

CHAPTER 40
HOUSE BILL No. 2327

AN ACT concerning crimes and punishment; relating to the juvenile justice authority and the testing of juvenile offenders for infectious diseases; amending K.S.A. 65-6015 and 65-6017 and repealing the existing sections.

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

Section 1. K.S.A. 65-6015 is hereby amended to read as follows: 65-6015. As used in K.S.A. 65-6015 through 65-6017, and amendments thereto:

(a) "Body fluid" means blood, amniotic fluid, pericardial fluid, pleural fluid, synovial fluid, cerebrospinal fluid, semen or vaginal secretions, or any body fluid visibly contaminated with blood.

(b) "Corrections employee" means an employee of the *juvenile justice authority* or the department of corrections or an employee of a contractor who is under contract to provide services in a correctional institution.

(c) "Offender" means a person in the legal custody of the *commissioner of juvenile justice* or the secretary of corrections.

(d) "Physician" means any person licensed to practice medicine and surgery.

(e) "Infectious disease" means any disease communicable from one person to another through contact with bodily fluids.

Sec. 2. K.S.A. 65-6017 is hereby amended to read as follows: 65-6017. (a) If a corrections employee has been placed in contact with body fluid from one or more offenders while performing duties within the scope of such employee's duties as a corrections employee, the secretary of corrections or the secretary's designee *or the commissioner of the juvenile justice authority or the commissioner's designee* upon consultation with a medical care provider may make application to the district court of the county where the offender or offenders are in custody for an order requiring such offender or offenders to submit to tests for infectious diseases. Such application shall include an allegation that the offender or offenders sought to be tested have been requested to voluntarily submit to tests for a specific infectious disease or diseases and have refused the tests and that the corrections employee has agreed to voluntarily testing for the same infectious disease, including appropriate follow-up testing. When any such application is received, the court shall hold a hearing forthwith and shall issue its order thereon immediately if the court finds that: (1) There is probable cause to believe that the employee involved has been placed in contact with body fluid of the offender or offenders sought to be tested; and (2) the offender or offenders sought to be tested have been requested to submit to the tests and have refused, unless the court makes a further finding that exigent circumstances exist that would, in the court's judgment, excuse the applicant from making such a request. Expenses of the testing shall be assessed as a cost of the proceeding.

(b) If a test for an infectious disease ordered pursuant to this section results in a negative reaction, the court, upon proper application, shall order the offender tested to submit to another test six months after the date the first test was administered.

(c) If a test is ordered pursuant to this section, the corrections employee shall designate a health care provider or counselor to receive the test results on behalf of the corrections employee. The results of the test shall be disclosed to the court that ordered the test, the person tested and the health care provider or counselor designated by the corrections employee. The results shall also be disclosed to the secretary of corrections *or the commissioner of the juvenile justice authority* for inclusion in the offender's medical records. Test results of the corrections employee shall not be disclosed except as specifically authorized in writing by the employee.

(d) When a court orders an offender to submit to tests under this section which require withdrawal of blood, the withdrawal of the blood may be performed only by: (1) A physician or a person acting under the supervision of a physician; (2) a licensed professional nurse or a licensed practical nurse; or (3) a qualified medical technician. No person authorized by this subsection to withdraw blood, no person assisting in the performance of the tests nor any medical care facility where blood is with-

drawn or tested that has been ordered by the court to withdraw or test blood shall be liable in any civil or criminal action when the act is performed in a reasonable manner according to generally accepted medical practices.

(e) The results of tests or reports, or information therein, obtained under this section shall be confidential and shall not be divulged to any person not authorized by law to receive such results, reports or information. Any violation of this subsection is a class C misdemeanor.

Sec. 3. K.S.A. 65-6015 and 65-6017 are hereby repealed.

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

Approved March 29, 2005.
