SESSION OF 2025

SUPPLEMENTAL NOTE ON SUBSTITUTE FOR SENATE BILL NO. 29

As Amended by House Committee on Health and Human Services

Brief*

Sub. for SB 29, as amended, would:

- Require the Secretary of Health and Environment (Secretary) to have probable cause, supported by oath or affirmation, before taking action to prevent the introduction or spread of an infectious or contagious disease within Kansas;
- Permit any aggrieved party to file a civil action regarding an order made by the Secretary or a local health officer and establish requirements for hearings and judicial review;
- Provide for a county or joint board of health or local health officer to recommend against rather than prohibit public gatherings when necessary for the control of infectious or contagious disease; and
- Remove the ability for a local health officer or the Secretary to order law enforcement to assist in the execution or enforcement of any order.

Requirements for Orders and Civil Action (Section 1)

The bill would require the Secretary to have probable cause, supported by oath or affirmation, regarding any action that is intended to exclude, isolate, quarantine, or otherwise

*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 https://klrd.gov/

restrict the movement of people within Kansas when the Secretary seeks to prevent the introduction or spread of an infectious or contagious disease within Kansas

The bill would provide for any party aggrieved by an action taken pursuant to certain public health statutes to file a civil action in the district court where the order was issued within 30 days of its issuance.

Statutory References

The bill would permit a civil action to be filed by any party aggrieved by an order issued pursuant to KSA 65-101 through 65-125f, which includes, but is not limited to, the following:

- Health supervision and investigation of causes of disease, sickness, and death;
- Confidentiality and disclosure of information concerning non-infectious diseases;
- Tuberculosis examination, care, and treatment and orders by health officers;
- Precautions to prevent spread of infection and investigations;
- Actions required when a person with tuberculosis fails to follow instructions by a health officer or physician;
- Commitment, restraint, discharge, and recommitment to a medical care facility;
- Penalty for violations of orders or regulations of the Secretary;
- Preservation of individual rights to select mode of treatment;

- Expenses of inpatient care, maintenance, and treatment of tuberculosis;
- Reporting to local health authority as to infectious or contagious diseases, immunity from liability, and confidentiality of information;
- Duties and powers of local health officers regarding contagious diseases;
- Non-admissions, exclusions, and readmissions to schools and child care facilities due to infectious or contagious disease;
- Funeral services for individuals who died while suffering from an infectious or contagious disease;
- Quarantine of city, township, or county;
- Monetary penalty provisions for violation of certain orders relating to contagious or infectious diseases;
- Rules and regulations of the Secretary, testing, and quarantine to prevent spread and dissemination of diseases;
- Penalties for violation of rules and regulations of the Secretary for the prevention and control of infectious or contagious diseases;
- Authority of a local health officer or the Secretary to make evaluation, treatment, isolation, or quarantine orders and enforcement;
- Orders for isolation or quarantine and appeals;
- Unlawful discharge from employment due to isolation or quarantine;

- Tuberculosis evaluation, treatment, and monitoring requirements for postsecondary students; and
- Prevention and control of tuberculosis in postsecondary educational institutions.

Isolation or Quarantine Orders

The bill would not stay or enjoin any isolation or quarantine orders if a hearing is requested.

Timing of Hearings

The bill would require a district court, after receipt of the petition, to conduct a hearing within 72 hours, except when the Chief Justice has issued an order to extend or suspend deadlines regarding court actions for health and safety reasons (KSA 20-172(a)).

Judicial Review Standard of Strict Scrutiny

The bill would require the Court to grant the request for relief unless the Court would find the order is narrowly tailored to the purpose stated in the order and uses the least restrictive means to achieve the stated purpose.

Local Health Officer Role (Section 2)

The bill would amend the role of a county or joint board of health or local health officer to be one that may recommend against public gatherings when necessary for the control of infectious or contagious disease. [*Note:* Current law states the county or joint board of health or local health officer is authorized to prohibit public gatherings when necessary.]

Enforcement of Orders (Section 3)

The bill would remove the requirement that the local health officer or Secretary may order any sheriff, deputy sheriff, or other law enforcement officer to assist in the execution or enforcement of any order regarding evaluation, treatment, isolation, or quarantine for an infectious or contagious disease.

Background

The bill was introduced by the Senate Committee on Public Health and Welfare at the request of Senator Murphy.

Senate Committee on Public Health and Welfare

In the Senate Committee hearing, **proponent** testimony was provided by three private citizens, who generally stated their personal experiences with various entities and public health concerns.

Written-only proponent testimony was received from 19 private citizens and five precinct committee persons.

Opponent testimony was provided by representatives of the Kansas Association of Local Health Departments, Kansas Chamber, Kansas Department of Health and Environment (KDHE), and the Kansas National Education Association. The representatives generally stated their concerns regarding the undoing of the public health infrastructure, the considerable local financial investment that would be needed, and the impact on the employer to act in the best interest of the business.

Written-only opponent testimony was provided by representatives of the American Cancer Society Cancer Action Network, Health Forward Foundation, Immunize Kansas Coalition, Kansas Academy of Family Physicians,

Kansas Action for Children, Kansas Association of Counties, Kansas Chapter American Academy of Pediatrics, Kansas Hospital Association, Lawrence-Douglas County Public Health, McPherson County Health Department, Nurture KC, Saline County Health Department, a nurse practitioner, and two private citizens.

The Senate Committee recommended a substitute bill be passed incorporating amendments to change the authority of a county or joint board of health or local health officer to prohibit public gatherings to one of allowing a recommendation against public gatherings.

House Committee on Health and Human Services

In the House Committee hearing, **proponent** testimony was provided by an attorney and two private citizens, who shared their legal and personal experience regarding an unvaccinated minor who was issued an order from a local health officer to isolate for 21 days due to a potential exposure to chicken pox. The proponents suggested amendments regarding the ability for individuals to have a court hearing within 72 hours of receiving an order. The private citizen generally stated concerns regarding public health and individual liberty considerations.

Written-only proponent testimony was provided by three private citizens.

Opponent testimony was provided by a representative of the Kansas Association of Local Health Departments that was substantially similar to the testimony provided to the Senate Committee. The conferee responded to aspects of proponent testimony by providing information about vaccinations.

Written-only opponent testimony was provided by representatives of the Franklin County Health Department, Health Forward Foundation, Johnson County Department of

Health and Environment, Kansas Action for Children, Kansas Chapter American Academy of Pediatrics, Kansas Public Health Association, Kansas School Nurses Organization, Lawrence-Douglas County Public Health, Nurture KC, Osborne County Health Department, a medical doctor, and two private citizens.

The House Committee amended the bill to:

- Require the Secretary of Health and Environment (Secretary) to have probable cause, supported by oath or affirmation, regarding any action that is intended to exclude, isolate, quarantine, or otherwise restrict the movement of people within Kansas when the Secretary seeks to prevent the introduction or spread of an infectious or contagious disease within Kansas;

- Permit the filing of a civil action in a district court by any aggrieved party of an action undertaken by the Secretary or others designated to act regarding the health of the people of Kansas as set forth in KSA 65-101 through KSA 65-129f;

    - Require a hearing within 72 hours while leaving any isolation or quarantine orders in place pending a hearing; and
    - Establish the judicial review standard as strict scrutiny; and

- Remove the requirement that a local health officer or the Secretary may order any sheriff, deputy sheriff, or other law enforcement officer to assist in the execution or enforcement of any order.

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, in 2024, KDHE and local health departments received over 20,573 reported

cases of infectious and contagious diseases; the vast majority of these cases were directly reported to KDHE. Of the total, 15,484 cases were sexually transmitted infections; 1,841 cases were enteric diseases caused by consuming contaminated food products, exposure to contaminated water, or exposure to animals; 509 cases were vaccine-preventable diseases; 132 cases were vector-borne diseases, including Lyme disease and West Nile virus; 82 cases were multidrug-resistant organisms occurring in health care facilities; and 31 cases were of animal rabies, which is a fatal disease in humans if not treated. Overall, the fiscal effect of the bill would increase the cost of public health investigations, which would fall to local and state public health to cover, plus the cost to insurance companies and Medicaid to cover additional health care costs. There would also be costs to employers and employees with lost work time and costs to families and individuals that must pay for health care and other costs. KDHE estimates new costs for state and local public health could total up to $5.2 million in FY 2026, with case counts and costs estimated to increase in out-years. While some funding could be supplemented with federal funding, there are no specific state or federal funding sources identified for this increase. A breakdown of the increased costs is outlined below.

KDHE states that the medical-related costs associated with sexually transmitted infections are estimated for chlamydia to be about $42 per infection, gonorrhea about $78 per infection, and syphilis about $1,190 per infection. Extrapolated to Kansas 2024 counts, the total cost would be approximately $493,920 for chlamydia, $248,742 for gonorrhea, and $458,150 for syphilis per year. Estimating a doubling of case counts if Kansas no longer mandated reporting of sexually transmitted infections and no longer investigated cases or located contacts to begin treatment, the direct medical costs of sexually transmitted infections is estimated to increase by $1.2 million per year for chlamydia, gonorrhea, and syphilis. The agency also noted that in addition to these costs, the approximate cost associated with human immunodeficiency virus (HIV) is $420,285 per lifetime;

extrapolated to Kansas 2024 case counts, that would be $63.0 million over the lifetime of these patients, which would increase to $126.1 million.

For gastrointestinal diseases, KDHE currently estimates a cost of $1,850 per individual and believes case counts could double if Kansas no longer mandated reporting of these diseases, no longer investigated cases to identify the source of the infection, and no longer helped guide the Department of Agriculture's restaurant inspections resulting from illness complaints. This would increase the total cost for these cases by approximately $3.4 million.

Using a cost estimate of $284 per patient for the 509 cases of vaccine-preventable diseases reported in Kansas in 2024, KDHE estimates a direct medical cost of $144,556. Again assuming these cases would double if Kansas no longer mandated reporting of these diseases and no longer provided vulnerable settings like schools and day cares infection prevention and control guidance for outbreaks, the direct medical costs would increase by $144,556.

KDHE estimates the cost per Lyme disease patient to be approximately $11,838 per patient; extrapolated to Kansas 2024 case counts, that would total $94,704. The cost of uncomplicated West Nile Virus infection is estimated to be about $1,000 per case, while neuroinvasive cases are estimated at $27,500 per case. In 2024, Kansas reported 12 non-neuroinvasive cases and 11 neuroinvasive cases, approximating a medical cost of $314,500. In total, in 2024, Kansas reported 132 cases of vector-borne diseases, which are transmitted to humans from mosquitoes and ticks. If these conditions are no longer reported to KDHE, the agency would not have any insight into the geographic area of exposure and would not be able to guide local and state collection and testing of these vectors or local control methods like mosquito spraying. Again assuming cases would double, the costs would increase by $409,204 for these types of cases.

In addition to the local and state public health increases, KDHE reports that depending on the infection type of carbapenem-resistant *Enterobacteriaceae*, the median cost of a single infection can range from $22,484 to $66,031 for hospitals and $10,440 to $31,621 for third-party payers. In 2024, Kansas had 81 reported confirmed carbapenemase-producing organism infections, for an approximate cost to third-party payers ranging from $845,640 to $2.6 million. Currently, in response to these reports, KDHE works with hospitals and long-term care facilities to quickly put into place additional infection prevention and control measures and screening for these antibiotic-resistant organisms to help control the spread. In the absence of these measures, using an estimate of double the amount of these infections, the cost estimate would increase to a range of $1.7 million to $5.1 million.

The Office of Judicial Administration (OJA) states enactment of the bill could increase the number of cases filed in district courts because it creates a civil cause of action. This could result in more time spent by judicial and non-judicial personnel processing, researching, and hearing these cases. OJA estimates enactment of the bill could result in the collection of docket fees and fines assessed in those cases filed under the bill's provisions, which would be deposited to the State General Fund. Enactment of the bill would not affect other revenues to the Judicial Branch. However, a fiscal effect cannot be estimated. The Kansas Department of Education and the Kansas Board of Regents report that enactment of the bill would have no direct fiscal effect for the agencies, school districts, or universities. Any fiscal effect associated with the bill is not reflected in *The FY 2026 Governor's Budget Report.*

The Kansas Association of Counties reports that enactment of the bill could result in a fiscal effect on local governments, but a total fiscal effect could not be estimated. The League of Kansas Municipalities stated enactment of the bill would have no fiscal effect on cities.

KDHE notes that there are an estimated 8,060 law enforcement officers and over 5,000 emergency medical service workers in Kansas. On average, per year, approximately 30.0 percent of these staff experience an occupational needle stick injury resulting in 3,918 bloodborne exposures per year. For each needlestick injury, the Occupational Safety and Health Administration recommends immediate medical evaluation, repeat testing for HIV, Hepatitis B and Hepatitis C, and post-exposure prophylaxis for Hepatitis B and HIV at no cost to the employee. KDHE states the potential cost to local governments would exceed $16.0 million dollars.

Health; local health officer; county or joint board of health; public gatherings; infectious disease; isolation order; quarantine order; sheriff; law enforcement officer