

SESSION OF 1998

**EXPLANATORY NOTE ON SENATE BILL NO. 298**

Conference Committee Report

The Conference Committee recommendation incorporates the content of S.B. 298 (school employee certification), as passed by the House; S.B. 444 (proprietary schools), as passed by the Senate; and S.B. 57 (Kansas School Safety and Security Act amendment), as passed by the Senate and as modified by the Conference Committee.

**Certification of School Personnel**

The State Board of Education is prohibited from knowingly issuing or renewing the certificate of any person who has been convicted of any offense or attempting to commit any offense in subsection (c) of K.S.A. 21-4619 (serious sex crimes). (Denial of certification of persons who commit these offenses is permanent.)

Subject to a finding of rehabilitation or satisfaction of a criminal diversion agreement, the bill also prevents the State Board of Education from issuing to or renewing a teaching certificate of any person who has:

- been convicted of a felony under the Uniform Controlled Substances Act;
- been convicted of a person felony (Art. 34 of Ch. 21) or battery of a minor (K.S.A. 21-3412);
- been convicted of a sex offense (Art. 35 of Ch. 21) or of sexual battery of a minor (K.S.A. 21-3517), other than those crimes specified above for which certification must permanently be denied;
- been convicted of an offense affecting family relationships and children (Art. 36 of Ch. 21), other than those specified above for which certification permanently must be denied;
- been convicted of felony crime against property (Art. 37 of Ch. 21) other than those crimes specified above for which certification permanently must be denied;

- been convicted of an anticipatory crime (Art. 33, Sec. 3301 of Ch. 21);
- been convicted of promotion of obscenity under K.S.A. 21-4301, 21-4301a, or 21-4301c);
- been convicted in another state or by the federal government of an offense similar to the preceding types of offenses; or
- entered into a criminal diversion agreement for any of the above (subsection b) offenses.

The State Board of Education may issue or renew a certificate of a person who has not committed an offense for which permanent denial must be imposed. Likewise, the State Board may issue or renew a certificate of a person who entered into a criminal diversion agreement after having been charged with such an offense when the person has satisfied the terms and conditions of the agreement. The State Board must determine at a hearing that the individual has been rehabilitated for a period of at least five years from the date of conviction of the offense or, in the case of a diversion agreement, upon satisfaction of the terms of that agreement. In determining whether to grant a certificate, the State Board may consider factors including, but not limited to:

- the nature and seriousness of the offense;
- the conduct of the individual since commission of the offense;
- the time elapsed since the commission of the offense;
- age of the person at the time of commission of the offense;
- whether the offense was an isolated or recurring incident; or
- discharge from probation, pardon, or expungement.

Before a certificate is denied by the State Board, the person must be given notice and an opportunity for a hearing in accord with the Kansas Administrative Procedure Act.

The county or district attorney must report to the State Board the name, address, and social security number of any person who

has been determined to have committed an offense or to have entered into a diversion agreement in connection with a charge for an offense addressed by this bill. This report must be made within 30 days of the date of the determination that the person committed the act or entered into diversion agreement.

A person whose certificate is revoked or not renewed due to conviction of an offense or participation in a diversion agreement in connection with an offense specified in the bill forfeits any due process rights that might otherwise apply with respect to continued employment in a school district.

## **Proprietary Schools**

S.B. 444 concerns proprietary schools. Principally, the bill provides for the state to preserve student records of closed schools, increases fees charged for proprietary school certificates of approval and registration of the representatives of such schools, and clarifies several provisions of current law. The main changes are summarized below.

### ***Proprietary School Student Records***

- A new provision related to proprietary school bond requirements is that, when a school closes, the school and its personnel are bound to deliver or make available to the State Board of Education the records of all students who are in attendance at the school at the time of closure or who have attended the school at any time prior to closure.

### ***Proprietary School Certificates of Approval—Changes***

- Under current law, when there is a change of ownership of a proprietary school, the new owner must apply to the State Board of Education for a new certificate of approval within 60 days prior to the change in ownership. An amendment changes the 60-day requirement to 30 days.
- Under current law, the State Board of Education is required at least 30 days prior to expiration of a certificate of approval to forward to the proprietary school a renewal application form. An amendment changes the 30-day requirement to 60 days.

- A new provision requires a proprietary school which does not plan to renew a certificate of approval to so notify the State Board of Education at least 60 days prior to the expiration date of the certificate.

***Proprietary School Student—Prepayment of Tuition***

- The amount a proprietary school may collect from a student before the student receives classroom instruction is increased from \$200 to \$350. In this connection, the prepaid tuition cap, applicable for tuition paid more than 10 days in advance of the delivery of instruction, is changed to apply to tuition paid more than 30 days in advance of the instruction. Also, the amount of prepaid tuition the school is entitled to keep if the student fails to enter school is increased from \$100 to \$150.
- With respect to correspondence schools, the amount of tuition that may be collected from the student prior to the first submission of a lesson is increased from \$100 to \$200. The provision linking this limitation to a time span of up to 10 days after the first submission of a lesson by the student is eliminated. The amount of such tuition that the school may retain if the student does not enter school is increased from \$50 to \$75.

***Proprietary Schools—Fees for Certificates of Approval and Registration of Representatives***

- Fees for certificates of approval and registration of representatives of proprietary schools are increased as follows:

Schools Domiciled or Having Their Principal Place of Business in Kansas

- Initial issuance of a certificate of approval—\$250 to \$800.
- Renewal of a certificate of approval—\$200 to \$300.
- Initial registration of a representative—\$25 to \$50.

- Annual renewal of registration of a representative—\$15 to \$25.

Schools Domiciled or Having Their Principal Place of Business Outside of Kansas

- Initial issuance of a certificate of approval—\$700 to \$1,500.
  - Renewal of a certificate of approval—\$600 to \$750.
  - Initial registration of a representative—\$70 to \$100.
  - Annual renewal of registration of a representative—\$50 to \$75.
- The bill defines “branch school” and specifies that separate licensure is not required for these operations.

***Advisory Commission on Proprietary Schools***

- The composition of the nine-member Advisory Commission on Proprietary Schools is modified to require that, of the five members who must be owners or managers of proprietary schools, at least two must represent schools which, at the time of appointment of the member, have enrollments of less than 125 students. The other four members are selected from among the following categories: secondary schools, postsecondary schools, agriculture, business or management, organized labor, and health occupations.

(Current law requires that, of the five members who must be owners of proprietary schools, at least three must represent schools which have received accreditation from an agency recognized by the U.S. Office of Education. The other four members must be selected from among the following categories: secondary school principals, guidance counselors, agriculture, business or management, organized labor, and health occupations, except that one member must be a person who does not fall within the preceding categories.)

## **Kansas School Safety and Security Act Amendments**

Amendments to the Kansas School Safety and Security Act require administrators who come into possession of information about students with a history of dangerous behavior to inform educators of the following:

- the identity and dangerous propensities of any student who has been expelled for conduct which endangers the safety of others;
- the identity and dangerous propensities of any student who has been expelled for commission of felony type offenses;
- the identity and dangerous propensities of any student who has been expelled for possession of weapons;
- the identity and dangerous propensities of any student who has been adjudged to be a juvenile offender and whose offense, if committed by an adult, would constitute a felony, except a felony theft offense involving no direct threat to human life; and
- the identity and dangerous propensities of any student who has been tried and convicted as an adult of any felony, except theft involving no direct threat to human life.

The bill also amends the Kansas Code for Care of Children and the Juvenile Offenders Code to permit disclosure of information to educators and educational institutions as required under this Act.

Educator is defined to mean any teacher, other professional, or paraprofessional employee who has exposure to the student with a history of dangerous behavior.

School employees shall not be subject to criminal penalties for failure to make reports required under this Act if they follow school board policies in this regard or if the school board has failed to adopt policies. Finally, school boards and individual members of such boards and school administrators are granted immunity from liability in any civil action for the actions or omissions of any school administrator pursuant to the requirements of the Kansas School Safety and Security Act.

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