

SESSION OF 2022

SUPPLEMENTAL NOTE ON SENATE BILL NO. 489

As Amended by Senate Committee of the Whole

Brief*

SB 489, as amended, would amend statute concerning the powers of the Secretary of Health and Environment (Secretary) to issue health orders in response to infectious or contagious diseases.

Health Supervision (Section 1)

The bill would remove the authority of the Secretary to take action to prevent the introduction of infectious or contagious disease into the state and to prevent the spread of infectious or contagious disease within the state.

Duties and Powers of Local Health Officers (Section 2)

The bill would remove a provision allowing the county or joint board of health or local health officer to prohibit public gatherings when necessary for the control of any and all infectious or contagious disease.

Rules and Regulations of Secretary to Prevent Spread and Dissemination of Diseases (Section 3)

The bill would amend statute to remove a provision authorizing the Secretary to designate, through rules and regulations, diseases infectious and contagious in nature. The bill would instead require the Secretary to submit a report of such infectious or contagious diseases to the Speaker of

*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 <http://www.kslegislature.org>

the House of Representatives and the President of the Senate.

The bill would amend statute authorizing the Secretary to issue orders and adopt rules and regulations as may be medically necessary and reasonable to prevent the spread and dissemination of diseases injurious to the public health to remove authority for the isolation and quarantine of persons afflicted with or exposed to such diseases.

The bill would amend statute authorizing the Secretary to develop and adopt rules and regulations for the protection of the below-listed individuals. The bill would instead require the Secretary to present a report to the Speaker of the House of Representatives and the President of the Senate at the beginning of each regular session of the Legislature providing recommendations for legislation concerning actions to prevent the introduction and spread of infectious or contagious disease within the state and protection of individuals who:

- Provide medical or nursing services;
- Provide clinical or forensic laboratory services;
- Provide emergency medical services and firefighting;
- Provide law enforcement and correctional services;
- Provide any other service;
- Receive such services; or
- Are in any other employment where the individual may encounter occupational exposure to blood and other potentially infectious materials.

Infectious or Contagious Diseases and Authority of Local Health Officer or Secretary (Section 4)

The bill would amend law empowering local health officers or the Secretary to issue certain orders to remove the Secretary's authority, in investigating actual or potential exposures to an infectious or contagious disease that is potentially life-threatening, to:

- Issue an order requiring an individual the Secretary has reason to believe has been exposed to an infectious or contagious disease to seek appropriate and necessary evaluation and treatment;
- Order an individual or group of individuals to go to and remain in a place of isolation or quarantine in order to prevent or reduce the spread of a disease or outbreak believed to have been caused by the exposure to an infectious or contagious disease until the Secretary determines that the individual no longer poses a substantial risk of transmitting the disease or condition to the public;
- Order an individual, 18 years or older or an emancipated minor, who refuses vaccination, medical examination, treatment, or testing, to go to and remain in a place of isolation or quarantine until the Secretary determines that the individual no longer poses a substantial risk of transmitting the disease or condition to the public; and
- Require a minor child or ward whose parent or guardian refuses vaccination, medical examination, treatment, or testing, to go to and remain in a place of isolation or quarantine, in the company of the parent or guardian, until the Secretary determines that the individual no longer poses a substantial risk of transmitting the disease or condition to the public.

The bill would amend statute to authorize local health officers to recommend quarantine or isolation in the above situations.

The bill would remove 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.

Investigation of Infectious Diseases (Section 5)

The bill would remove the Secretary's authority to require a local health officer to perform duties related to the prevention of the spread of infectious, contagious, or communicable diseases. The bill would retain this authority for a county or joint board of health.

The bill would specify that local health officers would be required to use only medically necessary and reasonable measures to prevent the spread of any infectious, contagious, or communicable disease.

Repeal Certain Quarantine Authority (Section 6)

The bill would repeal KSA 65-126, which authorizes the Secretary to quarantine any area in which the county or joint board of health or the local health officer neglects to properly isolate and quarantine infectious or contagious diseases and persons afflicted with or exposed to such disease and in which any disease may show a tendency to become epidemic.

Background

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

Senate Committee on Public Health and Welfare

In the Senate Committee hearing, a representative of the Johnson County Sheriff's Department provided **proponent** testimony, stating support for removing the portion of Section 4 authorizing the Secretary to order law enforcement to assist in the execution or enforcement of health orders. A private citizen provided proponent testimony, stating individuals should retain the right to make decisions about their health.

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

A representative of the Kansas Association of Counties provided **opponent** testimony, stating concern about the Kansas Department of Health and Environment's (KDHE) authority to coordinate with local health departments.

Written-only opponent testimony was provided by representatives of the Kansas Academy of Family Physicians, Kansas Association of Local Health Departments, Kansas Medical Society, McPherson County Health Department, Mid America Immunization Coalition and Nurture KC, Reno County Health Department, and Sedgwick County Health Department, and by two private citizens.

Written-only neutral testimony was provided by a representative of the Kansas Association of Chiefs of Police, Kansas Peace Officers Association, and Kansas Sheriffs Association.

The Senate Committee amended language in the bill allowing local health officers to issue an order requiring quarantine or isolation in certain situations to state that such orders may only be recommended.

Senate Committee of the Whole

On March 23, 2022, the Senate Committee of the Whole amended the bill to:

- Remove the Secretary's authority to issue orders and adopt rules and regulations regarding isolation and quarantine of persons afflicted with or exposed to diseases injurious to the public health; and
- Specify that local health officers would be required to use only medically necessary and reasonable measures to prevent the spread of infectious, contagious, or communicable diseases.

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on the bill as introduced, KDHE states enactment of the bill could result in fiscal effects due to the loss of a central, state-level public health authority to assist local units when there is an infectious or contagious disease. This would include the ability to request and secure federal funding for response to an emergency, such as providing necessary supplies and resources. KDHE notes many local health departments lack the administrative capacity to coordinate with federal agencies and authorities on a regular basis. The agency could not estimate the potential fiscal effect. Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2023 Governor's Budget Report*.

The Kansas Association of Counties and League of Municipalities reported the bill would not have any fiscal effect on local governments.

Kansas Department of Health and Environment; Secretary of Health and Environment; infectious or contagious diseases