

Actions Regarding the Introduction or Spread of Infectious or Contagious Diseases; Sub. for SB 29

Sub. for SB 29 will:

- Require the Secretary of Health and Environment (Secretary) to have probable cause, supported by oath or affirmation, before taking action to prevent the introduction or spread of an infectious or contagious disease within Kansas;
- Permit any aggrieved party to file a civil action regarding an order made by the Secretary or a local health officer and establish requirements for hearings and judicial review;
- Provide for a county or joint board of health or local health officer to recommend against rather than prohibit public gatherings when necessary for the control of infectious or contagious disease; and
- Remove the ability for a local health officer or the Secretary to order law enforcement to assist in the execution or enforcement of any order.

Requirements for Orders and Civil Action

The bill requires the Secretary to have probable cause, supported by oath or affirmation, regarding any action that is intended to exclude, isolate, quarantine, or otherwise restrict the movement of people within Kansas when the Secretary seeks to prevent the introduction or spread of an infectious or contagious disease within Kansas.

The bill provides for any party aggrieved by an action taken pursuant to certain public health statutes to file a civil action in the district court where the order was issued within 30 days of its issuance.

Statutory References

The bill permits a civil action to be filed by any party aggrieved by an order issued pursuant to KSA 65-101 through 65-125f, including, but not limited to, the following:

- Health supervision and investigation of causes of disease, sickness, and death;
- Confidentiality and disclosure of information concerning non-infectious diseases;
- Tuberculosis examination, care, and treatment and orders by health officers;
- Precautions to prevent spread of infection and investigations;

- Actions required when a person with tuberculosis fails to follow instructions by a health officer or physician;
- Commitment, restraint, discharge, and recommitment to a medical care facility;
- Penalty for violations of orders or regulations of the Secretary;
- Preservation of individual rights to select mode of treatment;
- Expenses of inpatient care, maintenance, and treatment of tuberculosis;
- Reporting to local health authority as to infectious or contagious diseases, immunity from liability, and confidentiality of information;
- Duties and powers of local health officers regarding contagious diseases;
- Non-admissions, exclusions, and re-admissions to schools and child care facilities due to infectious or contagious disease;
- Funeral services for individuals who died while suffering from an infectious or contagious disease;
- Quarantine of city, township, or county;
- Monetary penalty provisions for violation of certain orders relating to contagious or infectious diseases;
- Rules and regulations of the Secretary, testing, and quarantine to prevent spread and dissemination of diseases;
- Penalties for violation of rules and regulations of the Secretary for the prevention and control of infectious or contagious diseases;
- Authority of a local health officer or the Secretary to make evaluation, treatment, isolation, or quarantine orders and enforcement;
- Orders for isolation or quarantine and appeals;
- Unlawful discharge from employment due to isolation or quarantine;
- Tuberculosis evaluation, treatment, and monitoring requirements for postsecondary students; and
- Prevention and control of tuberculosis in postsecondary educational institutions.

Isolation or Quarantine Orders

The bill does not stay or enjoin any isolation or quarantine orders if a hearing is requested.

Timing of Hearings

The bill requires a district court, after receipt of the petition, to conduct a hearing within 72 hours, except when the Chief Justice has issued an order to extend or suspend deadlines regarding court actions for health and safety reasons (KSA 20-172(a)).

Judicial Review Standard of Strict Scrutiny

The bill requires the district court to grant the request for relief unless the court would find the order is narrowly tailored to the purpose stated in the order and uses the least restrictive means to achieve the stated purpose.

Local Health Officer Role

The bill revises the role of a county or joint board of health or local health officer to be one that may recommend against public gatherings when necessary for the control of infectious or contagious disease, changed from authority for the county or joint board of health or local health officer is authorized to prohibit public gatherings when necessary.

Enforcement of Orders

The bill removes the requirement that the local health officer or Secretary may order any sheriff, deputy sheriff, or other law enforcement officer to assist in the execution or enforcement of any order regarding evaluation, treatment, isolation, or quarantine for an infectious or contagious disease.