

As Amended by House Committee

Session of 2013

HOUSE BILL No. 2322

By Committee on Health and Human Services

2-13

1 AN ACT concerning the department of health and environment; relating to
2 the division of health; amending K.S.A. 65-102, 65-118, 65-153 and
3 75-5621 and K.S.A. 2012 Supp. 65-2402, 65-2422d, 75-5601, 75-5603
4 and 75-5664 and repealing the existing sections; also repealing K.S.A.
5 2012 Supp. 75-7411 and 75-7412.

6
7 *Be it enacted by the Legislature of the State of Kansas:*

8 Section 1. K.S.A. 65-102 is hereby amended to read as follows: 65-
9 102. The secretary of health and environment shall supervise the
10 registration of marriages, births and deaths, and also the registration of
11 forms of disease prevalent in the state; and the director of the division of
12 *public* health shall superintend the registration of the vital statistics of the
13 state. The secretary of health and environment shall prepare the blank
14 forms necessary for obtaining and preserving such records, and forward
15 them to the health officers of local boards as may be required by
16 physicians, appraisers, local boards; and others whose duty it is to gather
17 information in relation to the vital statistics of the state.

18 Sec. 2. K.S.A. 65-118 is hereby amended to read as follows: 65-118.
19 (a) Whenever any person licensed to practice the healing arts or engaged in
20 a postgraduate training program approved by the state board of healing
21 arts, licensed dentist, licensed professional nurse, licensed practical nurse
22 administrator of a hospital, licensed adult care home-administrator,
23 licensed physician assistant, licensed social worker, teacher or school
24 administrator knows or has information indicating that a person is
25 suffering from or has died from a reportable infectious or contagious
26 disease as defined in rules and regulations, such knowledge or information
27 shall be reported immediately to the county or joint board of health or the
28 local health officer, together with the name and address of the person who
29 has or is suspected of having the infectious or contagious disease, or the
30 name and former address of the deceased individual who had or was
31 suspected of having such a disease. In the case of a licensed hospital or
32 adult care home, the administrator may designate an individual to receive
33 and make such reports. The secretary of health and environment shall,
34 through rules and regulations, make provision for the consolidation of
35 reports required to be made under this section when the person required to
36 make the report is working in a licensed hospital or adult care home.

1 Laboratories certified under the federal clinical laboratories improvement
2 act pursuant to 42 code of federal regulations, 493 shall report the results
3 of microbiologic cultures, examinations, immunologic essays for the
4 presence of antigens and antibodies and any other laboratory tests which
5 are indicative of the presence of a reportable infectious or contagious
6 disease to the department of health and environment. The director of the
7 division of *public* health may use information from death certificates for
8 disease investigation purposes.

9 (b) Any person who is an individual member of a class of persons
10 designated under subsection (a) of this section and who reports the
11 information required to be reported under such subsection in good faith
12 and without malice to a county or joint board of health, a local health
13 officer or the department of health and environment shall have immunity
14 from any liability, civil or criminal, that might otherwise be incurred or
15 imposed in an action resulting from such report. Any such person shall
16 have the same immunity with respect to participation in any judicial
17 proceeding resulting from such report.

18 (c) Information required to be reported under subsection (a) of this
19 section shall be confidential and shall not be disclosed or made public,
20 upon subpoena or otherwise, beyond the requirements of subsection (a) of
21 this section or subsection (a) of K.S.A. 65-119, *and amendments thereto*,
22 except such information may be disclosed: (1) If no person can be
23 identified in the information to be disclosed and the disclosure is for
24 statistical purposes;

25 (2) if all persons who are identifiable in the information to be
26 disclosed consent in writing to its disclosure;

27 (3) if the disclosure is necessary, and only to the extent necessary, to
28 protect the public health;

29 (4) if a medical emergency exists and the disclosure is to medical
30 personnel qualified to treat infectious or contagious diseases. Any
31 information disclosed pursuant to this paragraph shall be disclosed only to
32 the extent necessary to protect the health or life of a named party; or

33 (5) if the information to be disclosed is required in a court proceeding
34 involving child abuse and the information is disclosed in camera.

35 Sec. 3. K.S.A. 65-153 is hereby amended to read as follows: 65-153.
36 The general duties of the division of *public* health of the department of
37 health and environment shall include the issuance of educational literature
38 on the care of the baby and the hygiene of the child, the study of the causes
39 of infant mortality and the application of preventive measures for the
40 prevention and the suppression of the diseases of infancy and early
41 childhood.

42 Sec. 4. K.S.A. 2012 Supp. 65-2402 is hereby amended to read as
43 follows: 65-2402. (a) The secretary shall: (1) Establish within the division

1 of *public* health suitable offices properly equipped for the preservation of
2 official records; (2) maintain a complete cross-index on all records filed
3 under the provisions of this act; (3) install a statewide system of vital
4 statistics; (4) make and may amend, after notice and hearing, necessary
5 regulations, give instructions and prescribe forms for collection,
6 transcribing, compiling and preserving vital statistics; and (5) enforce this
7 act and the regulations made pursuant thereto.

8 (b) Any person offered a position of employment in the office of vital
9 statistics, subject to a criminal history records check, shall be given a
10 written notice that a criminal history records check is required. The
11 secretary shall require such applicant to be fingerprinted and submit to a
12 state and national criminal history record check. The fingerprints shall be
13 used to identify the applicant and to determine whether the applicant has a
14 record of criminal history in this state or another jurisdiction. The secretary
15 shall submit the fingerprints to the Kansas bureau of investigation and the
16 federal bureau of investigation for a state and national criminal history
17 record check. Local and state law enforcement officers and agencies shall
18 assist the secretary in taking and processing of fingerprints of applicants.
19 The secretary may use the information obtained from fingerprinting and
20 the criminal history for purposes of verifying the identification of the
21 applicant and in the official determination of the eligibility of the applicant
22 to perform tasks within the office of vital statistics. If the criminal history
23 record information is used to disqualify an applicant, the applicant shall be
24 informed in writing of that decision.

25 Sec. 5. K.S.A. 2012 Supp. 65-2422d is hereby amended to read as
26 follows: 65-2422d. (a) The records and files of the division of *public*
27 health pertaining to vital statistics shall be open to inspection, subject to
28 the provisions of the uniform vital statistics act and rules and regulations
29 of the secretary. It shall be unlawful for any officer or employee of the
30 state to disclose data contained in vital statistical records, except as
31 authorized by the uniform vital statistics act and the secretary, and it shall
32 be unlawful for anyone who possesses, stores or in any way handles vital
33 statistics records under contract with the state to disclose any data
34 contained in the records, except as authorized by law.

35 (b) No information concerning the birth of a child shall be disclosed
36 in a manner that enables determination that the child was born out of
37 wedlock, except upon order of a court in a case where the information is
38 necessary for the determination of personal or property rights and then
39 only for that purpose, or except that employees of the office of child
40 support enforcement of the federal department of health and human
41 services shall be provided information when the information is necessary
42 to ensure compliance with federal reporting and audit requirements
43 pursuant to title IV-D of the federal social security act or except that the

1 secretary of social and rehabilitation services or the secretary's designee
2 performing child support enforcement functions pursuant to title IV-D of
3 the federal social security act shall be provided information and copies of
4 birth certificates when the information is necessary to establish parentage
5 in legal actions or to ensure compliance with federal reporting and audit
6 requirements pursuant to title IV-D of the federal social security act.
7 Nothing in this subsection shall be construed as exempting such
8 employees of the federal department of health and human services or the
9 secretary of social and rehabilitation services or the secretary's designee
10 from the fees prescribed by K.S.A. 65-2418, and amendments thereto.

11 (c) Except as provided in subsection (b), and amendments thereto, the
12 state registrar shall not permit inspection of the records or issue a certified
13 copy or abstract of a certificate or part thereof unless the state registrar is
14 satisfied the applicant therefor has a direct interest in the matter recorded
15 and the information contained in the record is necessary for the
16 determination of personal or property rights. The state registrar's decision
17 shall be subject, however, to review by the secretary or by a court in
18 accordance with the Kansas judicial review act, subject to the limitations
19 of this section.

20 (d) The secretary shall permit the use of data contained in vital
21 statistical records for research purposes only, but no identifying use of
22 them shall be made. The secretary shall permit the use of birth, death and
23 still birth certificates as identifiable data for purposes of maternal and child
24 health surveillance and monitoring. The secretary or the secretary's
25 designee may interview individuals for purposes of maternal and child
26 health surveillance and monitoring only with an approval of the health and
27 environmental institutional review board as provided in title 45, part 46 of
28 the code of federal regulations. The secretary shall inform such individuals
29 that the participation in such surveillance and monitoring is voluntary and
30 may only be conducted with the written consent of the person who is the
31 subject of the information or with the informed consent of a parent or legal
32 guardian if the person is under 18 years of age. Informed consent is not
33 required if the person who is the subject of the information is deceased.

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

37 (f) On or before the 20th day of each month, the state registrar shall
38 furnish to the county election officer of each county and the clerk of the
39 district court in each county, without charge, a list of deceased residents of
40 the county who were at least 18 years of age and for whom death
41 certificates have been filed in the office of the state registrar during the
42 preceding calendar month. The list shall include the name, age or date of
43 birth, address and date of death of each of the deceased persons and shall

1 be used solely by the election officer for the purpose of correcting records
2 of their offices and by the clerk of the district court in each county for the
3 purpose of correcting juror information for such county. Information
4 provided under this subsection to the clerk of the district court shall be
5 considered confidential and shall not be disclosed to the public. The
6 provisions of subsection (b) of K.S.A. 45-229, and amendments thereto,
7 shall not apply to the provisions of this subsection.

8 (g) No person shall prepare or issue any certificate which purports to
9 be an original, certified copy or abstract or copy of a certificate of birth,
10 death or fetal death, except as authorized in this act or rules and
11 regulations adopted under this act.

12 (h) Records of births, deaths or marriages which are not in the
13 custody of the secretary of health and environment and which were created
14 before July 1, 1911, pursuant to chapter 129 of the 1885 Session Laws of
15 Kansas, and any copies of such records, shall be open to inspection by any
16 person and the provisions of this section shall not apply to such records.

17 (i) Social security numbers furnished pursuant to K.S.A. 65-2409a,
18 and amendments thereto, shall only be used as permitted by title IV-D of
19 the federal social security act, and amendments thereto, or as permitted by
20 section 7(a) of the federal privacy act of 1974, and amendments thereto.
21 The secretary shall make social security numbers furnished pursuant to
22 K.S.A. 65-2409a, and amendments thereto, available to the department of
23 social and rehabilitation services for purposes permitted under title IV-D of
24 the federal social security act.

25 (j) Fact of death information may be disseminated to state and federal
26 agencies administering benefit programs. Such information shall be used
27 for file clearance purposes only.

28 Sec. 6. K.S.A. 2012 Supp. 75-5601 is hereby amended to read as
29 follows: 75-5601. (a) There is hereby created a department of health and
30 environment, the head of which shall be the secretary of health and
31 environment, which office is hereby created. The governor shall appoint
32 the secretary of health and environment, subject to confirmation by the
33 senate as provided in K.S.A. 75-4315b, and amendments thereto, and the
34 secretary shall serve at the pleasure of the governor. Except as provided by
35 K.S.A. 46-2601, and amendments thereto, no person appointed as
36 secretary shall exercise any power, duty or function as secretary until
37 confirmed by the senate. The department of health and environment shall
38 consist of the division of *public* health, the division of health care finance
39 and the division of environment. The secretary of health and environment
40 shall receive an annual salary fixed by the governor.

41 (b) The provisions of the Kansas governmental operations
42 accountability law apply to the department of health and environment, and
43 the department is subject to audit, review and evaluation under such law.

1 Sec. 7. K.S.A. 2012 Supp. 75-5603 is hereby amended to read as
2 follows: 75-5603. **(a)** There is hereby established within and as a part of
3 the department of health and environment a division of *public* health, the
4 head of which shall be the director of the division of *public* health. Under
5 the supervision of the secretary of health and environment, the director of
6 the division of *public* health shall administer the division of *public* health.
7 The director shall be a physician, hold a valid license to practice medicine
8 and surgery, and have experience and educational training in the field of
9 public health. The secretary of health and environment shall appoint the
10 director of the division of *public* health who shall serve at the pleasure of
11 the secretary. The director shall be in the unclassified service and shall
12 receive an annual salary fixed by the secretary and approved by the
13 governor.

14 **(b) Whenever the division of health, or words of like effect, are**
15 **referred to or designated by statute, contract or other document, such**
16 **reference or designation shall be deemed to apply to the division of**
17 **public health.**

18 Sec. 8. K.S.A. 2012 Supp. 75-5664 is hereby amended to read as
19 follows: 75-5664. (a) There is hereby established an advisory committee
20 on trauma. The advisory committee on trauma shall be advisory to the
21 secretary of health and environment and shall be within the division of
22 *public* health of the department of health and environment as a part
23 thereof.

24 (b) On July 1, 2001, the advisory committee on trauma in existence
25 immediately prior to July 1, 2001, is hereby abolished and a new advisory
26 committee on trauma is created in accordance with this section. The terms
27 of all members of the advisory committee on trauma in existence prior to
28 July 1, 2001, are hereby terminated. On and after July 1, 2001, the
29 advisory committee on trauma shall be composed of 24 members
30 representing both rural and urban areas of the state appointed as follows:

31 (1) Two members shall be persons licensed to practice medicine and
32 surgery appointed by the governor. At least 30 days prior to the expiration
33 of terms described in this section, for each member to be appointed under
34 this section, the Kansas medical society shall submit to the governor a list
35 of three names of persons of recognized ability and qualification. The
36 governor shall consider such list of persons in making appointments to the
37 board under this paragraph.

38 (2) One member shall be licensed to practice osteopathic medicine
39 appointed by the governor. At least 30 days prior to the expiration of the
40 term of the member appointed under this section, the Kansas association of
41 osteopathic medicine shall submit to the governor a list of three persons of
42 recognized ability and qualification. The governor shall consider such list
43 of persons in making appointments to the board under this paragraph.

1 (3) Three members shall be representatives of hospitals appointed by
2 the governor. At least 30 days before the expiration of terms described in
3 this section, for each member to be appointed under this section, the
4 Kansas hospital association shall submit to the governor a list of three
5 names of persons of recognized ability and qualification. The governor
6 shall consider such list of persons in making appointments to the board
7 under this paragraph.

8 (4) Two members shall be licensed professional nurses specializing in
9 trauma care or emergency nursing appointed by the governor. At least 30
10 days before the expiration of terms described in this section, for each
11 member to be appointed under this section, the Kansas state nurses
12 association shall submit to the governor a list of three names of persons of
13 recognized ability and qualification. The governor shall consider such list
14 of persons in making appointments to the board under this paragraph.

15 (5) Two members shall be attendants as defined in K.S.A. 65-6112,
16 and amendments thereto, who are on the roster of an ambulance service
17 permitted by the board of emergency medical services. At least 30 days
18 prior to the expiration of one of these positions, the Kansas emergency
19 medical services association shall submit to the governor a list of three
20 persons of recognized ability and qualification. The governor shall
21 consider such list of persons in making this appointment to the board. For
22 the other member appointed under this section, at least 30 days prior to the
23 expiration of the term of such member, the Kansas emergency medical
24 technician association shall submit a list of three persons of recognized
25 ability and qualification. The governor shall consider such list of persons
26 in making appointments to the board under this paragraph.

27 (6) Two members shall be administrators of ambulance services, one
28 rural and one urban, appointed by the governor. At least 30 days prior to
29 the expiration of the terms of such members, the Kansas emergency
30 medical services association and Kansas emergency medical technician
31 association in consultation shall submit to the governor a list of four
32 persons of recognized ability and qualification. The governor shall
33 consider such list of persons in making this appointment to the board
34 under this paragraph.

35 (7) Six members shall be representatives of regional trauma councils,
36 one per council, appointed by the governor. At least 30 days prior to the
37 expiration of one of these positions, the relevant regional trauma council
38 shall submit to the governor a list of three persons of recognized ability
39 and qualification. The governor shall consider such list of persons in
40 making these appointments to the board.

41 (8) The secretary of health and environment or the secretary's
42 designee of an appropriately qualified person shall be an ex officio
43 representative of the department of health and environment.

1 (9) The chairperson of the board of emergency medical services or
2 the chairperson's designee shall be an ex officio member.

3 (10) Four legislators selected as follows shall be members: The
4 chairperson and ranking minority member or their designees of the
5 committee on health and human services of the house of representatives,
6 and the chairperson and ranking minority member or their designees from
7 the committee on public health and welfare of the senate shall be
8 members.

9 (c) All members shall be residents of the state of Kansas. Particular
10 attention shall be given so that rural and urban interests and geography are
11 balanced in representation. Organizations that submit lists of names to be
12 considered for appointment by the governor under this section shall insure
13 that names of people who reside in both rural and urban areas of the state
14 are among those submitted. At least one person from each congressional
15 district shall be among the members. Of the members appointed under
16 paragraphs (1) through (7) of subsection (b), six shall be appointed to
17 initial terms of two years; six shall be appointed to initial terms of three
18 years; and six shall be appointed to initial terms of four years. Thereafter
19 members shall serve terms of four years and until a successor is appointed
20 and qualified. In the case of a vacancy in the membership of the advisory
21 committee, the vacancy shall be filled for the unexpired term in like
22 manner as that provided in subsection (b).

23 (d) The advisory committee shall meet quarterly and at the call of the
24 chairperson or at the request of a majority of the members. At the first
25 meeting of the advisory committee after July 1 each year, the members
26 shall elect a chairperson and vice-chairperson who shall serve for terms of
27 one year. The vice-chairperson shall exercise all of the powers of the
28 chairperson in the absence of the chairperson. The chairperson and vice-
29 chairperson serving on the effective date of this act shall be among the
30 members appointed to the advisory committee under subsection (b) and
31 shall continue to serve as chairperson and vice-chairperson of the advisory
32 committee until the first meeting of the advisory committee after July 1,
33 2002.

34 (e) The advisory committee shall be advisory to the secretary of
35 health and environment on all matters relating to the implementation and
36 administration of this act.

37 (f) (1) Any meeting of the advisory committee or any part of a
38 meeting of the advisory committee during which a review of incidents of
39 trauma injury or trauma care takes place shall be conducted in closed
40 session. The advisory committee and officers thereof when acting in their
41 official capacity in considering incidents of trauma injury or trauma care
42 shall constitute a peer review committee and peer review officers for all
43 purposes of K.S.A. 65-4915, and amendments thereto.

1 (2) The advisory committee or an officer thereof may advise, report
2 to and discuss activities, information and findings of the committee which
3 relate to incidents of trauma injury or trauma care with the secretary of
4 health and environment as provided in subsections (a) and (e) without
5 waiver of the privilege provided by this subsection (f) and K.S.A. 65-4915,
6 and amendments thereto, and the records and findings of such committee
7 or officer which are privileged under this subsection (f) and K.S.A. 65-
8 4915, and amendments thereto, shall remain privileged as provided by this
9 subsection (f) and K.S.A. 65-4915, and amendments thereto, prior to July
10 1, 2016.

11 (3) The provisions of this subsection (f) shall expire on July 1, 2016,
12 unless the legislature reviews and reenacts this provision pursuant to
13 K.S.A. 45-229, and amendments thereto.

14 (g) Members of the advisory committee attending meetings of the
15 advisory committee or attending a subcommittee of the advisory
16 committee or other authorized meeting of the advisory committee shall not
17 be paid compensation but shall be paid amounts provided in subsection (e)
18 of K.S.A. 75-3223, and amendments thereto.

19 Sec. 9. K.S.A. 65-102, 65-118, 65-153 and 75-5621 and K.S.A. 2012
20 Supp. 65-2402, 65-2422d, 75-5601, 75-5603, 75-5664, 75-7411 and 75-
21 7412 are hereby repealed.

22 Sec. 10. This act shall take effect and be in force from and after its
23 publication in the statute book.