

[As Further Amended by Senate Committee of the Whole]

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Session of 2010

SENATE BILL No. 488

By Committee on Judiciary

1-29

16 AN ACT concerning the secretary of health and environment; relating
17 to ~~powers and duties, fingerprinting and criminal history records~~
18 ~~checks for certain new employees~~ *[office of vital statistics] powers*
19 ~~and duties, fingerprinting and criminal history records checks~~
20 ~~for certain new employees~~ *[office of vital statistics]*; amending
21 K.S.A. 65-2402 ~~[65-177 and 65-2402 and K.S.A. 2009 Supp. 65-~~
22 ~~2422d]~~ *[65-177 and 65-2402 and K.S.A. 2009 Supp. 65-2422d]*
23 and repealing the existing section ~~[sections]~~ *section [sections]*.
24

25 *Be it enacted by the Legislature of the State of Kansas:*
26 ~~*[Section 1. — K.S.A. 65-177 is hereby amended to read as follows:*~~
27 ~~*65-177. The term “data” as used in this act shall be construed to*~~
28 ~~*include all facts, information, records of interviews, written reports,*~~
29 ~~*statements, notes, or memoranda secured in connection with an au-*~~
30 ~~*thorized medical research study.*~~
31 ~~*—[The secretary of health and environment may receive data se-*~~
32 ~~*cured in connection with medical research studies conducted for*~~
33 ~~*the purpose of reducing morbidity or mortality from maternal, per-*~~
34 ~~*inatal and anesthetic causes. Such studies may be conducted by the*~~
35 ~~*secretary of health and environment and his staff or with other qual-*~~
36 ~~*ified persons, agencies or organizations. Where authorization to*~~
37 ~~*conduct such a study is granted by the secretary of health and en-*~~
38 ~~*vironment, all data voluntarily made available to the secretary of*~~
39 ~~*health and environment in connection with such study shall be*~~
40 ~~*treated as confidential and shall be used solely for purposes of med-*~~
41 ~~*ical research. Research files and opinions expressed upon the evi-*~~
42 ~~*dence found in such research shall not be admissible as evidence in*~~
43 ~~*any action in any court or before any other tribunal. Provided, how-*~~

1 ~~ever, That any statistics or tables resulting from such data shall be~~
2 ~~admissible as evidence: Provided, That this act shall not affect the~~
3 ~~right of any patient or his guardians, representatives or heirs to~~
4 ~~require hospitals, physicians, sanatoriums, rest homes, nursing~~
5 ~~homes or other persons or agencies to furnish his hospital record to~~
6 ~~his representatives upon written authorization, or the admissibility~~
7 ~~in evidence thereof.~~

8 ~~—[No employee of the secretary of health and environment shall~~
9 ~~interview any patient named in any such report, nor any relative~~
10 ~~of any such patient, unless otherwise provided in K.S.A. 65-2422d, and~~
11 ~~amendments thereto: Provided, That nothing in this act shall prohibit~~
12 ~~the publication by the secretary of health and environment or a~~
13 ~~duly authorized cooperating person, agency or organization, of fi-~~
14 ~~nal reports or statistical compilations derived from morbidity or~~
15 ~~mortality studies, which reports or compilations do not identify in-~~
16 ~~dividuals, associations, corporations or institutions which were the~~
17 ~~subjects of such studies, or reveal sources of information.]~~

18 [Section 1. K.S.A. 65-177 is hereby amended to read as follows:
19 65-177. The term “data” as used in this act shall be construed to
20 include all facts, information, records of interviews, written reports,
21 statements, notes, or memoranda secured in connection with an au-
22 thorized medical research study.

23 [The secretary of health and environment may receive data re-
24 ceived in connection with medical research studies conducted for
25 the purpose of reducing morbidity or mortality from maternal, per-
26 inatal and anesthetic causes. Such studies may be conducted by the
27 secretary of health and environment and his staff or with other qual-
28 ified persons, agencies or organizations. Where authorization to
29 conduct such a study is granted by the secretary of health and en-
30 vironment, all data voluntarily made available to the secretary of
31 health and environment in connection with such study shall be
32 treated as confidential and shall be used solely for purposes of med-
33 ical research. Research files and opinions expressed upon the evi-
34 dence found in such research shall not be admissible as evidence in
35 any action in any court or before any other tribunal: Provided, how-
36 ever, That any statistics or tables resulting from such data shall be
37 admissible as evidence: Provided, That this act shall not affect the
38 right of any patient or his guardians, representatives or heirs to
39 require hospitals, physicians, sanatoriums, rest homes, nursing
40 homes or other persons or agencies to furnish his hospital record to
41 his representatives upon written authorization, or the admissibility
42 in evidence thereof.

43 [No employee of the secretary of health and environment shall

1 *interview any patient named in any such report, nor any relative*
 2 *of any such patient, unless otherwise provided in K.S.A. 65-2422d, and*
 3 *amendments thereto: Provided, That nothing in this act shall prohibit*
 4 *the publication by the secretary of health and environment or a*
 5 *duly authorized cooperating person, agency or organization, of fi-*
 6 *nal reports or statistical compilations derived from morbidity or*
 7 *mortality studies, which reports or compilations do not identify in-*
 8 *dividuals, associations, corporations or institutions which were the*
 9 *subjects of such studies, or reveal sources of information.]*

10 ~~Section [Sec.] Section 1. [2.] 1. [Sec. 2]~~ K.S.A. 65-2402 is hereby
 11 amended to read as follows: 65-2402. (a) The secretary shall: (1) Establish
 12 within the division of health suitable offices properly equipped for the
 13 preservation of official records. (2) Maintain a complete cross-index on
 14 all records filed under the provisions of this act. (3) Install a statewide
 15 system of vital statistics. (4) Make and may amend, after notice and hear-
 16 ing, necessary regulations, give instructions and prescribe forms for col-
 17 lection, transcribing, compiling and preserving vital statistics. (5) Enforce
 18 this act and the regulations made pursuant thereto.

19 (b) ~~The selected applicant for a position~~ **Any person offered a po-**
 20 **sition of employment in the office of vital statistics, subject to a crim-**
 21 **inal history records check, shall be given a written notice that a criminal**
 22 **history records check is required. The secretary shall require such can-**
 23 **didate applicant to be fingerprinted and submit to a state and national**
 24 **criminal history record check. The fingerprints shall be used to identify**
 25 **the applicant and to determine whether the applicant has a record of**
 26 **criminal history in this state or another jurisdiction. The secretary shall**
 27 **submit the fingerprints to the Kansas bureau of investigation and the**
 28 **federal bureau of investigation for a state and national criminal history**
 29 **record check. Local and state law enforcement officers and agencies shall**
 30 **assist the secretary in taking and processing of fingerprints of applicants.**
 31 **The secretary may use the information obtained from fingerprinting and**
 32 **the criminal history for purposes of verifying the identification of the**
 33 **applicant and in the official determination of the eligibility of the appli-**
 34 **cant to perform tasks within the office of vital statistics. If the criminal**
 35 **history record information is used to disqualify an applicant, the applicant**
 36 **shall be informed in writing of that decision.**

37 ~~Sec. 2.—K.S.A. 65-2402 is hereby repealed.~~

38 ~~[Sec. 3.—K.S.A. 2009 Supp. 65-2422d is hereby amended to read~~
 39 ~~as follows: 65-2422d. (a) The records and files of the division of~~
 40 ~~health pertaining to vital statistics shall be open to inspection, sub-~~
 41 ~~ject to the provisions of this act and rules and regulations of the~~
 42 ~~secretary. It shall be unlawful for any officer or employee of the~~
 43 ~~state to disclose data contained in vital statistical records, except as~~

1 ~~authorized by this act and the secretary, and it shall be unlawful~~
2 ~~for anyone who possesses, stores or in any way handles vital statis-~~
3 ~~tics records under contract with the state to disclose any data con-~~
4 ~~tained in the records, except as authorized by law.~~
5 ~~—(b)—No information concerning the birth of a child shall be dis-~~
6 ~~closed in a manner that enables determination that the child was~~
7 ~~born out of wedlock, except upon order of a court in a case where~~
8 ~~the information is necessary for the determination of personal or~~
9 ~~property rights and then only for that purpose, or except that em-~~
10 ~~ployees of the office of child support enforcement of the federal~~
11 ~~department of health and human services shall be provided infor-~~
12 ~~mation when the information is necessary to ensure compliance~~
13 ~~with federal reporting and audit requirements pursuant to title IV-~~
14 ~~D of the federal social security act or except that the secretary of~~
15 ~~social and rehabilitation services or the secretary's designee per-~~
16 ~~forming child support enforcement functions pursuant to title IV-D~~
17 ~~of the federal social security act shall be provided information and~~
18 ~~copies of birth certificates when the information is necessary to es-~~
19 ~~tablish parentage in legal actions or to ensure compliance with fed-~~
20 ~~eral reporting and audit requirements pursuant to title IV-D of the~~
21 ~~federal social security act. Nothing in this subsection shall be con-~~
22 ~~strued as exempting such employees of the federal department of~~
23 ~~health and human services or the secretary of social and rehabili-~~
24 ~~tation services or the secretary's designee from the fees prescribed~~
25 ~~by K.S.A. 65-2418, and amendments thereto.~~
26 ~~—(c)—Except as provided in subsection (b), and amendments~~
27 ~~thereto, the state registrar shall not permit inspection of the records~~
28 ~~or issue a certified copy or abstract of a certificate or part thereof~~
29 ~~unless the state registrar is satisfied the applicant therefor has a~~
30 ~~direct interest in the matter recorded and the information contained~~
31 ~~in the record is necessary for the determination of personal or prop-~~
32 ~~erty rights. The state registrar's decision shall be subject, however,~~
33 ~~to review by the secretary or by a court in accordance with the act~~
34 ~~for judicial review and civil enforcement of agency actions, subject~~
35 ~~to the limitations of this section.~~
36 ~~—(d)—The secretary shall permit the use of data contained in vital~~
37 ~~statistical records for research purposes only, but no identifying use~~
38 ~~of them shall be made. The secretary shall permit the use of birth, death~~
39 ~~and still birth certificates as identifiable data for purposes of maternal~~
40 ~~and child health surveillance and monitoring. The secretary or the sec-~~
41 ~~retary's designee may interview individuals for purposes of maternal and~~
42 ~~child health surveillance and monitoring only with an approval of the~~
43 ~~health and environmental institutional review board as provided in title~~

1 ~~45, part 46 of the code of federal regulations. The secretary shall inform~~
2 ~~such individuals that the participation in such surveillance and monitor-~~
3 ~~ing is voluntary and may only be conducted with the written consent of~~
4 ~~the person who is the subject of the information or with the informed~~
5 ~~consent of a parent or legal guardian if the person is under 18 years of~~
6 ~~age. Informed consent is not required if the person who is the subject of~~
7 ~~the information is deceased.~~
8 ~~—(e) Subject to the provisions of this section the secretary may~~
9 ~~direct the state registrar to release birth, death and stillbirth cer-~~
10 ~~tificate data to federal, state or municipal agencies.~~
11 ~~—(f) On or before the 20th day of each month, the state registrar~~
12 ~~shall furnish to the county election officer of each county and the~~
13 ~~clerk of the district court in each county, without charge, a list of~~
14 ~~deceased residents of the county who were at least 18 years of age~~
15 ~~and for whom death certificates have been filed in the office of the~~
16 ~~state registrar during the preceding calendar month. The list shall~~
17 ~~include the name, age or date of birth, address and date of death of~~
18 ~~each of the deceased persons and shall be used solely by the election~~
19 ~~officer for the purpose of correcting records of their offices and by~~
20 ~~the clerk of the district court in each county for the purpose of~~
21 ~~correcting juror information for such county. Information provided~~
22 ~~under this subsection to the clerk of the district court shall be con-~~
23 ~~sidered confidential and shall not be disclosed to the public. The~~
24 ~~provisions of subsection (b) of K.S.A. 45-229, and amendments~~
25 ~~thereto, shall not apply to the provisions of this subsection.~~
26 ~~—(g) No person shall prepare or issue any certificate which pur-~~
27 ~~ports to be an original, certified copy or abstract or copy of a cer-~~
28 ~~tificate of birth, death or fetal death, except as authorized in this~~
29 ~~act or rules and regulations adopted under this act.~~
30 ~~—(h) Records of births, deaths or marriages which are not in the~~
31 ~~custody of the secretary of health and environment and which were~~
32 ~~created before July 1, 1911, pursuant to chapter 129 of the 1885~~
33 ~~Session Laws of Kansas, and any copies of such records, shall be~~
34 ~~open to inspection by any person and the provisions of this section~~
35 ~~shall not apply to such records.~~
36 ~~—(i) Social security numbers furnished pursuant to K.S.A. 65-~~
37 ~~2409a and amendments thereto shall only be used as permitted by~~
38 ~~title IV-D of the federal social security act and amendments thereto~~
39 ~~or as permitted by section 7(a) of the federal privacy act of 1974~~
40 ~~and amendments thereto. The secretary shall make social security~~
41 ~~numbers furnished pursuant to K.S.A. 65-2409a and amendments~~
42 ~~thereto available to the department of social and rehabilitation~~
43 ~~services for purposes permitted under title IV-D of the federal social~~

1 ~~security act.~~

2 ~~—[(j) Fact of death information may be disseminated to state and~~
3 ~~federal agencies administering benefit programs. Such information~~
4 ~~shall be used for file clearance purposes only.~~

5 ~~—[Sec. 4. K.S.A. 65-177 and 65-2402 and K.S.A. 2009 Supp. 65-~~
6 ~~2422d are hereby repealed.]~~

7 ~~—Sec. 2. K.S.A. 65-2402 is hereby repealed.~~

8 [Sec. 3. K.S.A. 2009 Supp. 65-2422d is hereby amended to read
9 as follows: 65-2422d. (a) The records and files of the division of
10 health pertaining to vital statistics shall be open to inspection, sub-
11 ject to the provisions of this act and rules and regulations of the
12 secretary. It shall be unlawful for any officer or employee of the
13 state to disclose data contained in vital statistical records, except as
14 authorized by this act and the secretary, and it shall be unlawful
15 for anyone who possesses, stores or in any way handles vital statis-
16 tics records under contract with the state to disclose any data con-
17 tained in the records, except as authorized by law.

18 [(b) No information concerning the birth of a child shall be dis-
19 closed in a manner that enables determination that the child was
20 born out of wedlock, except upon order of a court in a case where
21 the information is necessary for the determination of personal or
22 property rights and then only for that purpose, or except that em-
23 ployees of the office of child support enforcement of the federal
24 department of health and human services shall be provided infor-
25 mation when the information is necessary to ensure compliance
26 with federal reporting and audit requirements pursuant to title IV-
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28 social and rehabilitation services or the secretary's designee per-
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31 copies of birth certificates when the information is necessary to es-
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35 strued as exempting such employees of the federal department of
36 health and human services or the secretary of social and rehabili-
37 tation services or the secretary's designee from the fees prescribed
38 by K.S.A. 65-2418, and amendments thereto.

39 [(c) Except as provided in subsection (b), and amendments
40 thereto, the state registrar shall not permit inspection of the records
41 or issue a certified copy or abstract of a certificate or part thereof
42 unless the state registrar is satisfied the applicant therefor has a
43 direct interest in the matter recorded and the information contained

1 ***in the record is necessary for the determination of personal or prop-***
2 ***erty rights. The state registrar's decision shall be subject, however,***
3 ***to review by the secretary or by a court in accordance with the act***
4 ***for judicial review and civil enforcement of agency actions, subject***
5 ***to the limitations of this section.***

6 ***[(d) The secretary shall permit the use of data contained in vital***
7 ***statistical records for research purposes only, but no identifying use***
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15 ***such individuals that the participation in such surveillance and monitor-***
16 ***ing is voluntary and may only be conducted with the written consent of***
17 ***the person who is the subject of the information or with the informed***
18 ***consent of a parent or legal guardian if the person is under 18 years of***
19 ***age. Informed consent is not required if the person who is the subject of***
20 ***the information is deceased.***

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22 ***direct the state registrar to release birth, death and stillbirth cer-***
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24 ***[(f) On or before the 20th day of each month, the state registrar***
25 ***shall furnish to the county election officer of each county and the***
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27 ***deceased residents of the county who were at least 18 years of age***
28 ***and for whom death certificates have been filed in the office of the***
29 ***state registrar during the preceding calendar month. The list shall***
30 ***include the name, age or date of birth, address and date of death of***
31 ***each of the deceased persons and shall be used solely by the election***
32 ***officer for the purpose of correcting records of their offices and by***
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34 ***correcting juror information for such county. Information provided***
35 ***under this subsection to the clerk of the district court shall be con-***
36 ***sidered confidential and shall not be disclosed to the public. The***
37 ***provisions of subsection (b) of K.S.A. 45-229, and amendments***
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1 *custody of the secretary of health and environment and which were*
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4 *open to inspection by any person and the provisions of this section*
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7 *2409a and amendments thereto shall only be used as permitted by*
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12 *thereto available to the department of social and rehabilitation*
13 *services for purposes permitted under title IV-D of the federal social*
14 *security act.*

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16 *federal agencies administering benefit programs. Such information*
17 *shall be used for file clearance purposes only.*

18 *[Sec. 4. K.S.A. 65-177 and 65-2402 and K.S.A. 2009 Supp. 65-*
19 *2422d are hereby repealed.]*

20 *Sec. ~~3.~~ ~~5.~~ ~~3.~~ [5.]* This act shall take effect and be in force from
21 and after its publication in the Kansas register.