

SESSION OF 2004

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2890

As Amended by House Committee on
Appropriations

Brief*

HB 2890 amends current law to allow the Secretary of Health and Environment (KDHE) to craft rules and regulations regarding the isolation or quarantine of groups of people.

As amended by the House Committee, HB 2890:

- ! Provides certain powers to a local health officer or the Secretary of KDHE in the investigation of actual or potential exposures to infectious or contagious diseases. The section provides the authority to issue an order to:
 - " require an individual to seek appropriate and necessary evaluation and treatment if they have reason to believe the person has been exposed to an infectious or contagious disease;
 - " require an individual or a group of individuals to go to and remain in isolation or quarantine until they no longer pose a substantial risk of transmitting the disease or condition to the public quarantine or isolate a competent individual over 18 who refuses vaccination, medical examination, treatment or testing where it is believed to be 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; and
 - " require law enforcement officials to assist in the execution or enforcement of an order.

- ! Allows an order to be issued prior to the issuance of an emergency proclamation by the Governor, if the local health officer or secretary determines the disease or outbreak can be medically contained by the department and health care providers or as

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

necessary to implement an order of emergency by the Governor.

- ! Specifies the contents of the order and requires it to be written. Further, the order must be given to the affected persons unless this is impractical and then the best possible means must be used including posting in conspicuous places in the isolation or quarantine premises.
- ! Gives a person affected by an order the right to a hearing in a district court to contest the isolation or quarantine but this request will not stay or enjoin the order. Courts are required to conduct the hearing within 72 hours of the request although extensions may be allowed under certain circumstances and the bill gives the guidelines for courts to use in granting such extensions.
- ! Outlines the guidelines for courts to use in deciding whether to grant relief from the order and directs a court to grant relief unless it determines that the isolation or quarantine 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. The court may consider the means of transmission, the degree of contagion, and the degree of public exposure to the disease. An order authorizing isolation or quarantine order is prohibited from lasting more than 30 days.
- ! Provides for the consolidation of individual claims into group claims under specified circumstances and for the appointment of counsel to represent individuals not otherwise represented.
- ! Makes it unlawful for any public or private employer to discharge an employee who is under an order of isolation or quarantine or because of such an order.

Background

Testimony received by the Committee indicated that current statutes only address single instances of quarantine where the names of specific people to be isolated or quarantined can be put on an order but do not allow for identification by membership in a particular group of people. Also, current statutes do not contain due process provisions. This type of authority, where large groups need to be

isolated, has not been tested yet in the United States although it has been adopted in a number of states. According to KDHE testimony, this legislation attempts to anticipate the need for such authority to protect the public health while balancing it with the need to preserve individual rights.

The fiscal note is unknown at this time because of an inability to estimate the number of cases it would apply to and what the costs would be should there be a large-scale emergency. The bill could also have a fiscal effect of the courts, municipalities, and counties regarding enforcement, legal counsel, and the implementation of quarantine procedures, but the precise impact is unknown.