



STATE OF KANSAS
OFFICE OF THE ATTORNEY GENERAL

DEREK SCHMIDT
ATTORNEY GENERAL

MEMORIAL HALL
120 SW 10TH AVE., 2ND FLOOR
TOPEKA, KS 66612-1597
(785) 296-2215 • FAX (785) 296-6296
WWW.AG.KS.GOV

December 17, 2018

Honorable Jeff Colyer
Governor of the State of Kansas
State Capitol, Room 241-S
Topeka, Kansas 66612

Honorable Susan Wagle
President of the Senate
State Capitol, Room 333-E
Topeka, Kansas 66612

Honorable Ron Ryckman
Speaker of the House of Representatives
State Capitol, Room 370-W
Topeka, Kansas 66612

Honorable Anthony Hensley
Minority Leader of the Senate
State Capitol, Room 318-E
Topeka, Kansas 66612

Honorable Jim Ward
Minority Leader of the House of Representatives
State Capitol, Room 359-W
Topeka, Kansas 66612

Greetings:

K.S.A. 75-7c16(b) of the Kansas Personal and Family Protection Act (hereinafter “the Act”), also known as the concealed carry handgun law, requires the Attorney General, on or before January 1 of each year, to submit a statistical report to the Governor, President of the Senate, the Senate Minority Leader, the Speaker of the House of Representatives and the House Minority Leader indicating the number of concealed carry handgun licenses issued, revoked, suspended and denied during the preceding fiscal year and the reasons for the revocations, suspensions and denials. The day-to-day administration of the Act is monitored by the Attorney General’s concealed carry licensing unit (“CCLU”).

Licenses Issued

Note: Under the Act, the CCLU does not "issue" the actual license card. The CCLU approves an application and sends the applicant (whether initial or renewal) an approval notice. The applicant will then take that approval notice to one of many Kansas Department of Revenue ("KDOR") stations in order to have the actual CCH license issued.

Initial Licenses: In Fiscal Year 2018 (FY18), the CCLU issued 4,163 new or initial concealed carry handgun licenses. Recall that, beginning in FY16, Kansas law now allows persons who are at least 21 years of age and otherwise lawful to possess firearms to carry concealed firearms in Kansas. See, K.S.A. 21-6302(a)(4) (establishing 21 as the age to carry concealed firearms in Kansas). However, while a license is no longer *required* in order to carry concealed handguns in Kansas, a license to do so is still available for persons who are not disqualified by the Act. See, K.S.A. 75-7c03(b) (declaring that the availability of the concealed carry license shall not be construed as a requirement to obtain the license to carry handguns in Kansas). Since then, initial application numbers have been generally lower than in prior fiscal years.

Renewal Licenses: In FY18, the CCLU issued 16,073 renewed licenses. You may also recall that, for about a year beginning in FY13, the CCLU saw a large increase in the submission of *initial* applications. Many of the licenses issued then entered their first renewal cycle during FY17 which carried into FY18.

Application Denials

If an applicant's history disqualifies the applicant under the Act's eligibility criteria found under K.S.A. 75-7c04(a), that application must be denied by the CCLU. During FY18, the CCLU denied 39 initial applications and denied 28 renewal applications.

Administrative Actions against Licenses

Suspensions: The Act requires that a license shall be "suspended" if the licensee becomes subject to a criminal charge or other "proceeding" which *could* render them ineligible under K.S.A. 75-7c04(a). See, KSA 75-7c07(b). An *immediate* suspension is required of licenses where the licensee is subject to a qualifying protection order. See, K.S.A. 75-7c07(c). In FY18, 84 suspensions were proposed.

Revocations: If a licensee becomes ineligible to maintain their license, the Act generally requires the "revocation" of that license. See, KSA 75-7c07(a). In FY18, there were 314 revocations proposed with most, as shown below, being due to a licensee leaving Kansas residency. Of course, license holders who are later cleared of a charge or otherwise regain eligibility can have their license reinstated if the license has not expired.

Surrenders: While the Act generally requires Kansas residency in order to obtain and maintain a license,¹ the Act allows the licensee to notify the CCLU of the move to a new state and the license will remain valid for up to 90 days. After that, the CCLU simply surrenders the license (as opposed to revoking it). In FY18, the CCLU voluntarily surrendered 123 licenses following notification by the

¹ The exception to this general rule is active duty military and their qualifying dependents; they may keep their home of record and still obtain a Kansas CCH license while stationed here in Kansas.

licensee that he or she had changed residency to another state. As noted above, failing to notify the CCLU that the licensee has left Kansas residency reverts to the revocation process.

KAPA: The denial, suspension, and revocation procedures outlined in the Act are performed in accordance with the Kansas Administrative Procedures Act (“KAPA”). KAPA generally requires that, prior to any denial, suspension, or revocation becoming final, the applicant or licensee be given notice and an opportunity to request a hearing. Occasionally, because of this notice period, new information can result in a proposed action of the CCLU becoming “rescinded” before the action is final. For example: a temporary protection order being dismissed or a criminal charge being misreported or reduced. It should be noted that not requesting a KAPA hearing following a denial, suspension or revocation does not prohibit future licensure of that person should that person later attain eligibility for licensure.

Fluidity: With respect to the suspension and revocation procedures, an occasional result occurs when a license is first “suspended” because of a *possible* ineligibility (i.e. a pending felony charge) followed by a “revocation” of that same license if the licensee later becomes *actually* ineligible under the Act (i.e., the licensee is convicted of that felony charge). It is also possible for a suspension and/or revocation process to span between fiscal years. Any instances of either of those scenarios in or around FY18 will be described in the ‘notes’ below.

39 - Initial License Denials

- 22 – Denied because of issues outside of criminal history:
 - 12 – Applicants failed to provide proof of required training.
 - 04 – Applicants failed to meet state residency requirement.
 - 03 – Applicants failed to submit complete applications.
 - 03 – Insufficient Age (not 21 years of age).

- 17 – Total denied because of disqualifying criminal history record (charges, convictions, etc.):
 - 08 – Misdemeanor crimes of domestic violence (MCDV) convictions:
 - ❖ 03 – Battery
 - ❖ 03 – Disorderly Conduct
 - ❖ 01 – Domestic Battery
 - ❖ 01 – Sexual Battery.
 - 04 – Other Felony Prosecutions:
 - ❖ 01 – DUI
 - ❖ 01 – Theft – Obtaining Control of Stolen Property
 - ❖ 01 – Attempted Aggravated Criminal Sodomy
 - ❖ 01 – Discharge of Firearm at Occupied Dwelling.
 - 02 – Controlled Substance (CS) Issues:
 - ❖ 01 – Distribution of Opiates
 - ❖ 01 – Possession of Methamphetamine
 - 03 – Pending charges:
 - ❖ 01 – Multiple CS charges (Marijuana, Amphetamine, Methamphetamine, Cocaine, LSD)
 - ❖ 01 – Felony Sex Crimes
 - ❖ 01 – Aggravated Battery (x2) and Criminal Threat.

28 - Renewal License Denials

- 15 – *Denied because of issues outside of criminal history:*
 - 09 – Licensee no longer a resident of Kansas
 - 06 – Application deficiencies (i.e., did not submit necessary photos, signatures, fees, etc.).

- 13 – *Denied because of disqualifying criminal history record (charges, convictions, etc.):*
 - 09 – MCDV convictions:²
 - ❖ 07 – Battery
 - ❖ 02 – Domestic Battery.
 - 02 – Convictions for felony offenses:
 - ❖ 01 – Aggravated Assault
 - ❖ 01 – Felony Methamphetamine possession
 - 01 – Fugitive from Justice
 - 01 – Pending Protection Order.

92 License Suspension Actions:³

- 51 – *Suspended because of pending felony charges:*
 - 32 – Person felony:
 - ❖ 11 – Aggravated Assault
 - ❖ 06 – Aggravated Battery
 - ❖ 01 – Aggravated Assault on Law Enforcement
 - ❖ 01 – Aggravated Arson
 - ❖ 01 – Criminal Threat
 - ❖ 01 – Kidnapping
 - ❖ 01 – Aggravated Intimidation of a Witness
 - ❖ 01 – Aggravated Endangering of a Child
 - ❖ 01 – Domestic Violence
 - ❖ 01 – Rape
 - ❖ 01 – Aggravated Indecent Liberties with a Child (2 counts)
 - ❖ 01 – Aggravated Indecent Liberties with a Child (with Indecent Liberties count)
 - ❖ 01 – Sexual Exploitation of a Child (10+ counts) (with Aggravated Indecent Liberties)
 - ❖ 01 – Aggravated Criminal Sodomy
 - ❖ 01 – Aggravated Incest (multiple)
 - ❖ 01 – Indecent Liberties with a Child
 - ❖ 01 – Unlawful Sexual Relations.
 - 10 – Other felony:

² The United States Supreme Court (“U.S.S.C.”) has recently issued two decisions concerning the MCDV prohibition. See, *U.S. v. Voisine*, 579 U.S. ___, 136 S.Ct. 2272 (2016); *U.S. v. Castleman*, 572 U.S. 157, 134 S.Ct. 1405 (2014). In short, some persons, previously approved under 10th Circuit Court of Appeals interpretations of the MCDV prohibition, have been denied a renewal of their license in accordance with those U.S.S.C. decisions.

³ Suspensions usually reference allegations of conduct that are still pending in the court system. As a result, any descriptions here are simply recitations of the conduct alleged against the licensee in those matters.

- ❖ 04 – Driving Under the Influence (CS or alcohol)
- ❖ 02 – Making a False Information
- ❖ 02 – Animal Cruelty
- ❖ 01 – Theft
- ❖ 01 – Breach of Privacy.
- 09 – CS felony:
 - ❖ 04 – Possession of Opiates
 - ❖ 02 – Distribution of Marijuana
 - ❖ 02 – Cultivation of any CS
 - ❖ 01 – Possession Cocaine.
- 30 – *Suspended because of pending protection orders:*
 - 28 – Temporary protection order
 - 02 – Final protection order.
- 08 – *Suspended because of MCDV charges.*
- 03 – *Suspended because of misdemeanor CS charges.*

NOTE: *Fluidity between fiscal years:* Again, because of KAPA “notice” requirements,⁴ some suspensions can be proposed in one FY and take effect in another. Some licensees may have more than one suspension proposed or effective against them.

- 05 – Proposed in FY18, suspended in FY19
- 03 – Proposed in FY17, suspended in FY18

Rescissions and reinstatements:

- 23 – Rescinded or reinstated following dismissal of, or reduction in, a pending criminal charge:
 - ❖ 13 – Felony
 - ❖ 10 – Misdemeanor.
- 19 – *Reinstated* in FY18:
 - ❖ 07 – Suspended in FY17
 - ❖ 05 – Suspended in FY18
 - ❖ 05 – Suspended in FY16
 - ❖ 02 – Suspended in FY15.
- 15 – Proposed suspensions were *rescinded* prior to expiration of KAPA notice period:
 - ❖ 14 – FY18 proposals
 - ❖ 01 – FY17 proposal.
- 11 – Rescinded or reinstated after dismissal of protection order.
- 02 – Suspension proposed in FY18, *rescinded* in FY19.
- 02 – License suspended in FY18, *reinstated* in FY19.

⁴ The one exception in the Act to KAPA notice rules preceding a suspension is when a fully qualifying protection order (usually coming in the form of a *final* protection order rather than a temporary order) has been issued against a licensee. In that circumstance, the Act requires an *immediate* suspension of the license and the KAPA notice rules occur subsequent to that immediate suspension.

339 – License revocation actions:

- 304 – *Revoked due to changing State residency.*
- 28 - *Revoked because of felony convictions:*
 - 05 – Criminal Threat
 - 04 – CS
 - ❖ 02 – Opiates
 - ❖ 01 – Steroids
 - ❖ 01 – Attempted Distribution of Marijuana
 - 04 – Sex Offenses
 - ❖ 01 – Unlawful Sexual Relations
 - ❖ 01 – Sexual Exploitation of a Child
 - ❖ 01 – Indecent Liberties with a Child
 - ❖ 01 – Aggravated Indecent Liberties with a Child
 - 02 – Aggravated Battery
 - 02 – DUI
 - 02 – Mistreatment of Dependent Adult
 - 02 – Criminal Damage to Property
 - 01 – Battery of a Law Enforcement Officer
 - 01 – Attempted Murder
 - 01 – Aggravated Assault
 - 01 – Robbery
 - 01 – Child Endangerment
 - 01 – Flee and Elude a Law Enforcement Officer
 - 01 – Attempted Theft.
- 03 – *Revoked because of other CS issues.*
- 02 – *Revoked because of CUI conviction.*
- 01 – *Revoked because of MCDV conviction.*
- 01 – *Revoked because of mental health.*

NOTE: *Fluidity between fiscal years:* For the revocations actions outlined above, the following actions surrounded those actions between fiscal years. A single licensee might fall into more than one action described below.

- 14 – License revoked in FY18 for license suspended in FY17.
- 10 – Revocation proposed and effective in FY18.
- 05 – License proposed for revocation in FY18 revoked in FY19 in accordance with KAPA notice requirements noted above.
- 04 – Revocation proposed in FY17 became effective in FY18 in accordance with KAPA notice requirements noted above.
- 03 – License revoked in FY18 for license suspended in FY16.

Rescissions and reinstatements:

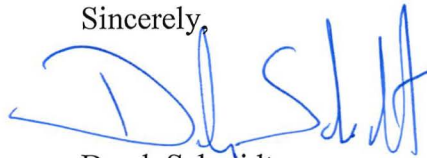
- 10 - Revoked licenses *reinstated* in FY18.

- ❖ 04 – Revoked in FY17
- ❖ 03 – Revoked in FY15
- ❖ 02 – Revoked in FY18
- ❖ 01 – Revoked in FY16

Reason for reinstatement:

- ❖ 04 – Residency issue resolved
 - ❖ 03 – CUI sanction ending
 - ❖ 03 – Felony charge reduced or eliminated.
- 09 – Proposed revocation *rescinded* in FY18 (all after Kansas residency was clarified).

Sincerely,



Derek Schmidt
Kansas Attorney General