

72-1397. Restrictions on issuance and renewal of licenses; hearings upon denial; reports required of county and district attorneys. (a)

The state board of education shall not knowingly issue a license to or renew the license of any person who has been convicted of:

- (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A. 2016 Supp. 21-5503, and amendments thereto;
 - (2) indecent liberties with a child, as defined in K.S.A. 21-3503, prior to its repeal, or K.S.A. 2016 Supp. 21-5506(a), and amendments thereto;
 - (3) aggravated indecent liberties with a child, as defined in K.S.A. 21-3504, prior to its repeal, or K.S.A. 2016 Supp. 21-5506(b), and amendments thereto;
 - (4) criminal sodomy, as defined in K.S.A. 21-3505(a)(2) or (a)(3), prior to its repeal, or K.S.A. 2016 Supp. 21-5504(a)(3) or (a)(4), and amendments thereto;
 - (5) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior to its repeal, or K.S.A. 2016 Supp. 21-5504(b), and amendments thereto;
 - (6) indecent solicitation of a child, as defined in K.S.A. 21-3510, prior to its repeal, or K.S.A. 2016 Supp. 21-5508(a), and amendments thereto;
 - (7) aggravated indecent solicitation of a child, as defined in K.S.A. 21-3511, prior to its repeal, or K.S.A. 2016 Supp. 21-5508(b), and amendments thereto;
 - (8) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior to its repeal, or K.S.A. 2016 Supp. 21-5510, and amendments thereto;
 - (9) aggravated incest, as defined in K.S.A. 21-3603, prior to its repeal, or K.S.A. 2016 Supp. 21-5604(b), and amendments thereto;
 - (10) aggravated endangering a child, as defined in K.S.A. 21-3608a, prior to its repeal, or K.S.A. 2016 Supp. 21-5601(b), and amendments thereto;
 - (11) abuse of a child, as defined in K.S.A. 21-3609, prior to its repeal, or K.S.A. 2016 Supp. 21-5602, and amendments thereto;
 - (12) capital murder, as defined in K.S.A. 21-3439, prior to its repeal, or K.S.A. 2016 Supp. 21-5401, and amendments thereto;
 - (13) murder in the first degree, as defined in K.S.A. 21-3401, prior to its repeal, or K.S.A. 2016 Supp. 21-5402, and amendments thereto;
 - (14) murder in the second degree, as defined in K.S.A. 21-3402, prior to its repeal, or K.S.A. 2016 Supp. 21-5403, and amendments thereto;
 - (15) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to its repeal, or K.S.A. 2016 Supp. 21-5404, and amendments thereto;
 - (16) involuntary manslaughter, as defined in K.S.A. 21-3404, prior to its repeal, or K.S.A. 2016 Supp. 21-5405, and amendments thereto;
 - (17) involuntary manslaughter while driving under the influence of alcohol or drugs, as defined in K.S.A. 21-3442, prior to its repeal;
 - (18) sexual battery, as defined in K.S.A. 21-3517, prior to its repeal, or K.S.A. 2016 Supp. 21-5505(a), and amendments thereto, when, at the time the crime was committed, the victim was less than 18 years of age or a student of the person committing such crime;
 - (19) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to its repeal, or K.S.A. 2016 Supp. 21-5505(b), and amendments thereto;
 - (20) commercial sexual exploitation of a child, as defined in K.S.A. 2016 Supp. 21-6422, and amendments thereto;
 - (21) human trafficking, as defined in K.S.A. 21-3446, prior to its repeal, or K.S.A. 2016 Supp. 21-5426(a), and amendments thereto;
 - (22) aggravated human trafficking, as defined in K.S.A. 21-3447, prior to its repeal, or K.S.A. 2016 Supp. 21-5426(b), and amendments thereto;
 - (23) attempt under K.S.A. 21-3301, prior to its repeal, or K.S.A. 2016 Supp. 21-5301, and amendments thereto, to commit any act specified in this subsection;
 - (24) conspiracy under K.S.A. 21-3302, prior to its repeal, or K.S.A. 2016 Supp. 21-5302, and amendments thereto, to commit any act specified in this subsection;
 - (25) an act in another state or by the federal government that is comparable to any act described in this subsection; or
 - (26) an offense in effect at any time prior to the effective date of this act that is comparable to an offense as provided in this subsection.
- (b) Except as provided in subsection (c), the state board of education shall not knowingly issue a license to or renew the license of any person who has been convicted of, or has entered into a criminal diversion agreement after having been charged with:
- (1) A felony under K.S.A. 2010 Supp. 21-36a01 through 21-36a17, prior to their transfer, or article 57 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, or any felony violation of any provision of the uniform controlled substances act prior to July 1, 2009;
 - (2) a felony described in any section of article 34 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article 54 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2016 Supp. 21-6104, 21-6325, 21-6326 or 21-6418, and amendments thereto, other than an act specified in subsection (a), or a battery, as described in K.S.A. 21-3412, prior to its repeal, or K.S.A. 2016 Supp. 21-5413(a), and amendments thereto, or domestic battery, as described in K.S.A. 21-3412a, prior to its repeal, or K.S.A. 2016 Supp. 21-5414, and amendments thereto, if the victim is a minor or student;
 - (3) a felony described in any section of article 35 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article 55 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2016 Supp. 21-6419 through 21-6421, and amendments thereto, other than an act specified in subsection (a);
 - (4) any act described in any section of article 36 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article 56 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, other than an act specified in subsection (a);
 - (5) a felony described in article 37 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article 58 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2016 Supp. 21-6412(a)(6), and amendments thereto;
 - (6) promoting obscenity, as described in K.S.A. 21-4301, prior to its repeal, or K.S.A. 2016 Supp. 21-6401(a), and amendments thereto, promoting obscenity to minors, as described in K.S.A. 21-4301a, prior to its repeal, or K.S.A. 2016 Supp. 21-6401(b), and amendments thereto, or promoting to minors obscenity harmful to minors, as described in K.S.A. 21-4301c, prior to its repeal, or K.S.A. 2016 Supp. 21-6402, and amendments thereto;
 - (7) endangering a child, as defined in K.S.A. 21-3608, prior to its repeal, or K.S.A. 2016 Supp. 21-5601(a), and amendments thereto;
 - (8) driving under the influence of alcohol or drugs in violation of K.S.A. 8-1567 or 8-2,144, and amendments thereto, when the violation is punishable as a felony;
 - (9) attempt under K.S.A. 21-3301, prior to its repeal, or K.S.A. 2016 Supp. 21-5301, and amendments thereto, to commit any act specified in this subsection;
 - (10) conspiracy under K.S.A. 21-3302, prior to its repeal, or K.S.A. 2016 Supp. 21-5302, and amendments thereto, to commit any act specified in this subsection; or
 - (11) an act committed in violation of a federal law or in violation of another state's law that is comparable to any act described in this subsection.
- (c) The state board of education may issue a license to or renew the license of a person who has been convicted of committing an offense or act described in subsection (b) or who has entered into a criminal diversion agreement after having been charged with an offense or act described in subsection (b) if the state board determines, following a hearing, that the person has been rehabilitated for a period of at least five years from the date of conviction of the offense or commission of the act or, in the case of a person who has entered into a criminal diversion agreement, that the person has satisfied the terms and conditions of the agreement. The state board of education may consider factors including, but not limited to, the following in determining whether to grant a license:
- (1) The nature and seriousness of the offense or act;
 - (2) the conduct of the person subsequent to commission of the offense or act;
 - (3) the time elapsed since the commission of the offense or act;
 - (4) the age of the person at the time of the offense or act;
 - (5) whether the offense or act was an isolated or recurring incident; and
 - (6) discharge from probation, pardon or expungement.
- (d) Before any license is denied by the state board of education for any of the offenses or acts specified in subsections (a) and (b), the person shall be given notice and an opportunity for a hearing in accordance with the provisions of the Kansas administrative procedure act.
- (e) The county or district attorney shall file a report with the state board of education indicating the name, address and social security number of any person who has been determined to have committed any offense or act specified in subsection (a) or (b) or to have entered into a criminal diversion agreement after having been charged with any offense or act specified in subsection (b). Such report shall be filed within 30 days of the date of the determination that the person has committed any such act or entered into any such diversion agreement.
- (f) The state board of education shall not be liable for civil damages to any person refused issuance or renewal of a license by reason of the state board's compliance, in good faith, with the provisions of this section.

