

KANSAS OFFICE *of*
REVISOR *of* STATUTES

LEGISLATURE *of* THE STATE *of* KANSAS
Legislative Attorneys transforming ideas into legislation.

300 SW TENTH AVENUE ■ SUITE 24-E ■ TOPEKA, KS 66612 ■ (785) 296-2321

MEMORANDUM

To: Senate Committee on Public Health and Welfare
From: Office of Revisor of Statutes
Date: February 15, 2024
Subject: Bill Brief on Senate Bill 391

Senate Bill 391 restricts the authority of the secretary of health and environment and local health officers to prevent the introduction and spread of infectious or contagious diseases and repeals the authority of the secretary to quarantine individuals and impose associated penalties.

Section 1 names the changes to amended statutes the constitutional right to health freedom act.

Section 2 strikes the authority of the secretary to adopt rules and regulations to carry out the provisions of subsection (a) and adds a new subsection (c) to K.S.A. 65-101 that specifies that the secretary of health and environment shall not carry out the secretary's duties in this section that conflicts with other state statutes or expands the authority of the secretary.

Section 3 amends K.S.A. 65-116g by setting out that violations of the act related to tuberculosis are unlawful and sets out the criminal penalty of a class C nonperson misdemeanor for any person.

Section 4 amends K.S.A. 65-118 to strike teachers and school administrators from the list of persons who are required to report to the county or joint board of health, or the local health officer known cases of reportable infectious or contagious diseases.

Section 5 amends K.S.A. 65-119 to strike the county or joint board of health or local health officer from having the authority to prohibit public gatherings when necessary for the control of infectious or contagious diseases.

Section 6 amends K.S.A. 65-128 to eliminate the authority of the secretary to designate infectious or contagious diseases by rules and regulations, and instead requires the secretary to submit a report of such diseases to the legislature. Subsection (b) eliminates the authority of the secretary to issue orders and adopt rules and regulations to prevent the spread and dissemination of diseases, including testing and isolation, and instead allows the secretary to recommend and educate the public.

Section 7 amends K.S.A. 65-129b to strike references to the secretary's authority to order an individual exposed to or capable of transmitting an infectious or contagious disease to seek treatment or quarantine. The amendments to this section would take away the authority of local health officers from ordering treatment or quarantine to a person with an infectious or contagious disease to just being able to recommend treatment or quarantine. This section also strikes the authority of a local health officer or the secretary to order law enforcement officer to assist in the execution or enforcement of orders issued under this section.

Section 8 prohibits employers from discharging an employee because such employee follows an isolation or quarantine recommendation from a local health officer and adds a civil cause of action against an employer for a violation of this section in which a prevailing plaintiff can recover damages, costs and attorney fees.

Section 9 amends K.S.A. 65-202, the duties of local health officers, to strike the authority of the secretary to require local officers to perform duties and eliminates the authority of a local health officer to issue orders regarding remediation of any infectious disease.

Section 10 amends K.S.A. 72-5180 to strike language referencing the secretary's authority to order the closure of schools.

This bill would also repeal K.S.A. 65-126 (secretary quarantine authority), 65-127 (fines for violations of certain health statutes), 65-129 (criminal penalties for violating quarantine) and 65-129c (local health office or secretary isolation and quarantine procedure).