

As Amended by House Committee

Session of 2013

HOUSE BILL No. 2302

By Committee on Health and Human Services

2-12

1 AN ACT concerning the Kansas department of health and environment;
2 relating to drug screening, criminal history record check and
3 fingerprinting of certain persons and employees; **amending K.S.A.**
4 **2012 Supp. 75-4362 and repealing the existing section.**
5

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

7 **New Section 1.** (a) The secretary of health and environment shall
8 require any person offered a position of employment in and any employee
9 of the office of laboratory services of the Kansas department of health and
10 environment that will have access to a secured biological laboratory to be
11 fingerprinted and submit to a state and national criminal history record
12 check. Such person offered a position of employment or employee shall be
13 given written notice that a fingerprinting and state and national criminal
14 history record check is required as a condition of initial and continued
15 employment. The fingerprints shall be used to identify such person offered
16 a position of employment or employee and to determine whether such
17 person offered a position of employment or employee has a record of
18 criminal history in this state or other jurisdiction. The secretary of health
19 and environment shall submit the fingerprints to the Kansas bureau of
20 investigation and the federal bureau of investigation for a state and
21 national criminal history record check. Local and state law enforcement
22 officers and agencies shall assist the secretary of health and environment
23 in the taking and processing of fingerprints of such persons offered
24 positions of employment or employees.

25 ~~(b) The secretary of health and environment shall require any person~~
26 ~~offered a position of employment in and any employee of the office of~~
27 ~~laboratory services of the Kansas department of health and environment~~
28 ~~that will have access to a secured biological laboratory to submit to a drug~~
29 ~~screening as a condition of initial and continued employment. Such person~~
30 ~~offered a position of employment or employee shall be given written~~
31 ~~notice that a drug screening is required as a condition of initial and~~
32 ~~continued employment. Drug screening shall be conducted as prescribed~~
33 ~~by the secretary of administration.~~

34 **(e)(b)** The secretary of health and environment shall use the
35 information obtained from fingerprinting and criminal history for the
36 purposes of verifying the identification of any person offered a position of

1 employment or employee in the official determination of the eligibility of
2 such person or employee to perform tasks within the office of laboratory
3 services. If criminal history record information or results of drug screening
4 is used to disqualify a person offered a position of employment or
5 terminate an employee, such person offered a position of employment or
6 employee shall be informed in writing of the purpose of such
7 disqualification or termination from employment.

8 ~~(d)~~(c) As a condition of continued employment, any employee who
9 has access to a secured biological laboratory in the office of laboratory
10 services of the Kansas department of health and environment shall be
11 subject to periodic drug screenings and state and national criminal history
12 record checks at a frequency determined by the secretary.

13 **Sec. 2. K.S.A. 2012 Supp. 75-4362 is hereby amended to read as**
14 **follows: 75-4362. (a) The director of the division of personnel services**
15 **of the department of administration shall have the authority to**
16 **establish and implement a drug screening program for persons taking**
17 **office as governor, lieutenant governor or attorney general and for**
18 **applicants for safety sensitive positions in state government, but no**
19 **applicant for a safety sensitive position shall be required to submit to a**
20 **test as a part of this program unless the applicant is first given a**
21 **conditional offer of employment.**

22 (b) The director also shall have the authority to establish and
23 implement a drug screening program based upon a reasonable
24 suspicion of illegal drug use by any person currently holding one of
25 the following positions or offices:

26 (1) The office of governor, lieutenant governor or attorney
27 general;

28 (2) any safety sensitive position;

29 (3) any position in an institution of mental health, as defined in
30 K.S.A. 76-12a01, and amendments thereto, that is not a safety
31 sensitive position;

32 (4) any position in the Kansas state school for the blind, as
33 established under K.S.A. 76-1101 et seq., and amendments thereto;

34 (5) any position in the Kansas state school for the deaf, as
35 established under K.S.A. 76-1001 et seq., and amendments thereto; or

36 (6) any employee of a state veteran's home operated by the
37 Kansas commission on veteran's affairs as described in K.S.A. 76-1901
38 et seq. and K.S.A. 76-1951 et seq., and amendments thereto.

39 (c) Any public announcement or advertisement soliciting
40 applications for employment in a safety sensitive position in state
41 government shall include a statement of the requirements of the drug
42 screening program established under this section for applicants for
43 and employees holding a safety sensitive position.

1 **(d) Except for a person who has access to a secured biological**
2 *laboratory in the office of laboratory services of the department of health*
3 *and environment, no person shall be terminated solely due to positive*
4 **results of a test administered as a part of a program authorized by this**
5 **section if:**

6 **(1) The employee has not previously had a valid positive test**
7 **result; and**

8 **(2) the employee undergoes a drug evaluation and successfully**
9 **completes any education or treatment program recommended as a**
10 **result of the evaluation. Nothing herein shall be construed as**
11 **prohibiting demotions, suspensions or terminations pursuant to**
12 **K.S.A. 75-2949e or 75-2949f, and amendments thereto.**

13 **(e) Except in hearings before the state civil service board**
14 **regarding disciplinary action taken against the employee, the results**
15 **of any test administered as a part of a program authorized by this**
16 **section shall be confidential and shall not be disclosed publicly.**

17 **(f) The secretary of administration may adopt such rules and**
18 **regulations as necessary to carry out the provisions of this section.**

19 **(g) "Safety sensitive positions" means the following:**

20 **(1) All state law enforcement officers who are authorized to carry**
21 **firearms;**

22 **(2) all state corrections officers;**

23 **(3) all state parole officers;**

24 **(4) heads of state agencies who are appointed by the governor and**
25 **employees on the governor's staff;**

26 **(5) all employees with access to secure facilities of a correctional**
27 **institution, as defined in K.S.A. 2012 Supp. 21-5914, and amendments**
28 **thereto;**

29 **(6) all employees of a juvenile correctional facility, as defined in**
30 **K.S.A. 2012 Supp. 38-2302, and amendments thereto; and**

31 **(7) all employees within an institution of mental health, as defined**
32 **in K.S.A. 76-12a01, and amendments thereto, who provide clinical,**
33 **therapeutic or habilitative services to the clients and patients of those**
34 **institutions; and**

35 **(8) all employees who have access to a secured biological laboratory**
36 *in the office of laboratory services of the department of health and*
37 *environment.*

38 **Sec. 3. K.S.A. 2012 Supp. 75-4362 is hereby repealed.**

39 ~~Sec. 4.~~ **4.** This act shall take effect and be in force from and after its
40 publication in the ~~Kansas register~~ **statute book.**