

6/23/2008

## ***2008 Concealed Carry Legislative Updates***

Due to the Legislature's passage of 2008 HB 2359, effective July 1, 2008 the Kansas Personal and Family Protection Act (K.S.A. 75-7c01 *et seq.*) licensing requirements will be modified further.

Up until July 1, 2008, the Concealed Carry Unit, a division of the Office of the Attorney General, has been authorized to use certain adult convictions and diversions – any felony level offense (K.S.A. 75-7c04(a)(4)) and certain misdemeanor level offenses (K.S.A. 75-7c04(a)(6)) – as disqualifying transgressions **even if those events had been expunged from an individual's criminal history**. For applications received on and after July 1, 2008, however, this practice will cease as the Legislature, through HB 2359, sought a modification of that underlying policy.

The licensing requirements will now be, essentially:

1. if an individual has an expunged adult felony level conviction or diversion in their criminal history, that individual will be able to apply for a CCH license once 5 years have elapsed since the date that they were **eligible** to expunge that conviction or diversion;
2. if an individual has an expunged adult misdemeanor conviction or diversion, for an offense as described under K.S.A. 75-7c04(a)(5) and (a)(6), and amendments thereto, then that individual will be able to apply for a CCH license once 5 years have elapsed since the date of the conviction or diversion;
3. if an individual has a non-expungeable felony conviction or diversion in their criminal history, as outlined under K.S.A. 21-4619, then that individual **is still ineligible** for CCH licensure; and
4. if an individual has an expunged juvenile adjudication for any of the above categories of offenses, that individual is eligible for CCH licensure upon expungement of the adjudication.

Additionally, as mandated by changes to the expungement laws, K.S.A. 12-4516 and 21-4619, individuals applying for a Kansas concealed carry license **MUST** disclose the existence of any expunged felony conviction or diversion or any expunged misdemeanor offense which is a disqualifying offense listed under K.S.A. 75-7c04(a)(5) and (a)(6). **Non-disclosure of an applicable offense could be viewed as an attempt to make a false information, which is a felony offense (K.S.A. 21-3711).**

**NOTE:** While some offenses are expungeable from an individual's criminal history, certain convictions (any person felony or violation of the controlled substances act and the individual was found with a firearm at the time of the offense) mandate a lifetime prohibition on an individual's ability to even possess a firearm (K.S.A. 21-4204). As such, even if those convictions mentioned above have been expunged from that individual's criminal history, that lifetime ban does not go away. K.S.A. 21-4619(h) ("expungement of a felony conviction does not relieve an individual of complying with any state or federal law relating to the use or possession of firearms by persons convicted of a felony.").

As always, if a potential applicant is unsure about whether or not they have an applicable offense in their criminal history, or has questions about whether they fall outside of the above listed time limitations, or are unsure of their ability to possess a firearm, the applicant needs to seek private legal advice. The Attorney General can not give legal advice to individuals regarding their eligibility for licensure.

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