

CHAPTER 122  
HOUSE BILL No. 2264

AN ACT relating to public health; concerning the department of health and environment; concerning infectious and contagious diseases; use of quarantine and isolation; requiring tuberculosis evaluations for certain students who enter college or university classrooms; relating to the director of health; amending K.S.A. 75-5603 and repealing the existing section.

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

New Section 1. As used in sections 2 to 4, inclusive, and amendments thereto:

(a) “Infectious or contagious disease” has the meaning ascribed thereto by subsection (b) of K.S.A. 65-128, and amendments thereto, but the infectious or contagious disease acquired immune deficiency syndrome or any causative agent thereof shall not constitute an infectious or contagious disease for the purposes of sections 2 and 3, and amendments thereto.

(b) “Secretary” means the secretary of health and environment.

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

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

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

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

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

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

New Sec. 3. (a) If the local health officer or the secretary requires an individual or a group of individuals to go to and remain in places of isolation or quarantine under section 2, and amendments thereto, the local health officer or the secretary shall issue an order to the individual or group of individuals.

(b) The order shall specify:

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

(2) the premises subject to isolation or quarantine;

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

(4) the suspected infectious or contagious disease causing the outbreak or disease, if known;

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

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

(c) (1) Except as provided in paragraph (2) of subsection (c), the order shall be in writing and given to the individual or group of individuals prior to the individual or group of individuals being required to go to and

remain in places of isolation and quarantine.

(2) (A) If the local health officer or the secretary determines that the notice required under paragraph (1) of subsection (c) is impractical because of the number of individuals or geographical areas affected, the local health officer or the secretary shall ensure that the affected individuals are fully informed of the order using the best possible means available.

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

(d) (1) An individual or group of individuals isolated or quarantined under this section may request a hearing in district court contesting the isolation or quarantine, as provided in article 15 of chapter 60 of the Kansas Statutes Annotated, but the provisions of this section shall apply to any order issued under sections 1 to 4, inclusive, and amendments thereto, notwithstanding any conflicting provisions contained in that article.

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

(3) Upon receipt of a request under this subsection (d), the court shall conduct a hearing within 72 hours after receipt of the request.

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

(B) In granting or denying an extension, the court shall consider the rights of the affected individual, the protection of the public health, the severity of the health emergency and the availability, if necessary, of witnesses and evidence.

(C) (i) The court shall grant the request for relief unless the court determines that the isolation or quarantine order is necessary and reasonable to prevent or reduce the spread of the disease or outbreak believed to have been caused by the exposure to an infectious or contagious disease.

(ii) If feasible, in making a determination under this paragraph (C), the court may consider the means of transmission, the degree of contagion, and, to the extent possible, the degree of public exposure to the disease.

(5) An order of the court authorizing the isolation or quarantine issued under this section shall:

(A) Identify the isolated or quarantined individual or group of individuals by name or shared characteristics;

(B) specify factual findings warranting isolation or quarantine; and

(C) except as provided in paragraph (2) of subsection (c), be in writing and given to the individual or group of individuals.

(6) If the court determines that the notice required in paragraph (C) of subsection (d)(5) is impractical because of the number of individuals or geographical areas affected, the court shall ensure that the affected individuals are fully informed of the order using the best possible means available.

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

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

(A) By an individual's authorized representative; and

(B) through any means that allows other individuals to fully participate.

(9) In any proceedings brought under this section, the court may order the consolidation of individual claims into group claims where:

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

(B) there are questions of law or fact common to the individual claims or rights to be determined;

(C) the group claims or rights to be determined are typical of the affected individual's claims or rights; and

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

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

(11) The supreme court of Kansas may develop emergency rules of procedure to facilitate the efficient adjudication of any proceedings brought under this section.

New Sec. 4. It shall be unlawful for any public or private employer to discharge an employee solely because the employee or an immediate family member of the employee is under an order of isolation or quarantine. The violation of this section is punishable as a violation of K.S.A. 65-129 and amendments thereto.

New Sec. 5. (a) The secretary of health and environment is hereby authorized and directed to adopt rules and regulations establishing tuberculosis evaluation requirements for certain students entering college or university classrooms in Kansas having been born in or lived or traveled in countries identified by the centers for disease control and prevention as areas where tuberculosis is a health risk. Compliance with these rules and regulations, including all cost associated with the evaluation, shall be the joint responsibility of the educational institutions and the student or the parents or guardians of the student, where applicable. These rules and regulations shall establish evaluation criteria in compliance with best practice standards as recommended by the division of tuberculosis elimination of the centers for disease control.

(b) Any person found to be infected with tuberculosis infection or tuberculosis disease will be provided treatment and ongoing monitoring in accordance with K.S.A. 65-116a to 65-116m, inclusive, and amendments thereto.

Sec. 6. K.S.A. 75-5603 is hereby amended to read as follows: 75-5603. There is hereby established within and as a part of the department of health and environment a division of health, the head of which shall be the director of the division of health. Under the supervision of the secretary of health and environment, the director of the division of health shall administer the division of health. The director shall be a physician, hold a valid license to practice medicine and surgery, and have experience and educational training in the field of public health. The secretary of health and environment shall appoint the director of the division of health. ~~The first person appointed to such office after the effective date of this act shall be appointed subject to confirmation by the senate as provided in K.S.A. 75-4315b and amendments thereto and~~ *Each person appointed* shall serve for a term of four years from and after the date of such appointment, and thereafter at the pleasure of the secretary. ~~In the case of a vacancy in the office of the director of the division of health, the secretary of health and environment shall appoint a successor to fill the vacancy for the unexpired term.~~ The director shall be in the unclassified service and shall receive an annual salary fixed by the secretary and approved by the governor.

Sec. 7. K.S.A. 75-5603 is hereby repealed.

Sec. 8. This act shall take effect and be in force from and after its publication in the Kansas register.

Approved April 12, 2005.

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