

HOUSE BILL No. 2322

AN ACT concerning the department of health and environment; relating to the division of health; amending K.S.A. 65-102, 65-118, 65-153 and 75-5621 and K.S.A. 2012 Supp. 65-2402, 65-2422d, 75-5601, 75-5603 and 75-5664 and repealing the existing sections; also repealing K.S.A. 2012 Supp. 75-7411 and 75-7412.

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

Section 1. K.S.A. 65-102 is hereby amended to read as follows: 65-102. The secretary of health and environment shall supervise the registration of marriages, births and deaths, and also the registration of forms of disease prevalent in the state; and the director of the division of *public* health shall superintend the registration of the vital statistics of the state. The secretary of health and environment shall prepare the blank forms necessary for obtaining and preserving such records, and forward them to the health officers of local boards as may be required by physicians, appraisers, local boards; and others whose duty it is to gather information in relation to the vital statistics of the state.

Sec. 2. K.S.A. 65-118 is hereby amended to read as follows: 65-118. (a) Whenever any person licensed to practice the healing arts or engaged in a postgraduate training program approved by the state board of healing arts, licensed dentist, licensed professional nurse, licensed practical nurse administrator of a hospital, licensed adult care home-administrator, licensed physician assistant, licensed social worker, teacher or school administrator knows or has information indicating that a person is suffering from or has died from a reportable infectious or contagious disease as defined in rules and regulations, such knowledge or information shall be reported immediately to the county or joint board of health or the local health officer, together with the name and address of the person who has or is suspected of having the infectious or contagious disease, or the name and former address of the deceased individual who had or was suspected of having such a disease. In the case of a licensed hospital or adult care home, the administrator may designate an individual to receive and make such reports. The secretary of health and environment shall, through rules and regulations, make provision for the consolidation of reports required to be made under this section when the person required to make the report is working in a licensed hospital or adult care home. Laboratories certified under the federal clinical laboratories improvement act pursuant to 42 code of federal regulations, 493 shall report the results of microbiologic cultures, examinations, immunologic essays for the presence of antigens and antibodies and any other laboratory tests which are indicative of the presence of a reportable infectious or contagious disease to the department of health and environment. The director of the division of *public* health may use information from death certificates for disease investigation purposes.

(b) Any person who is an individual member of a class of persons designated under subsection (a) of this section and who reports the information required to be reported under such subsection in good faith and without malice to a county or joint board of health, a local health officer or the department of health and environment shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed in an action resulting from such report. Any such person shall have the same immunity with respect to participation in any judicial proceeding resulting from such report.

(c) Information required to be reported under subsection (a) of this section shall be confidential and shall not be disclosed or made public, upon subpoena or otherwise, beyond the requirements of subsection (a) of this section or subsection (a) of K.S.A. 65-119, *and amendments thereto*, except such information may be disclosed: (1) If no person can be identified in the information to be disclosed and the disclosure is for statistical purposes;

(2) if all persons who are identifiable in the information to be disclosed consent in writing to its disclosure;

(3) if the disclosure is necessary, and only to the extent necessary, to protect the public health;

(4) if a medical emergency exists and the disclosure is to medical personnel qualified to treat infectious or contagious diseases. Any information disclosed pursuant to this paragraph shall be disclosed only to the extent necessary to protect the health or life of a named party; or

(5) if the information to be disclosed is required in a court proceeding involving child abuse and the information is disclosed in camera.

Sec. 3. K.S.A. 65-153 is hereby amended to read as follows: 65-153. The general duties of the division of *public* health of the department of health and environment shall include the issuance of educational literature on the care of the baby and the hygiene of the child, the study of the causes of infant mortality and the application of preventive measures for the prevention and the suppression of the diseases of infancy and early childhood.

Sec. 4. K.S.A. 2012 Supp. 65-2402 is hereby amended to read as follows: 65-2402. (a) The secretary shall: (1) Establish within the division of *public* health suitable offices properly equipped for the preservation of official records; (2) maintain a complete cross-index on all records filed under the provisions of this act; (3) install a statewide system of vital statistics; (4) make and may amend, after notice and hearing, necessary regulations, give instructions and prescribe forms for collection, transcribing, compiling and preserving vital statistics; and (5) enforce this act and the regulations made pursuant thereto.

(b) Any person offered a position of employment in the office of vital statistics, subject to a criminal history records check, shall be given a written notice that a criminal history records check is required. The secretary shall require such applicant to be fingerprinted and submit to a state and national criminal history record check. The fingerprints shall be used to identify the applicant and to determine whether the applicant has a record of criminal history in this state or another jurisdiction. The secretary 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 in taking and processing of fingerprints of applicants. The secretary may use the information obtained from fingerprinting and the criminal history for purposes of verifying the identification of the applicant and in the official determination of the eligibility of the applicant to perform tasks within the office of vital statistics. If the criminal history record information is used to disqualify an applicant, the applicant shall be informed in writing of that decision.

Sec. 5. K.S.A. 2012 Supp. 65-2422d is hereby amended to read as follows: 65-2422d. (a) The records and files of the division of *public* health pertaining to vital statistics shall be open to inspection, subject to the provisions of the uniform vital statistics act and rules and regulations of the secretary. It shall be unlawful for any officer or employee of the state to disclose data contained in vital statistical records, except as authorized by the uniform vital statistics act and the secretary, and it shall be unlawful for anyone who possesses, stores or in any way handles vital statistics records under contract with the state to disclose any data contained in the records, except as authorized by law.

(b) No information concerning the birth of a child shall be disclosed in a manner that enables determination that the child was born out of wedlock, except upon order of a court in a case where the information is necessary for the determination of personal or property rights and then only for that purpose, or except that employees of the office of child support enforcement of the federal department of health and human services shall be provided information when the information is necessary to ensure compliance with federal reporting and audit requirements pursuant to title IV-D of the federal social security act or except that the secretary of social and rehabilitation services or the secretary's designee performing child support enforcement functions pursuant to title IV-D of the federal social security act shall be provided information and copies of birth certificates when the information is necessary to establish parentage in legal actions or to ensure compliance with federal reporting and audit requirements pursuant to title IV-D of the federal social security act. Nothing in this subsection shall be construed as exempting such employees of the federal department of health and human services or the secretary of social and rehabilitation services or the secretary's designee from the fees prescribed by K.S.A. 65-2418, and amendments thereto.

(c) Except as provided in subsection (b), and amendments thereto, the state registrar shall not permit inspection of the records or issue a certified copy or abstract of a certificate or part thereof unless the state registrar is satisfied the applicant therefor has a direct interest in the matter recorded and the information contained in the record is necessary

for the determination of personal or property rights. The state registrar's decision shall be subject, however, to review by the secretary or by a court in accordance with the Kansas judicial review act, subject to the limitations of this section.

(d) The secretary shall permit the use of data contained in vital statistical records for research purposes only, but no identifying use of them shall be made. The secretary shall permit the use of birth, death and still birth certificates as identifiable data for purposes of maternal and child health surveillance and monitoring. The secretary or the secretary's designee may interview individuals for purposes of maternal and child health surveillance and monitoring only with an approval of the health and environmental institutional review board as provided in title 45, part 46 of the code of federal regulations. The secretary shall inform such individuals that the participation in such surveillance and monitoring is voluntary and may only be conducted with the written consent of the person who is the subject of the information or with the informed consent of a parent or legal guardian if the person is under 18 years of age. Informed consent is not required if the person who is the subject of the information is deceased.

(e) Subject to the provisions of this section the secretary may direct the state registrar to release birth, death and stillbirth certificate data to federal, state or municipal agencies.

(f) On or before the 20th day of each month, the state registrar shall furnish to the county election officer of each county and the clerk of the district court in each county, without charge, a list of deceased residents of the county who were at least 18 years of age and for whom death certificates have been filed in the office of the state registrar during the preceding calendar month. The list shall include the name, age or date of birth, address and date of death of each of the deceased persons and shall be used solely by the election officer for the purpose of correcting records of their offices and by the clerk of the district court in each county for the purpose of correcting juror information for such county. Information provided under this subsection to the clerk of the district court shall be considered confidential and shall not be disclosed to the public. The provisions of subsection (b) of K.S.A. 45-229, and amendments thereto, shall not apply to the provisions of this subsection.

(g) No person shall prepare or issue any certificate which purports to be an original, certified copy or abstract or copy of a certificate of birth, death or fetal death, except as authorized in this act or rules and regulations adopted under this act.

(h) Records of births, deaths or marriages which are not in the custody of the secretary of health and environment and which were created before July 1, 1911, pursuant to chapter 129 of the 1885 Session Laws of Kansas, and any copies of such records, shall be open to inspection by any person and the provisions of this section shall not apply to such records.

(i) Social security numbers furnished pursuant to K.S.A. 65-2409a, and amendments thereto, shall only be used as permitted by title IV-D of the federal social security act, and amendments thereto, or as permitted by section 7(a) of the federal privacy act of 1974, and amendments thereto. The secretary shall make social security numbers furnished pursuant to K.S.A. 65-2409a, and amendments thereto, available to the department of social and rehabilitation services for purposes permitted under title IV-D of the federal social security act.

(j) Fact of death information may be disseminated to state and federal agencies administering benefit programs. Such information shall be used for file clearance purposes only.

Sec. 6. K.S.A. 2012 Supp. 75-5601 is hereby amended to read as follows: 75-5601. (a) There is hereby created a department of health and environment, the head of which shall be the secretary of health and environment, which office is hereby created. The governor shall appoint the secretary of health and environment, subject to confirmation by the senate as provided in K.S.A. 75-4315b, and amendments thereto, and the secretary shall serve at the pleasure of the governor. Except as provided by K.S.A. 46-2601, and amendments thereto, no person appointed as secretary shall exercise any power, duty or function as secretary until confirmed by the senate. The department of health and environment shall

consist of the division of *public* health, the division of health care finance and the division of environment. The secretary of health and environment shall receive an annual salary fixed by the governor.

(b) The provisions of the Kansas governmental operations accountability law apply to the department of health and environment, and the department is subject to audit, review and evaluation under such law.

Sec. 7. K.S.A. 2012 Supp. 75-5603 is hereby amended to read as follows: 75-5603. (a) There is hereby established within and as a part of the department of health and environment a division of *public* health, the head of which shall be the director of the division of *public* health. Under the supervision of the secretary of health and environment, the director of the division of *public* health shall administer the division of *public* health. The director shall be a physician, hold a valid license to practice medicine and surgery, and have experience and educational training in the field of public health. The secretary of health and environment shall appoint the director of the division of *public* health who shall serve at the pleasure of the secretary. The director shall be in the unclassified service and shall receive an annual salary fixed by the secretary and approved by the governor.

(b) *Whenever the division of health, or words of like effect, are referred to or designated by statute, contract or other document, such reference or designation shall be deemed to apply to the division of public health.*

Sec. 8. K.S.A. 2012 Supp. 75-5664 is hereby amended to read as follows: 75-5664. (a) There is hereby established an advisory committee on trauma. The advisory committee on trauma shall be advisory to the secretary of health and environment and shall be within the division of *public* health of the department of health and environment as a part thereof.

(b) On July 1, 2001, the advisory committee on trauma in existence immediately prior to July 1, 2001, is hereby abolished and a new advisory committee on trauma is created in accordance with this section. The terms of all members of the advisory committee on trauma in existence prior to July 1, 2001, are hereby terminated. On and after July 1, 2001, the advisory committee on trauma shall be composed of 24 members representing both rural and urban areas of the state appointed as follows:

(1) Two members shall be persons licensed to practice medicine and surgery appointed by the governor. At least 30 days prior to the expiration of terms described in this section, for each member to be appointed under this section, the Kansas medical society shall submit to the governor a list of three names of persons of recognized ability and qualification. The governor shall consider such list of persons in making appointments to the board under this paragraph.

(2) One member shall be licensed to practice osteopathic medicine appointed by the governor. At least 30 days prior to the expiration of the term of the member appointed under this section, the Kansas association of osteopathic medicine shall submit to the governor a list of three persons of recognized ability and qualification. The governor shall consider such list of persons in making appointments to the board under this paragraph.

(3) Three members shall be representatives of hospitals appointed by the governor. At least 30 days before the expiration of terms described in this section, for each member to be appointed under this section, the Kansas hospital association shall submit to the governor a list of three names of persons of recognized ability and qualification. The governor shall consider such list of persons in making appointments to the board under this paragraph.

(4) Two members shall be licensed professional nurses specializing in trauma care or emergency nursing appointed by the governor. At least 30 days before the expiration of terms described in this section, for each member to be appointed under this section, the Kansas state nurses association shall submit to the governor a list of three names of persons of recognized ability and qualification. The governor shall consider such list of persons in making appointments to the board under this paragraph.

(5) Two members shall be attendants as defined in K.S.A. 65-6112, and amendments thereto, who are on the roster of an ambulance service permitted by the board of emergency medical services. At least 30 days prior to the expiration of one of these positions, the Kansas emergency

medical services association shall submit to the governor a list of three persons of recognized ability and qualification. The governor shall consider such list of persons in making this appointment to the board. For the other member appointed under this section, at least 30 days prior to the expiration of the term of such member, the Kansas emergency medical technician association shall submit a list of three persons of recognized ability and qualification. The governor shall consider such list of persons in making appointments to the board under this paragraph.

(6) Two members shall be administrators of ambulance services, one rural and one urban, appointed by the governor. At least 30 days prior to the expiration of the terms of such members, the Kansas emergency medical services association and Kansas emergency medical technician association in consultation shall submit to the governor a list of four persons of recognized ability and qualification. The governor shall consider such list of persons in making this appointment to the board under this paragraph.

(7) Six members shall be representatives of regional trauma councils, one per council, appointed by the governor. At least 30 days prior to the expiration of one of these positions, the relevant regional trauma council shall submit to the governor a list of three persons of recognized ability and qualification. The governor shall consider such list of persons in making these appointments to the board.

(8) The secretary of health and environment or the secretary's designee of an appropriately qualified person shall be an ex officio representative of the department of health and environment.

(9) The chairperson of the board of emergency medical services or the chairperson's designee shall be an ex officio member.

(10) Four legislators selected as follows shall be members: The chairperson and ranking minority member or their designees of the committee on health and human services of the house of representatives, and the chairperson and ranking minority member or their designees from the committee on public health and welfare of the senate shall be members.

(c) All members shall be residents of the state of Kansas. Particular attention shall be given so that rural and urban interests and geography are balanced in representation. Organizations that submit lists of names to be considered for appointment by the governor under this section shall insure that names of people who reside in both rural and urban areas of the state are among those submitted. At least one person from each congressional district shall be among the members. Of the members appointed under paragraphs (1) through (7) of subsection (b), six shall be appointed to initial terms of two years; six shall be appointed to initial terms of three years; and six shall be appointed to initial terms of four years. Thereafter members shall serve terms of four years and until a successor is appointed and qualified. In the case of a vacancy in the membership of the advisory committee, the vacancy shall be filled for the unexpired term in like manner as that provided in subsection (b).

(d) The advisory committee shall meet quarterly and at the call of the chairperson or at the request of a majority of the members. At the first meeting of the advisory committee after July 1 each year, the members shall elect a chairperson and vice-chairperson who shall serve for terms of one year. The vice-chairperson shall exercise all of the powers of the chairperson in the absence of the chairperson. The chairperson and vice-chairperson serving on the effective date of this act shall be among the members appointed to the advisory committee under subsection (b) and shall continue to serve as chairperson and vice-chairperson of the advisory committee until the first meeting of the advisory committee after July 1, 2002.

(e) The advisory committee shall be advisory to the secretary of health and environment on all matters relating to the implementation and administration of this act.

(f) (1) Any meeting of the advisory committee or any part of a meeting of the advisory committee during which a review of incidents of trauma injury or trauma care takes place shall be conducted in closed session. The advisory committee and officers thereof when acting in their official capacity in considering incidents of trauma injury or trauma care shall constitute a peer review committee and peer review officers for all purposes of K.S.A. 65-4915, and amendments thereto.

(2) The advisory committee or an officer thereof may advise, report

to and discuss activities, information and findings of the committee which relate to incidents of trauma injury or trauma care with the secretary of health and environment as provided in subsections (a) and (e) without waiver of the privilege provided by this subsection (f) and K.S.A. 65-4915, and amendments thereto, and the records and findings of such committee or officer which are privileged under this subsection (f) and K.S.A. 65-4915, and amendments thereto, shall remain privileged as provided by this subsection (f) and K.S.A. 65-4915, and amendments thereto, prior to July 1, 2016.

(3) The provisions of this subsection (f) shall expire on July 1, 2016, unless the legislature reviews and reenacts this provision pursuant to K.S.A. 45-229, and amendments thereto.

(g) Members of the advisory committee attending meetings of the advisory committee or attending a subcommittee of the advisory committee or other authorized meeting of the advisory committee shall not be paid compensation but shall be paid amounts provided in subsection (e) of K.S.A. 75-3223, and amendments thereto.

Sec. 9. K.S.A. 65-102, 65-118, 65-153 and 75-5621 and K.S.A. 2012 Supp. 65-2402, 65-2422d, 75-5601, 75-5603, 75-5664, 75-7411 and 75-7412 are hereby repealed.

Sec. 10. 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

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.