

SENATE BILL No. 6

By Senator Steffen

12-29

1 AN ACT concerning infectious or contagious diseases; relating to the
2 secretary of health and environment and local health officers;
3 restricting the powers thereof; repealing authority of the secretary to
4 order individuals to isolate or quarantine and impose associated
5 penalties therefor; amending K.S.A. 65-116g, 65-118, 65-119, 65-128,
6 65-129b and 65-129d and K.S.A. 2022 Supp. 65-101, 65-202 and 72-
7 5180 and repealing the existing sections; also repealing K.S.A. 65-126,
8 65-127, 65-129 and 65-129c.
9

10 *Be it enacted by the Legislature of the State of Kansas:*

11 Section 1. K.S.A. 2022 Supp. 65-101 is hereby amended to read as
12 follows: 65-101. (a) The secretary of health and environment shall exercise
13 general supervision of the health of the people of the state and may:

14 (1) Where authorized by any other statute, require reports from
15 appropriate persons relating to the health of the people of the state so a
16 determination of the causes of sickness and death among the people of the
17 state may be made through the use of these reports and other records;

18 (2) investigate the causes of disease, including especially, epidemics
19 and endemics, the causes of mortality and effects of locality, employments,
20 conditions, food, water supply, habits and other circumstances affecting
21 the health of the people of this state and the causes of sickness and death;

22 (3) advise other offices and agencies of government concerning
23 location, drainage, water supply, disposal of excreta and heating and
24 ventilation of public buildings;

25 (4) make sanitary inspection and survey of such places and localities
26 as the secretary deems advisable;

27 (5) take action to prevent the introduction of infectious or contagious
28 disease into this state and to prevent the spread of infectious or contagious
29 disease within this state; *and*

30 (6) provide public health outreach services to the people of the state
31 including educational and other activities designed to increase the
32 individual's awareness and appropriate use of public and other preventive
33 health services.

34 (b) The secretary of health and environment may adopt rules and
35 regulations necessary to carry out the provisions of subsection (a). In
36 addition to other remedies provided by law, the secretary is authorized to

1 apply to the district court, and such court shall have jurisdiction upon a
 2 hearing and for cause shown to grant a temporary or permanent injunction
 3 to compel compliance with such rules and regulations.

4 (c) *The secretary of health and environment shall not carry out the*
 5 *provisions of subsection (a) or (b) in a manner that conflicts with any*
 6 *other statute or otherwise expands the authority of the secretary.*

7 (d) In the event of a state of disaster emergency declared by the
 8 governor pursuant to K.S.A. 48-924, and amendments thereto, or a state of
 9 local disaster emergency declared pursuant to K.S.A. 48-932, and
 10 amendments thereto, the legislature may revoke an order issued by the
 11 secretary to take action related to such disaster emergency as provided in
 12 this subsection. Such order may be revoked at any time by concurrent
 13 resolution of the legislature or, when the legislature is not in session or is
 14 adjourned during session for three or more days, such order may be
 15 revoked by the legislative coordinating council with the affirmative vote of
 16 five members thereof.

17 Sec. 2. K.S.A. 65-116g is hereby amended to read as follows: 65-
 18 116g. (a) *It shall be unlawful for any person who violates to:*

19 (1) *Violate any provision of this act relating to tuberculosis, or any*
 20 *associated rules or regulations of the secretary of health and environment*
 21 *for the enforcement of this act, or;*

22 (2) ~~violates~~ *violate any of the rules or regulations of any an*
 23 *institution while a patient therein; or*

24 (3) ~~conducts himself in a engages in disorderly manner, shall be~~
 25 ~~guilty of conduct, as described in K.S.A. 21-6203, and amendments~~
 26 *thereto.*

27 (b) *Violation of this section is a class C nonperson misdemeanor.*

28 (c) *For the purposes of this section, "this act" means K.S.A. 65-116a*
 29 *through K.S.A. 65-116m, and amendments thereto.*

30 Sec. 3. K.S.A. 65-118 is hereby amended to read as follows: 65-118.

31 (a) Whenever any person licensed to practice the healing arts or engaged in
 32 a postgraduate training program approved by the state board of healing
 33 arts, licensed dentist, licensed professional nurse, licensed practical nurse,
 34 administrator of a hospital, licensed adult care home-administrator,
 35 licensed physician assistant; or licensed social worker, ~~teacher or school~~
 36 ~~administrator~~ knows or has information indicating that a person is
 37 suffering from or has died from a reportable infectious or contagious
 38 disease as defined in rules and regulations, such knowledge or information
 39 shall be reported immediately to the county or joint board of health or the
 40 local health officer, together with the name and address of the person who
 41 has or is suspected of having the infectious or contagious disease, or the
 42 name and former address of the deceased individual who had or was
 43 suspected of having such a disease. In the case of a licensed hospital or

1 adult care home, the administrator may designate an individual to receive
2 and make such reports. The secretary of health and environment shall,
3 through rules and regulations, make provision for the consolidation of
4 reports required to be made under this section when the person required to
5 make the report is working in a licensed hospital or adult care home.
6 Laboratories certified under the federal clinical laboratories improvement
7 act pursuant to ~~42-code-of-federal-regulations~~, *C.F.R. part* 493 shall report
8 the results of microbiologic cultures, examinations; *and* immunologic
9 essays for the presence of antigens and antibodies and any other laboratory
10 tests which are indicative of the presence of a reportable infectious or
11 contagious disease to the department of health and environment. The
12 director of the division of public health may use information from death
13 certificates for disease investigation purposes.

14 (b) Any person who is an individual member of a class of persons
15 designated under subsection (a) of this section and who reports the
16 information required to be reported under such subsection in good faith
17 and without malice to a county or joint board of health, a local health
18 officer or the department of health and environment shall have immunity
19 from any liability, civil or criminal, that might otherwise be incurred or
20 imposed in an action resulting from such report. Any such person shall
21 have the same immunity with respect to participation in any judicial
22 proceeding resulting from such report.

23 (c) Information required to be reported under subsection (a) ~~of this~~
24 ~~section~~ shall be confidential and shall not be disclosed or made public,
25 upon subpoena or otherwise, beyond the requirements of subsection (a) ~~of~~
26 ~~this section~~ or ~~subsection (a) of~~ K.S.A. 65-119(a), and amendments
27 thereto, except such information may be disclosed:

28 (1) If no person can be identified in the information to be disclosed
29 and the disclosure is for statistical purposes;

30 (2) if all persons who are identifiable in the information to be
31 disclosed consent in writing to its disclosure;

32 (3) if the disclosure is necessary, and only to the extent necessary, to
33 protect the public health;

34 (4) if a medical emergency exists and the disclosure is to medical
35 personnel qualified to treat infectious or contagious diseases. Any
36 information disclosed pursuant to this paragraph shall be disclosed only to
37 the extent necessary to protect the health or life of a named party; or

38 (5) if the information to be disclosed is required in a court proceeding
39 involving child abuse and the information is disclosed in camera.

40 Sec. 4. K.S.A. 65-119 is hereby amended to read as follows: 65-119.

41 (a) Any county or joint board of health or local health officer having
42 knowledge of any infectious or contagious disease, or of a death from such
43 disease, within their jurisdiction, shall immediately exercise and maintain

1 a supervision over such case or cases during their continuance, seeing that
2 all such cases are properly cared for and that the provisions of this act—
3 *pertaining* to isolation, restriction of communication, quarantine and
4 disinfection are duly enforced. The county or joint board of health or local
5 health officer shall communicate without delay all information—~~as~~
6 *pertaining* to existing conditions to the secretary of health and
7 environment. The local health officer shall confer personally, if
8 practicable, otherwise by letter, with the person in attendance upon the
9 case, as to its future management and control. ~~The county or joint board of~~
10 ~~health or local health officer is hereby empowered and authorized to~~
11 ~~prohibit public gatherings when necessary for the control of any and all~~
12 ~~infectious or contagious disease.~~

13 (b) Any disclosure or communication of information relating to
14 infectious or contagious diseases required to be disclosed or
15 communicated under subsection (a) ~~of this section~~ shall be confidential
16 and shall not be disclosed or made public beyond the requirements of
17 subsection (a) ~~of this section~~ or subsection (a) of K.S.A. 65-118(a), and
18 *amendments thereto*, except as otherwise permitted by ~~subsection (e) of~~
19 ~~K.S.A. 65-118(c), and amendments thereto.~~

20 Sec. 5. K.S.A. 65-128 is hereby amended to read as follows: 65-128.

21 (a) For the protection of the public health and for the control of infectious
22 or contagious diseases, the secretary of health and environment ~~by rules~~
23 ~~and regulations shall designate~~ *submit a report of such diseases as* that are
24 infectious or contagious in their nature *to the speaker of the house of*
25 *representatives and the president of the senate.*

26 (b) The secretary of health and environment is authorized to ~~issue~~
27 ~~such orders and adopt rules and regulations as may be medically necessary~~
28 ~~and reasonable~~ *recommend to the public and educate them in ways*
29 *to prevent the spread and dissemination of diseases injurious to the public*
30 *health, including, but not limited to, providing for the testing for such*
31 *diseases and the isolation and quarantine of persons afflicted with or*
32 *exposed to such diseases.*

33 (c) ~~No later than January 1, 2014, The secretary shall develop and~~
34 ~~adopt rules and regulations providing for~~ *make recommendations for*
35 *preventing the introduction and spread of infectious or contagious disease*
36 *within this state and the protection of individuals who provide medical or*
37 *nursing services, clinical or forensic laboratory services, emergency*
38 *medical services and firefighting, law enforcement and correctional*
39 *services, or who provide any other service, or individuals who receive any*
40 *such services or are in any other employment where the individual may*
41 *encounter occupational exposure to blood and other potentially infectious*
42 *materials.*

43 Sec. 6. K.S.A. 65-129b is hereby amended to read as follows: 65-

1 129b. ~~(a)~~ Notwithstanding the provisions of K.S.A. 65-119, 65-122, 65-
 2 123, ~~65-126~~ and 65-128, and amendments thereto, and any rules or
 3 regulations adopted thereunder, in investigating actual or potential
 4 exposures to an infectious or contagious disease that is potentially life-
 5 threatening, the local health officer ~~or the secretary~~:

6 ~~(A)(a)~~ May ~~issue an order requiring~~ *recommend* an individual
 7 ~~who whom~~ the local health officer ~~or the secretary~~ has reason to believe
 8 has been exposed to an infectious or contagious disease to seek appropriate
 9 and necessary evaluation and treatment;

10 ~~(B)(b)~~ when the local health officer ~~or the secretary~~ determines that it
 11 is medically necessary and reasonable to prevent or reduce the spread of
 12 the disease or outbreak believed to have been caused by the exposure to an
 13 infectious or contagious disease, may ~~order~~ *recommend* an individual or
 14 group of individuals to go to and remain in places of isolation or
 15 quarantine until the local health officer ~~or the secretary~~ determines that the
 16 individual no longer poses a substantial risk of transmitting the disease or
 17 condition to the public;

18 ~~(C)(c)~~ if a competent individual ~~of who is~~ 18 years of age or older or
 19 an emancipated minor refuses ~~vaccination~~, medical examination, treatment
 20 or testing under this section, may ~~require~~ *recommend* the individual to go
 21 to and remain in a place of isolation or quarantine until the local health
 22 officer ~~or the secretary~~ determines that the individual no longer poses a
 23 substantial risk of transmitting the disease or condition to the public; and

24 ~~(D)(d)~~ if, on behalf of a minor child or ward, a parent or guardian
 25 refuses ~~vaccination~~, medical examination, treatment or testing under this
 26 section, may ~~require~~ *recommend* the minor child or ward to go to and
 27 remain in a place of isolation or quarantine and ~~must~~ *shall* allow the parent
 28 or guardian to accompany the minor child or ward until the local health
 29 officer ~~or the secretary~~ determines that the minor child or ward no longer
 30 poses a substantial risk of transmitting the disease or condition to the
 31 public; and

32 ~~(2)~~ ~~may order any sheriff, deputy sheriff or other law enforcement~~
 33 ~~officer of the state or any subdivision to assist in the execution or~~
 34 ~~enforcement of any order issued under this section.~~

35 Sec. 7. K.S.A. 65-129d is hereby amended to read as follows: 65-
 36 129d. ~~It shall be unlawful for any A public or private employer to shall not~~
 37 ~~discharge an employee solely because the employee or an immediate~~
 38 ~~family member of the employee is under an order of following an isolation~~
 39 ~~or quarantine recommendation from a local health officer. The violation of~~
 40 ~~this section is punishable as a violation of K.S.A. 65-129, and amendments~~
 41 ~~thereto In an action against an employer for a violation of this section, the~~
 42 ~~court shall award a prevailing plaintiff the actual damages such person~~
 43 ~~sustained, costs and reasonable attorney fees.~~

1 Sec. 8. K.S.A. 2022 Supp. 65-202 is hereby amended to read as
2 follows: 65-202. (a) The local health officer in each county throughout the
3 state, immediately after such officer's appointment, shall:

4 (1) Take the same oath of office prescribed by law for the county
5 officers, ~~shall~~;

6 (2) give bond of \$500 conditioned for the faithful performance of the
7 officer's duties, ~~shall~~;

8 (3) keep an accurate record of all the transactions of such office,
9 ~~shall~~;

10 (4) turn over to the successor in office or to the county or joint board
11 of health selecting such officer, on the expiration of such officer's term of
12 office, all records, documents and other articles belonging to the office;
13 ~~and shall~~

14 (5) faithfully account to *the* board of county commissioners and to the
15 county and state for all moneys coming into the office. Such officer shall
16 notify the secretary of health and environment of such officer's
17 appointment and qualification, and provide the secretary with such
18 officer's contact information.

19 (b) Such officer shall receive and distribute without delay in the
20 county all forms from the secretary of health and environment to the
21 rightful persons, all returns from persons licensed to practice medicine and
22 surgery, assessors and local boards to said secretary, shall keep an accurate
23 record of all of the transactions of such office and shall turn over all
24 records and documents kept by such officer, the successor in office, or to
25 the county or joint board electing such officer, on the expiration of the
26 term of office.

27 (c) The local health officer shall upon the opening of the fall term of
28 school, make a sanitary inspection of each school building and grounds,
29 and shall make such additional inspections as are necessary to protect the
30 public health of the students of the school.

31 ~~(e)~~(d) (1) Such officer shall make an investigation of each case of
32 smallpox, diphtheria, typhoid fever, scarlet fever, acute anterior
33 poliomyelitis (infantile paralysis), epidemic cerebro-spinal meningitis and
34 such other acute infectious, contagious or communicable diseases as may
35 be required, and shall use all ~~known~~ *medically necessary and reasonable*
36 measures to prevent the spread of any such infectious, contagious or
37 communicable disease, and shall perform such other duties as this act, the
38 county or joint board, ~~or board of health or the secretary of health and~~
39 ~~environment~~ may require.

40 (2) ~~Any order issued by the local health officer, including Orders~~
41 ~~issued as a result of an executive order of the governor, on behalf of a~~
42 ~~county regarding the remediation of any infectious disease may be~~
43 ~~reviewed, amended or revoked by the board of county commissioners of~~

1 any county affected by such order in the manner provided by K.S.A. 65-
2 201(b), and amendments thereto.

3 (e) Such officer shall receive compensation as set by the board and,
4 with the approval of the board of health, may employ a skilled professional
5 nurse and other additional personnel whenever deemed necessary for the
6 protection of the public health.

7 (f) For any failure or neglect of the local health officer to perform any
8 of the duties prescribed in this act, the officer may be removed from office
9 by the county board of health. In addition to removal from office; for any
10 failure or neglect to perform any of the duties prescribed by this act, the
11 local health officer shall be deemed guilty of a misdemeanor and, upon
12 conviction, be fined not less \$10 nor more than \$100 for each and every
13 offense.

14 Sec. 9. K.S.A. 2022 Supp. 72-5180 is hereby amended to read as
15 follows: 72-5180. (a) Commencing in the 2021-2022 school year, except
16 as otherwise provided in this section, no school district shall provide or
17 offer to any student enrolled in the district more than a total of 40 school
18 term hours of remote learning unless:

19 (1) The board of education of the school district has authorized a
20 student to temporarily attend school through remote learning in excess of
21 the 40-hour limitation pursuant to a temporary individual exemption
22 granted pursuant to subsection (b); or

23 (2) due to a disaster, the state board of education has authorized the
24 school district to conduct remote learning in excess of the 40-hour
25 limitation pursuant to subsection (c) or has waived the limitations provided
26 in subsection (d).

27 (b) The board of education of a school district may temporarily
28 suspend the remote learning limitation provided in subsection (a) on an
29 individual student basis for any student who cannot reasonably attend
30 school in person due to an illness, medical condition, injury or any other
31 extraordinary circumstance that would necessitate remote learning to allow
32 the student to continue to receive an education during the existence of such
33 circumstance. The board of education of the school district shall notify the
34 state board of any individual exemptions provided pursuant to this
35 subsection and the reason for such exemption.

36 (c) The state board of education may authorize a school district to
37 exceed the 40-hour remote learning limitation upon application by the
38 school district. The application may be granted by the state board of
39 education upon:

40 (1) Certification by a school district that, due to a disaster, conditions
41 resulting from widespread or severe property damage caused by the
42 disaster or other conditions restricting the operation of public schools will
43 exist in the school district for an inordinate period of time; and

1 (2) a determination by the state board that the school district cannot
2 reasonably adjust its schedule to comply with the requirements of this
3 section unless remote learning is conducted for a period of time not to
4 exceed 240 school term hours, unless such limitation is waived by the state
5 board pursuant to subsection (d).

6 (d) The state board of education may waive the requirements of law
7 relating to the remote learning limitations pursuant to subsection (c) in any
8 school year upon application for such waiver by a school district. The
9 waiver may be granted by the state board of education upon:

10 (1) Certification by a board of education that, due to a disaster,
11 conditions resulting from widespread or severe property damage caused by
12 the disaster or other conditions restricting the operation of public schools
13 will exist in the school district for an inordinate period of time; and

14 (2) a determination by the state board that the school district cannot
15 reasonably adjust its schedule to comply with such requirements of law
16 and that remote learning beyond the limitations provided in subsection (c)
17 is necessary to allow the school district to continue to provide education to
18 students during such conditions.

19 (e) (1) Any student who attends a school of a school district through
20 remote learning in excess of the remote learning limitations provided
21 pursuant to this section shall be deemed a remote learning student and
22 shall be counted as a remotely enrolled student for state aid purposes.

23 (2) On or before June 30 of each school year:

24 (A) A school district that offers remote learning during the school
25 year shall determine the remote enrollment of the district based on the
26 number of students remotely enrolled in accordance with this section;

27 (B) the clerk or superintendent of each school district shall certify
28 under oath to the state board a report showing the remote enrollment of the
29 school district determined pursuant to this subsection by the grades
30 maintained in the schools of the school district. The state board shall
31 examine such reports upon receipt, and if the state board finds any errors
32 in any such report, the state board shall consult with the school district
33 officer furnishing the report and make any necessary corrections in the
34 report; and

35 (C) the state board shall determine the number of students who were
36 included in the remote enrollment of each school district and recompute
37 the enrollment of the school district as required pursuant to this subsection.

38 (3) A school district that offers remote learning and is determined to
39 have remotely enrolled students pursuant to this section shall receive
40 remote enrollment state aid. The state board shall determine the amount of
41 remote enrollment state aid a school district is to receive by multiplying
42 the remote enrollment of the school district by \$5,000. No remote
43 enrollment state aid shall be provided for any student who participates in

1 remote learning on a part-time basis during the school day.

2 (4) The state board shall notify each school district of the amount of
3 remote enrollment state aid the district shall receive pursuant to this
4 section and, pursuant to K.S.A. 72-5136, and amendments thereto, shall:

5 (A) Require the district to remit any such amount of overpayment
6 made to the district in the current school year; or

7 (B) deduct the excess amounts paid to the district from future
8 payments made to the school district.

9 (5) If a student is included in the remote enrollment of a district
10 pursuant to this subsection, such student shall not be included in the
11 adjusted enrollment of the district in the current school year.

12 (f) Each school district that determines remote enrollment pursuant to
13 this section shall submit any documentation or information required by the
14 state board.

15 (g) As used in this section, "disaster" means a state of disaster
16 emergency declared by proclamation of the governor pursuant to K.S.A.
17 48-924, and amendments thereto, closure of schools by order issued by a
18 county or joint board of health, a local health officer pursuant to K.S.A.
19 65-119, and amendments thereto, ~~or the secretary of health and~~
20 ~~environment pursuant to K.S.A. 65-126, and amendments thereto,~~ or
21 occurrence of widespread or severe damage, injury or loss of life or
22 property resulting from any natural or manmade cause, including, but not
23 limited to, fire, flood, earthquake, tornado, wind, storm, an epidemic, air
24 contamination, blight, drought, infestation or explosion.

25 (h) This section shall be a part of and supplemental to the Kansas
26 school equity and enhancement act.

27 ~~(i) This section shall take effect and be in force from and after July 1,~~
28 ~~2021.~~

29 Sec. 10. K.S.A. 65-116g, 65-118, 65-119, 65-126, 65-127, 65-128,
30 65-129, 65-129b, 65-129c and 65-129d and K.S.A. 2022 Supp. 65-101,
31 65-202 and 72-5180 are hereby repealed.

32 Sec. 11. This act shall take effect and be in force from and after its
33 publication in the statute book.