

HOUSE BILL No. 2302

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

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

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

(b) The secretary of health and environment shall use the information obtained from fingerprinting and criminal history for the purposes of verifying the identification of any person offered a position of employment or employee in the official determination of the eligibility of such person or employee to perform tasks within the office of laboratory services. If criminal history record information or results of drug screening is used to disqualify a person offered a position of employment or terminate an employee, such person offered a position of employment or employee shall be informed in writing of the purpose of such disqualification or termination from employment.

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

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

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

- (1) The office of governor, lieutenant governor or attorney general;
- (2) any safety sensitive position;
- (3) any position in an institution of mental health, as defined in K.S.A. 76-12a01, and amendments thereto, that is not a safety sensitive position;
- (4) any position in the Kansas state school for the blind, as established under K.S.A. 76-1101 et seq., and amendments thereto;
- (5) any position in the Kansas state school for the deaf, as established under K.S.A. 76-1001 et seq., and amendments thereto; or
- (6) any employee of a state veteran's home operated by the Kansas commission on veteran's affairs as described in K.S.A. 76-1901 et seq. and K.S.A. 76-1951 et seq., and amendments thereto.

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

(d) *Except for a person who has access to a secured biological laboratory in the office of laboratory services of the department of health and environment, no person shall be terminated solely due to positive results*

of a test administered as a part of a program authorized by this section if:

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

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

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

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

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

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

(2) all state corrections officers;

(3) all state parole officers;

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

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

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

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

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

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

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

I hereby certify that the above BILL originated in the HOUSE, and passed that body

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*Speaker of the House.*

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*Chief Clerk of the House.*

Passed the SENATE \_\_\_\_\_

\_\_\_\_\_  
*President of the Senate.*

\_\_\_\_\_  
*Secretary of the Senate.*

APPROVED \_\_\_\_\_

\_\_\_\_\_  
*Governor.*