

Amendments to Public Health Statutes, Kansas Emergency Management Act, and Student Health Statutes; Mask and Inoculation Requirements and Vaccination Passports; Sub. for SB 34

Sub. for SB 34 creates law regarding actions by governmental entities or public officials affecting face mask requirements as a response to a contagious or infectious disease and prohibits a COVID-19 vaccination passport from being required by any governmental entity or public official. The bill amends the Kansas Emergency Management Act (KEMA) and public health statutes regarding face mask requirements and judicial review of governmental action in response to state of disaster emergencies and state of local disaster emergencies. The bill removes the authority of the Secretary of Health and Environment (Secretary) or a local health officer to order any law enforcement officer of the state or any subdivision to assist in the execution or enforcement of any order regarding infectious and contagious diseases.

The bill also amends student health statutes regarding certification of tests or inoculations for first-time enrollment in a school or preschool or day care program operated by a school to specify the tests or inoculations the Secretary is prohibited from requiring.

Face Mask Requirements

Notwithstanding any law to the contrary, the bill prohibits any governmental entity or public official from ordering or otherwise requiring a person to wear a face mask as a response to a contagious or infectious disease, but such entity or official may recommend the wearing of face masks.

The provisions of this section do not apply to a governmental entity that is a medical care facility, as defined in KSA 65-425, or an adult care home, as defined in KSA 39-923. A medical care facility includes a hospital, ambulatory surgical center, or recuperation center, but does not include a hospice that is certified to participate in Medicare and that provides services only to hospice patients. An adult care home includes any nursing facility, nursing facility for mental health, intermediate care facility for people with intellectual disability, assisted living facility, residential health care facility, home plus, boarding care home, and adult day care facility.

Vaccination Passport Requirements

Notwithstanding any law to the contrary, the bill prohibits any governmental entity or public official from:

- Issuing a COVID-19 vaccination passport to any individual without such individual's consent;
- Requiring any individual to use a COVID-19 vaccination passport within this state for any purpose; or

- Denying housing to any individual or refusing access by any individual to a place accessible to the general public, or separating any individual from others in a place accessible to the general public, including entry, education, travel, and services within this state, based on such individual's COVID-19 vaccination status.

The bill does not prohibit a governmental entity or public official from instituting COVID-19 screening protocols in accordance with state and federal law to protect public health.

The provisions of this section do not apply to a governmental entity that is a medical care facility, as defined in KSA 65-425, or an adult care home, as defined in KSA 39-923.

As used in this section, the bill defines the following:

- "COVID-19 vaccination passport" means written or electronic documentation of an individual's COVID-19 vaccination status; and
- "Screening protocol" means a non-invasive method to determine whether an individual has symptoms or other risk factors for developing COVID-19, including, but not limited to, temperature checks, self-reporting of exposure, self-reported vaccination status, and questionnaires.

Amendments to the Kansas Emergency Management Act

Face Mask Requirements

The bill specifies that neither the Governor nor a governmental entity or public official has the power under KEMA to order or otherwise require the wearing of face masks as a response to a contagious or infectious disease during a state of disaster emergency or state of local disaster emergency. This provision does not apply to a governmental entity that is a medical care facility, as defined in KSA 65-425, or an adult care home, as defined in KSA 39-923.

Judicial Review of Governmental Actions in Response to State of Disaster Emergencies and State of Local Disaster Emergencies

The bill amends the process of judicial review for actions filed by aggrieved parties in response to executive orders issued by the Governor during a state of disaster emergency under KEMA and for actions filed by aggrieved parties in response to actions taken by local units of government during a state of local disaster emergency under KEMA.

Under continuing law, when an aggrieved party files a civil action in district court in response to an executive order issued by the Governor or an action taken by a local unit of government, a court must issue an order on a petition filed pursuant to the section and grant the relief under certain circumstances. The bill replaces a requirement the court must issue the order within seven days with a requirement that the court issue its order without unreasonable

delay after the hearing is conducted, and it removes language requiring relief be granted in the petition if the court's order is not issued within seven days.

Infectious or Contagious Diseases and Authority of Local Health Officer or Secretary

The bill removes the authority of the Secretary or a local health officer to order any sheriff, deputy sheriff, or other law enforcement officer of the state or any subdivision to assist in the execution or enforcement of any order regarding infectious and contagious diseases.

Amendments to Public Health Statutes

The bill clarifies that the power of local health officers under the public health statutes does not include the power to order a person to wear a face mask.

The bill also amends the judicial review process for actions filed by aggrieved parties against local boards of health in the same manner as elsewhere in the bill.

Amendments to Student Health Statutes

The bill amends law related to certifications for required tests and inoculations (immunizations) for first-time enrollment at schools and preschool or day care programs operated by a school to specify the Secretary is prohibited from deeming a test or inoculation necessary if it has not received full approval by the federal Food and Drug Administration for the age of the student to whom the requirement applies.