100,000. Therefore, a loss of revenue of \$38,410 in FY 2025 would be a decrease in revenue to the BSRB Fee Fund of \$34,569 and a decrease to the SGF revenue of \$3,841 in FY 2025. Similarly, a loss of revenue of \$76,820 in FY 2026 would be a decrease in revenue to the BSRB Fee Fund of \$69,138 and a decrease to the SGF revenue of \$7,682 in FY 2026.

At this time, it is unknown how many social workers who have Kansas as their home state would wish to move to a multistate license, or how quickly they would do it. It is anticipated that some individuals could wait until their current license expires before changing license types, so there could be a rollout spread over several years. The BSRB will be sending a survey to social work licensees to determine interest in moving to a multistate license, which will be helpful in estimating what could be charged for a multistate license to potentially mitigate lost revenue.

Currently, social workers in Kansas are not required to complete a background check, but it is anticipated the fee for these types of background checks would be \$48.00 per individual. This charge would ultimately be paid to the KBI for completing the fingerprinting and running the report. At this time, the BSRB cannot estimate how many individuals would switch to the multistate license and need to pass the background check, or the impact processing these reports would have on staff workloads.

It is not currently known whether the Compact will charge member states a membership fee to be a member state in the Compact, so no fiscal effect was estimated for this possible cost. At this time, the BSRB has not taken a position on a specific amount for multistate license fees; however, if the new multistate license fees are higher than a traditional single-state license fee, revenue loss could be mitigated.

The Department for Children and Families (DCF) assumes the licensure fees it pays for social workers employed by DCF would be either a Kansas license or a multistate license, but not both. Since the fees outlined in the bill are the same for both a Kansas license and multistate license for each category, there would be no fiscal impact to DCF.

The Office of Judicial Administration indicates that the bill would not have a significant fiscal effect on expenditures of the Judicial Branch. While the bill's provisions could create more work for district court personnel because it provides for judicial enforcement of multistate social worker licensure violations, this is not anticipated to be significant. The bill would not have a fiscal effect on revenues to the Judicial Branch. However, the passage of the bill could result in the collection of docket fees in those cases filed under the provisions of the bill, which would be deposited in the SGF. Any fiscal effect associated with the bill is not reflected in *The FY 2025 Governor's Budget Report*.

Behavioral Sciences Regulatory Board; multistate license; Social Work Licensure Compact; social workers; fees; background checks; fingerprinting