

HOUSE BILL No. 2183

By Committee on Health and Human Services

1-31

1 AN ACT concerning communicable diseases; amending K.S.A. 65-6004
2 and 65-6008 and K.S.A. 2012 Supp. 65-6001 and repealing the existing
3 sections.

4
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2012 Supp. 65-6001 is hereby amended to read as
7 follows: 65-6001. As used in K.S.A. 65-6001 to 65-6007, inclusive, and
8 K.S.A. 65-6008, 65-6009 and 65-6010, and amendments thereto, unless
9 the context clearly requires otherwise:

10 (a) "AIDS" means the disease acquired immune deficiency syndrome.

11 (b) "HIV" means the human immunodeficiency virus.

12 (c) "Laboratory confirmation of HIV infection" means positive test
13 results from a confirmation test approved by the secretary.

14 (d) "Secretary" means the secretary of health and environment.

15 (e) "Physician" means any person licensed to practice medicine and
16 surgery.

17 (f) "Laboratory director" means the person responsible for the
18 professional, administrative, organizational and educational duties of a
19 laboratory.

20 (g) "HIV infection" means the presence of HIV in the body.

21 (h) "Racial/ethnic group" shall be designated as either white, black,
22 Hispanic, Asian/Pacific islander or American Indian/Alaskan Native.

23 (i) "Corrections officer" means an employee of the department of
24 corrections as defined in subsections (f) and (g) of K.S.A. 75-5202, and
25 amendments thereto.

26 (j) "Emergency services employee" means an attendant as defined
27 under K.S.A. 65-6112, and amendments thereto, *a supervised student as*
28 *described under K.S.A. 65-6129a, and amendments thereto, an observer*
29 *authorized by the employing agency or entity or a salaried or volunteer*
30 *firefighter.*

31 (k) "Law enforcement employee" means:

32 (1) Any police officer or law enforcement officer as defined under
33 K.S.A. 74-5602, and amendments thereto;

34 (2) any person in the service of a city police department or county
35 sheriff's office who performs law enforcement duties without pay and is
36 considered a reserve officer;

1 (3) any person employed by a city or county who is in charge of a jail
2 or section of jail, including jail guards and those who conduct searches of
3 persons taken into custody; or

4 (4) any person employed by a city, county or the state of Kansas who
5 works as a scientist or technician in a forensic laboratory.

6 (l) "Employing agency or entity" means the agency or entity
7 employing a corrections officer, emergency services employee, law
8 enforcement employee or jailer.

9 (m) "~~Infectious~~Communicable disease" means *HIV, including AIDS,*
10 *hepatitis in any form, meningococcal disease, tuberculosis, measles,*
11 *mumps, varicella disease, pneumonic plague, viral hemorrhagic fevers,*
12 *rabies, cutaneous anthrax, pertussis, rubella, severe acute respiratory*
13 *syndrome (SARS-CoV), smallpox, vaccinia and other selected agents as*
14 *the secretary may define by rule and regulation.*

15 (n) "~~Infectious~~Communicable disease tests" means tests approved by
16 the secretary for detection of ~~infectious~~ *communicable diseases. Rapid*
17 *testing of the source patient in line with the federal occupational safety*
18 *and health administration enforcement of the United States center for*
19 *disease control guidelines will be used.*

20 (o) "Juvenile correctional facility staff" means an employee of the
21 juvenile justice authority working in a juvenile correctional facility as
22 defined in K.S.A. 2012 Supp. 38-2302, and amendments thereto.

23 (p) "*Designated infection control officer*" means *the person or*
24 *persons within the employing entity or agency who are responsible for*
25 *managing the infection control program and for coordinating efforts*
26 *surrounding the investigation of an exposure.*

27 (q) "*Source patient*" means *any individual, living or dead, whose*
28 *blood or other potentially infectious materials have been a source of*
29 *occupational exposure to a care provider.*

30 (r) "*Physician assistant*" means *a physician assistant as defined by*
31 *K.S.A. 65-28a02, and amendments thereto.*

32 (s) "*Nurse or nursing*" means *any person licensed as a professional*
33 *nurse, a practical nurse or an advanced practice registered nurse, all as*
34 *defined under K.S.A. 65-1130, and amendments thereto.*

35 (t) "*Care provider*" means *a law enforcement employee, an*
36 *emergency services employee, a corrections officer, juvenile corrections*
37 *facility staff, a physician, physician assistant or nurse, as defined in K.S.A.*
38 *65-6001, and amendments thereto.*

39 (u) "*Exposure*" means *reasonably anticipated skin, eye, mucous*
40 *membrane or parenteral contact with blood or other potentially infectious*
41 *materials; inhalation of airborne pathogens; or ingestion of foodborne*
42 *pathogens or toxins.*

43 (v) "*Other potentially infectious materials*" means *semen, vaginal*

1 *secretions, cerebrospinal fluid, synovial fluid, pleural fluid, pericardial*
2 *fluid, peritoneal fluid, amniotic fluid or any body fluid visibly*
3 *contaminated with blood.*

4 (w) *"Occupational exposure" means an exposure incident that*
5 *resulted from performance of the care provider's duties.*

6 Sec. 2. K.S.A. 65-6004 is hereby amended to read as follows: 65-
7 6004. (a) Notwithstanding any other law to the contrary, a physician
8 performing medical or surgical procedures on a patient who the physician
9 knows has ~~an infectious~~ *a communicable* disease or has had laboratory
10 confirmation of a positive reaction to ~~an infectious~~ *a communicable*
11 disease test may disclose such information to other health care providers;
12 ~~emergency services employees, corrections officers or law enforcement~~
13 ~~employees or care providers~~ who have been or ~~will~~ *may* be placed in
14 contact with ~~body fluids~~ *blood or other potentially infectious materials* of
15 such patient. The information shall be confidential and shall not be
16 disclosed by such health care providers, ~~emergency services employees,~~
17 ~~corrections officers or law enforcement employees or care providers~~
18 except as may be necessary in providing treatment for such patient.

19 (b) Notwithstanding any other law to the contrary, a physician who
20 has reason to believe that the spouse or partner of a person who has had
21 laboratory confirmation of HIV infection or who has AIDS may have been
22 exposed to HIV and is unaware of such exposure may inform the spouse or
23 partner of the risk of exposure. The information shall be confidential and
24 shall not be disclosed by such spouse or partner to other persons except to
25 the spouse or partner who has had laboratory confirmation of HIV
26 infection or who has AIDS.

27 (c) Nothing in this section shall be construed to create a duty to warn
28 any person of possible exposure to HIV.

29 (d) Any physician who discloses or fails to disclose information in
30 accordance with the provisions of this section in good faith and without
31 malice shall have immunity from any liability, civil or criminal, that might
32 otherwise be incurred or imposed in an action resulting from such
33 disclosure. Any such physician shall have the same immunity with respect
34 to participation in any judicial proceeding resulting from such disclosure.

35 Sec. 3. K.S.A. 65-6008 is hereby amended to read as follows: 65-
36 6008. (a) ~~If a corrections officer, emergency services employee, law~~
37 ~~enforcement employee or juvenile correctional facility staff comes in~~
38 ~~contact with or otherwise is exposed to transmission of body fluids from~~
39 ~~one or more other persons while performing duties within the scope of~~
40 ~~such employee's duties as an employee, the head of the employing agency~~
41 ~~or entity may make application to a court of competent jurisdiction for an~~
42 ~~order requiring such other person or persons to submit to infectious disease~~
43 ~~tests. Whenever any care provider is directly exposed to blood or other~~

1 *potentially infectious materials of a source patient in a manner that may*
2 *transmit a communicable disease, the source patient shall be deemed to*
3 *have consented to testing for communicable diseases. The source patient*
4 *shall also be deemed to have consented to the release of such test results*
5 *to the care provider.*

6 *(b) Whenever a person is directly exposed to the blood or other*
7 *potentially infectious materials of a care provider in a manner that may*
8 *transmit a communicable disease, the care provider shall be deemed to*
9 *have consented to testing for communicable diseases. The care provider*
10 *shall also be deemed to have consented to the release of such test results*
11 *to the person who was exposed.*

12 *(c) If, in the course of employment, a care provider is involved in a*
13 *possible exposure incident, the employee shall immediately, or as soon*
14 *thereafter as practicable, notify the designated infection control officer of*
15 *the employing agency or entity of the incident in accordance with the*
16 *agency's procedures for reporting workplace exposures.*

17 *(d) If, after reviewing the facts of the possible exposure incident with*
18 *the employee, the employing agency or entity concludes that it is*
19 *reasonable to believe that an exposure incident may have occurred, the*
20 *designated infection control officer of the agency will notify the hospital of*
21 *the possible exposure and the results of their investigation.*

22 *(e) If, in the opinion of the hospital's designated infection control*
23 *officer that it is reasonable to believe that an exposure incident may have*
24 *occurred, the hospital will obtain a blood sample for testing from the*
25 *source patient.*

26 *(f) If the source patient is deceased, the agency's designated infection*
27 *control officer shall request the custodian of the remains to preserve a*
28 *specimen of blood for testing for communicable diseases.*

29 *(g) If the source patient refuses to consent to testing or if the source*
30 *patient is not transported to a hospital for treatment, the employing*
31 *agency or entity may make application to a court of competent jurisdiction*
32 *for an order requiring such other source patient or patients to submit to*
33 *communicable disease tests.*

34 ~~(b)(1)~~ Such application shall include an allegation that the ~~person or~~
35 ~~persons~~ source patient or patients sought to be tested have been requested
36 to submit voluntarily to ~~infectious~~ communicable disease tests and have
37 refused the tests. When any such application is received, the court shall
38 hold a hearing ~~forthwith~~ and shall issue its order ~~thereon immediately if~~
39 ~~the court finds that~~ an order to submit to testing upon conclusion that the
40 court has determined the following:

41 ~~(A)~~ There is probable cause to believe that the ~~employee care~~
42 ~~provider~~ involved has come in contact with or otherwise has been exposed
43 to transmission of the ~~body fluids~~ blood or other potentially infectious

1 ~~materials of the person or persons~~ a source patient or patients sought to be
2 tested; and

3 ~~(2)(B) the person or persons~~ source patient or patients sought to be
4 tested have been requested to submit to the tests and have refused, unless
5 the court makes a further finding that exigent circumstances exist which,
6 in the court's judgment, would excuse the ~~applicant~~ care provider from
7 making such a request.

8 ~~(e)(2) If an infectious~~ a communicable disease test ordered pursuant
9 to this section results in a negative reaction, the court shall order the
10 ~~person~~ source patient or patients tested to submit to another ~~infectious~~
11 communicable disease test six months from the date the first test was
12 administered.

13 ~~(d)(3) The results of any infectious~~ communicable disease test
14 ordered pursuant to this section shall be disclosed to the court which
15 ordered the test, the ~~employee~~ care provider and the ~~person~~ source patient
16 or patients tested. ~~If an infectious~~ a communicable disease test ordered
17 pursuant to this section results in a positive reaction, the results shall be
18 reported to the ~~employee~~ care provider.

19 (h) *The hospital where the source patient is delivered shall conduct*
20 *the communicable disease test. The sample and test results shall only be*
21 *identified by a number and shall not otherwise identify the source patient.*

22 (i) *A hospital shall have written policies and procedures for*
23 *notification of a care provider pursuant to this section. The policies and*
24 *procedures shall include the employing agency's or entity's designated*
25 *infection control officer to whom notification shall be provided and who*
26 *shall, in turn, notify the care provider. The identity of the employing*
27 *agency's or entity's designated infection control officer shall not be*
28 *disclosed to the source patient. The agency designated infection control*
29 *officer shall inform the hospital of those care providers who receive the*
30 *notification, and following receipt of such information and upon request of*
31 *the source patient, the hospital shall inform the source patient of the care*
32 *providers to whom notification was provided.*

33 (j) *If the source patient is diagnosed or confirmed as having a*
34 *communicable disease pursuant to this section, the hospital shall notify*
35 *the employing agency's or entity's designated infection control officer who*
36 *shall then notify the care provider. The hospital's notification shall include*
37 *the recommended course of action.*

38 (k) *The notification to the care provider shall advise the care*
39 *provider of possible exposure to a particular communicable disease and*
40 *recommend that the care provider seek medical attention. The notification*
41 *shall be provided as soon as is reasonably possible following*
42 *determination that the source patient has a communicable disease. The*
43 *notification shall not include the name of the source patient unless the*

1 source patient consents. If the care provider who sustained an exposure
2 determines the identity of the source patient, the identity of the source
3 patient shall be confidential information and shall not be disclosed by the
4 care provider to any other individual unless a specific written release is
5 obtained from the source patient.

6 (l) This section does not preclude a hospital from providing
7 notification to a care provider under circumstances in which the hospital's
8 policy provides for notification of the hospital's own employees of
9 exposure to a communicable disease that is not life-threatening if the
10 notice does not reveal the source patient's name, unless the source patient
11 consents.

12 (m) If, during the course of medical care and treatment, any
13 physician determines that a patient who was transported to a receiving
14 facility by a care provider: (1) is positive for or has been diagnosed as
15 suffering from an airborne communicable disease or (2) is subject to an
16 order of quarantine or an order of isolation, then the facility's infection
17 control officer shall immediately notify the employing agency or entity's
18 designated infection control officer of the name of the patient, the date and
19 time of the patient's admittance to the facility and the recommended
20 course of action. The employing agency's or entity's designated infection
21 control officer shall investigate the incident to determine if any exposure
22 of a care provider occurred. The identity of the source patient and the
23 care provider or providers involved in any such investigation shall be
24 confidential. The employing agency or entity may notify other emergency
25 service agencies or entities that were on-scene of the possible exposure by
26 direct contact with that agency's designated infection control officer.

27 (n) A hospital participating in good faith in complying with the
28 provisions of this section is immune from any liability, civil or criminal,
29 which may otherwise be incurred or imposed.

30 (o) An employing agency or entity participating in good faith in
31 complying with the provisions of this section is immune from any liability,
32 civil or criminal, which may otherwise be incurred or imposed.

33 (p) A hospital's duty of notification pursuant to this section is not
34 continuing but is limited to diagnosis of a communicable disease made in
35 the course of admission, care, and treatment following the rendering of
36 health care services to which notification pursuant to this section applies.

37 (q) Pursuant to this section, the cost of testing for the source patient
38 shall be paid for by the following:

39 (1) The employing agency or entity of a care provider who sustained
40 an exposure shall pay the costs of testing for the source patient and the
41 care provider if the exposure was sustained during the course of
42 employment; or

43 (2) The provider of training, as specified by K.S.A. 65-6112, and

1 *amendments thereto, of the supervised student shall pay the costs of*
2 *testing for the source patient and supervised student in the event the*
3 *supervised student is exposed.*

4 *(3) The employing agency or entity of the observer who sustained an*
5 *exposure shall pay the costs of testing for the source patient and observer*
6 *unless the following are met: A waiver is filed, to include the following:*

7 *(A) A signature from the employing agency or entity; and*

8 *(B) a signature from the observer.*

9 *(r) Local or state correctional facilities which transfer patients*
10 *known to have a communicable disease or to be subject to an order of*
11 *quarantine or an order of isolation shall notify the emergency medical*
12 *services agency providing transportation services of a potential risk of*
13 *exposure to a communicable disease, including communicable diseases of*
14 *a public health threat. For the purposes of this section, the chief medical*
15 *person at a local or state correctional facility or the facility director or*
16 *their designee shall be responsible for providing such information to the*
17 *transporting agency.*

18 *(s) Hospitals, nursing homes, and other medical facilities and*
19 *practitioners which transfer patients known to have a communicable*
20 *disease or to be subject to an order of quarantine or an order of isolation*
21 *shall notify the emergency medical services agency providing*
22 *transportation services of a potential risk of exposure to a communicable*
23 *disease, including communicable diseases of a public health threat. For*
24 *the purposes of this section, the medical person transferring care to the*
25 *emergency medical services agency shall be responsible for providing*
26 *such information to the transporting agency.*

27 *Sec. 4. K.S.A. 65-6004 and 65-6008 and K.S.A. 2012 Supp. 65-6001*
28 *are hereby repealed.*

29 *Sec. 5. This act shall take effect and be in force from and after its*
30 *publication in the statute book.*