

As Amended by House Committee

Session of 2004

HOUSE BILL No. 2890

By Committee on Appropriations

2-17

10 AN ACT relating to public health; concerning infectious and contagious
11 diseases.

12

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

14 Section. 1. As used in sections 2 and 3, and amendments thereto:

15 (a) "Infectious or contagious disease" has the meaning ascribed
16 thereto by subsection (b) of K.S.A. 65-128, and amendments thereto.

17 (b) "Secretary" means the secretary of health and environment.

18 Sec. 2. (a) Notwithstanding the provisions of K.S.A. 65-119, 65-122,
19 65-123, 65-126 and 65-128, and amendments thereto, and any rules or
20 regulations adopted thereunder, in investigating actual or potential ex-
21 posures to an infectious or contagious disease, the local health officer or
22 the secretary:

23 (1) (A) May issue an order requiring an individual who the local
24 health officer or the secretary has reason to believe has been exposed to
25 an infectious or contagious disease to seek appropriate and necessary
26 evaluation and treatment;

27 (B) when the local health officer or the secretary determines that it
28 is medically necessary and reasonable to prevent or reduce the spread of
29 the disease or outbreak believed to have been caused by the exposure to
30 an infectious or contagious disease, may order an individual or group of
31 individuals to go to and remain in places of isolation or quarantine until
32 the local health officer or the secretary determines that the individual no
33 longer poses a substantial risk of transmitting the disease or condition to
34 the public; and

35 (C) if a competent individual over the age of 18 refuses vaccination,
36 medical examination, treatment or testing under this section, may require
37 the individual to go to and remain in a place of isolation or quarantine
38 until the local health officer or the secretary determines that the individ-
39 ual no longer poses a substantial risk of transmitting the disease or con-
40 dition to the public; and

41 (2) may order any sheriff, deputy sheriff or other law enforcement
42 officer of the state or any subdivision to assist in the execution or enforce-
43 ment of any order issued under this section.

1 (b) The local health officer or the secretary may issue an order under
2 subsection (a):

3 (1) If, prior to the issuance of a proclamation of emergency by the
4 governor, the local health officer or the secretary determines that the
5 disease or outbreak can be medically contained by the department and
6 appropriate health care providers; and

7 (2) as necessary to implement an order of emergency issued by the
8 governor.

9 Sec. 3. (a) If the local health officer or the secretary requires an in-
10 dividual or a group of individuals to go to and remain in places of isolation
11 or quarantine under section ~~4~~ **2**, and amendments thereto, the local
12 health officer or the secretary shall issue ~~a directive~~ **an order** to the
13 individual or group of individuals.

14 (b) The ~~directive order~~ shall specify:

15 (1) The identity of the individual or group of individuals subject to
16 isolation or quarantine;

17 (2) the premises subject to isolation or quarantine;

18 (3) the date and time at which isolation or quarantine commences;

19 (4) the suspected infectious or contagious disease causing the out-
20 break or disease, if known;

21 (5) the basis upon which isolation or quarantine is justified; and

22 (6) the availability of a hearing to contest the ~~directive order~~.

23 (c) (1) Except as provided in paragraph (2) of subsection (c), the
24 ~~directive order~~ shall be in writing and given to the individual or group
25 of individuals prior to the individual or group of individuals being required
26 to go to and remain in places of isolation and quarantine.

27 (2) (A) If the local health officer or the secretary determines that the
28 notice required under paragraph (1) of subsection (c) is impractical be-
29 cause of the number of individuals or geographical areas affected, the
30 local health officer or the secretary shall ensure that the affected individ-
31 uals are fully informed of the ~~directive order~~ using the best possible
32 means available.

33 (B) If the ~~directive order~~ applies to a group of individuals and it is
34 impractical to provide written individual copies under paragraph (1) of
35 subsection (c), the written ~~directive order~~ may be posted in a conspicuous
36 place in the isolation or quarantine premises.

37 (d) (1) An individual or group of individuals isolated or quarantined
38 under this section may request a hearing in district court contesting the
39 isolation or quarantine.

40 (2) A request for a hearing may not stay or enjoin an isolation or
41 quarantine ~~directive order~~.

42 (3) Upon receipt of a request under this subsection (d), the court
43 shall conduct a hearing within ~~three working days~~ **72 hours** after receipt

1 of the request.

2 (4) (A) In any proceedings brought for relief under this subsection
3 (d), the court may extend the time for a hearing upon a showing by the
4 local health officer or the secretary or other designated official that ex-
5 traordinary circumstances exist that justify the extension.

6 (B) In granting or denying an extension, the court shall consider the
7 rights of the affected individual, the protection of the public health, the
8 severity of the catastrophic health emergency and the availability, if nec-
9 essary, of witnesses and evidence.

10 (e) (1) The court shall grant the request for relief unless the court
11 determines that the isolation or quarantine ~~directive~~ **order** is necessary
12 and reasonable to prevent or reduce the spread of the disease or outbreak
13 believed to have been caused by the exposure to an infectious or conta-
14 gious disease.

15 (2) If feasible, in making a determination under this subsection (e),
16 the court may consider the means of transmission, the degree of conta-
17 gion, and, to the extent possible, the degree of public exposure to the
18 disease.

19 (f) An order authorizing the isolation or quarantine issued under this
20 subsection shall:

21 (1) Identify the isolated or quarantined individual or group of indi-
22 viduals by name or shared characteristics;

23 (2) specify factual findings warranting isolation or quarantine; and

24 (3) except as provided in paragraph (2) of subsection (f), be in writing
25 and given to the individual or group of individuals.

26 (g) If the court determines that the notice required in paragraph (3)
27 of subsection (f) is impractical because of the number of individuals or
28 geographical areas affected, the court shall ensure that the affected in-
29 dividuals are fully informed of the order using the best possible means
30 available.

31 (h) An order authorizing isolation or quarantine shall be effective for
32 a period not to exceed 30 days. The court shall base its decision on the
33 standards provided under this section.

34 (i) In the event that an individual cannot personally appear before
35 the court, proceedings may be conducted:

36 (1) By an individual's authorized representative; and

37 (2) through any means that allows other individuals to fully
38 participate.

39 (j) In any proceedings brought under this section, the court may or-
40 der the consolidation of individual claims into group claims where:

41 (1) The number of individuals involved or affected is so large as to
42 render individual participation impractical;

43 (2) there are questions of law or fact common to the individual claims

1 or rights to be determined;

2 (3) the group claims or rights to be determined are typical of the
3 affected individual's claims or rights; ~~or~~ **and**

4 (4) the entire group will be adequately represented in the
5 consolidation.

6 (k) The court shall appoint counsel to represent individuals or a group
7 of individuals who are not otherwise represented by counsel.

8 (l) The supreme court of Kansas ~~shall~~ **may** develop emergency rules
9 of procedure to facilitate the efficient adjudication of any proceedings
10 brought under this section.

11 (m) It shall be unlawful for any public or private employer to dis-
12 charge an employee who is under an order of isolation or quarantine or
13 because of such an order.

14 Sec. 4. This act shall take effect and be in force from and after its
15 publication in the statute book.