

[As Amended by Senate Committee of the Whole]

As Amended by Senate Committee

Session of 2010

SENATE BILL No. 448

By Committee on Public Health and Welfare

1-25

12 AN ACT concerning use of vital statistics; relating *[to certificates and]*
13 to maternal and child health surveillance and monitoring; amending
14 **K.S.A. 65-177**, **65-2401** and **65-2412** and K.S.A. 2009 Supp. 65-
15 2422d and repealing the existing ~~section~~ **sections**.
16

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

18 **Section 1. K.S.A. 65-177 is hereby amended to read as follows:**
19 **65-177. The term “data” as used in this act shall be construed to**
20 **include all facts, information, records of interviews, written reports,**
21 **statements, notes, or memoranda secured in connection with an au-**
22 **thorized medical research study.**

23 *The secretary of health and environment may receive data se-*
24 *cured in connection with medical research studies conducted for*
25 *the purpose of reducing morbidity or mortality from maternal, per-*
26 *inatal and anesthetic causes. Such studies may be conducted by the*
27 *secretary of health and environment and his staff or with other qual-*
28 *ified persons, agencies or organizations. Where authorization to*
29 *conduct such a study is granted by the secretary of health and en-*
30 *vironment, all data voluntarily made available to the secretary of*
31 *health and environment in connection with such study shall be*
32 *treated as confidential and shall be used solely for purposes of med-*
33 *ical research. Research files and opinions expressed upon the evi-*
34 *dence found in such research shall not be admissible as evidence in*
35 *any action in any court or before any other tribunal: Provided, how-*
36 *ever, That any statistics or tables resulting from such data shall be*
37 *admissible as evidence: Provided, That this act shall not affect the*
38 *right of any patient or his guardians, representatives or heirs to*
39 *require hospitals, physicians, sanatoriums, rest homes, nursing*
40 *homes or other persons or agencies to furnish his hospital record to*
41 *his representatives upon written authorization, or the admissibility*
42 *in evidence thereof.*

43 *No employee of the secretary of health and environment shall*

1 *interview any patient named in any such report, nor any relative*
2 *of any such patient, unless otherwise provided in K.S.A. 65-2422d, and*
3 *amendments thereto: Provided, That nothing in this act shall prohibit*
4 *the publication by the secretary of health and environment or a*
5 *duly authorized cooperating person, agency or organization, of fi-*
6 *nal reports or statistical compilations derived from morbidity or*
7 *mortality studies, which reports or compilations do not identify in-*
8 *dividuals, associations, corporations or institutions which were the*
9 *subjects of such studies, or reveal sources of information.*

10 *[Sec. 2. K.S.A. 65-2401 is hereby amended to read as follows:*
11 *65-2401. As used in this act: (1) “Vital statistics” includes the reg-*
12 *istration, preparation, transcription, collection, compilation, and*
13 *preservation of data pertaining to birth, adoption, legitimation,*
14 *death, stillbirth, marriage, divorce, annulment of marriage, induced*
15 *termination of pregnancy, and data incidental thereto.*

16 *[(2) “Live birth” means ~~the complete expulsion or extraction from~~*
17 *its mother of a product of human conception a living individual organism*
18 *of the species homo sapiens, irrespective of the duration of pregnancy,*
19 *which, after ~~such~~ expulsion or extraction, breathes or shows any*
20 *other evidence of life such as beating of the heart, pulsation of the*
21 *umbilical cord, or definite movement of voluntary muscles, whether*
22 *or not the umbilical cord has been cut or the placenta is attached.*

23 *[(3) “Stillbirth” means ~~any complete expulsion or extraction from~~*
24 *its mother of a product of human conception ~~the weight of which is in~~*
25 *excess of 350 grams a living individual organism of the species homo*
26 *sapiens, who dies in utero, irrespective of the duration of pregnancy,*
27 *resulting in other than a live birth, as defined in this act, and which*
28 *is not an induced termination of pregnancy.*

29 *[(4) “Induced termination of pregnancy” means the purposeful*
30 *interruption of pregnancy with the intention other than to produce*
31 *a ~~live-born infant~~ live birth or to remove a ~~dead fetus~~ stillbirth and*
32 *which does not result in a live birth.*

33 *[(5) “Dead body” means a lifeless human body or such parts of*
34 *a human body or the bones thereof from the state of which it rea-*
35 *sonably may be concluded that death recently occurred.*

36 *[(6) “Person in charge of interment” means any person who*
37 *places or causes to be placed a stillborn child or dead body or the*
38 *ashes, after cremation, in a grave, vault, urn or other receptacle, or*
39 *otherwise disposes thereof.*

40 *[(7) “Secretary” means the secretary of health and*
41 *environment.*

42 *[Sec. 3. K.S.A. 65-2412 is hereby amended to read as follows:*
43 *65-2412. (a) A death certificate or stillbirth certificate for each*

1 *death or stillbirth where the fetus weighs more than 250 grams which*
2 *occurs in this state shall be filed with the state registrar within three*
3 *days after such death and prior to removal of the body from the*
4 *state and shall be registered by the state registrar if such death*
5 *certificate or stillbirth certificate has been completed and filed in*
6 *accordance with this section. If the fetus weight is less than or equal*
7 *to 250 grams, the mother shall have the option of choosing whether or*
8 *not a stillbirth certificate shall be filed. If the place of death is unknown,*
9 *a death certificate shall be filed indicating the location where the*
10 *body was found as the place of death. A certificate shall be filed*
11 *within three days after such occurrence; if death occurs in a moving*
12 *conveyance, the death certificate shall record the location where*
13 *the dead body was first removed from such conveyance as the place*
14 *of death.*

15 *[(b) The funeral director or person acting as such who first as-*
16 *sumes custody of a dead body or fetus shall file the death certificate.*
17 *Such person shall obtain the personal data from the next of kin or*
18 *the best qualified person or source available and shall obtain the*
19 *medical certification of cause of death from the physician last in*
20 *attendance prior to burial. The death certificate filed with the state*
21 *registrar shall be the official death record, except that a funeral*
22 *director licensed pursuant to K.S.A. 65-1714, and amendments*
23 *thereto, may verify as true and accurate information pertaining to*
24 *a death on a form provided by the state registrar, and any such*
25 *form, verified within 21 days of date of death, shall be prima facie*
26 *evidence of the facts therein stated for purposes of establishing*
27 *death. The secretary of health and environment shall fix and collect*
28 *a fee for each form provided a funeral director pursuant to this*
29 *subsection. The fee shall be collected at the time the form is pro-*
30 *vided the funeral director and shall be in the same amount as the*
31 *fee for a certified copy of a death certificate.*

32 *[(c) When death occurred without medical attendance or when*
33 *inquiry is required by the laws relating to postmortem examina-*
34 *tions, the coroner shall investigate the cause of death and shall com-*
35 *plete and sign the medical certification within 24 hours after receipt*
36 *of the death certificate or as provided in K.S.A. 65-2414, and amend-*
37 *ments thereto.*

38 *[(d) In every instance a certificate shall be filed prior to inter-*
39 *ment or disposal of the body.]*

40 ~~Section Sec. 1, 2, [4.]~~ K.S.A. 2009 Supp. 65-2422d is hereby
41 amended to read as follows: 65-2422d. (a) The records and files of the
42 division of health pertaining to vital statistics shall be open to inspection,
43 subject to the provisions of this act and rules and regulations of the sec-

1 retary. It shall be unlawful for any officer or employee of the state to
2 disclose data contained in vital statistical records, except as authorized by
3 this act and the secretary, and it shall be unlawful for anyone who pos-
4 sesses, stores or in any way handles vital statistics records under contract
5 with the state to disclose any data contained in the records, except as
6 authorized by law.

7 (b) No information concerning the birth of a child shall be disclosed
8 in a manner that enables determination that the child was born out of
9 wedlock, except upon order of a court in a case where the information is
10 necessary for the determination of personal or property rights and then
11 only for that purpose, or except that employees of the office of child
12 support enforcement of the federal department of health and human
13 services shall be provided information when the information is necessary
14 to ensure compliance with federal reporting and audit requirements pur-
15 suant to title IV-D of the federal social security act or except that the
16 secretary of social and rehabilitation services or the secretary's designee
17 performing child support enforcement functions pursuant to title IV-D
18 of the federal social security act shall be provided information and copies
19 of birth certificates when the information is necessary to establish par-
20 entage in legal actions or to ensure compliance with federal reporting and
21 audit requirements pursuant to title IV-D of the federal social security
22 act. Nothing in this subsection shall be construed as exempting such em-
23 ployees of the federal department of health and human services or the
24 secretary of social and rehabilitation services or the secretary's designee
25 from the fees prescribed by K.S.A. 65-2418, and amendments thereto.

26 (c) Except as provided in subsection (b), and amendments thereto,
27 the state registrar shall not permit inspection of the records or issue a
28 certified copy or abstract of a certificate or part thereof unless the state
29 registrar is satisfied the applicant therefor has a direct interest in the
30 matter recorded and the information contained in the record is necessary
31 for the determination of personal or property rights. The state registrar's
32 decision shall be subject, however, to review by the secretary or by a court
33 in accordance with the act for judicial review and civil enforcement of
34 agency actions, subject to the limitations of this section.

35 (d) The secretary shall permit the use of data contained in vital sta-
36 tistical records for research purposes only, but no identifying use of them
37 shall be made. *The secretary shall permit the use of birth, death and still*
38 *birth certificates as identifiable data for purposes of maternal and child*
39 *health surveillance and monitoring. The secretary or the secretary's des-*
40 *ignee may interview individuals for purposes of maternal and child health*
41 *surveillance and monitoring only with an approval of the health and en-*
42 *vironmental institutional review board as provided in title 45, part 46 of*
43 *the code of federal regulations. The secretary shall inform such individuals*

1 *that the participation in such surveillance and monitoring is voluntary*
2 *and may only be conducted with the written **or informed** consent of the*
3 *person who is the subject of the information or with the informed consent*
4 *of a parent or legal guardian if the person is under 18 years of age.*
5 *Informed consent is not required if the person who is the subject of the*
6 *information is deceased.*

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

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

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

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

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

42 (j) Fact of death information may be disseminated to state and federal
43 agencies administering benefit programs. Such information shall be used

1 for file clearance purposes only.

2 Sec. ~~2~~ ~~3~~ [5.] **K.S.A. 65-177**, **65-2401 and 65-2412** and K.S.A.
3 2009 Supp. 65-2422d ~~is~~ **are** hereby repealed.

4 Sec. ~~3~~ ~~4~~ [6.] This act shall take effect and be in force from and
5 after its publication in the Kansas register.