

SENATE BILL No. 391

By Senator Hensley

2-12

1 AN ACT concerning the drug screening program for members of the
2 legislature; relating to effect of positive test; substance abuse treatment
3 program; compensation and expenses; amending K.S.A. 2013 Supp.
4 75-4362 and repealing the existing section.
5

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

7 Section 1. K.S.A. 2013 Supp. 75-4362 is hereby amended to read as
8 follows: 75-4362.(a) The director of the division of personnel services of
9 the department of administration shall have the authority to establish and
10 implement a drug screening program for persons taking office as governor,
11 lieutenant governor, attorney general or members of the Kansas senate or
12 house of representatives and for applicants for safety sensitive positions in
13 state government, but no applicant for a safety sensitive position shall be
14 required to submit to a test as a part of this program unless the applicant is
15 first given a conditional offer of employment.

16 (b) The director also shall have the authority to establish and
17 implement a drug screening program based upon a reasonable suspicion of
18 illegal drug use by any person currently holding one of the following
19 positions or offices:

- 20 (1) The office of governor, lieutenant governor or attorney general;
- 21 (2) members of the Kansas senate or house of representatives;
- 22 (3) any safety sensitive position;
- 23 (4) any position in an institution of mental health, as defined in
24 K.S.A. 76-12a01, and amendments thereto, that is not a safety sensitive
25 position;
- 26 (5) any position in the Kansas state school for the blind, as
27 established under K.S.A. 76-1101 et seq., and amendments thereto;
- 28 (6) any position in the Kansas state school for the deaf, as established
29 under K.S.A. 76-1001 et seq., and amendments thereto; or
- 30 (7) any employee of a state veteran's home operated by the Kansas
31 commission on veteran's affairs as described in K.S.A. 76-1901 et seq. and
32 K.S.A. 76-1951 et seq., and amendments thereto.

33 (c) Any public announcement or advertisement soliciting applications
34 for employment in a safety sensitive position in state government shall
35 include a statement of the requirements of the drug screening program
36 established under this section for applicants for and employees holding a

1 safety sensitive position.

2 (d) Except for a person who has access to a secured biological
3 laboratory in the office of laboratory services of the department of health
4 and environment, no person shall be terminated solely due to positive
5 results of a test administered as a part of a program authorized by this
6 section if:

7 (1) The employee has not previously had a valid positive test result;
8 and

9 (2) the employee undergoes a drug evaluation and successfully
10 completes any education or treatment program recommended as a result of
11 the evaluation. Nothing herein shall be construed as prohibiting demotions,
12 suspensions or terminations pursuant to K.S.A. 75-2949e or 75-2949f, and
13 amendments thereto.

14 (e) Except in hearings before the state civil service board regarding
15 disciplinary action taken against the employee, the results of any test
16 administered as a part of a program authorized by this section shall be
17 confidential and shall not be disclosed publicly.

18 (f) *Any member of the Kansas senate or house of representatives who*
19 *has a valid positive test result shall be required to complete a substance*
20 *abuse treatment program approved by the division of legislative*
21 *administrative services. Any member of the Kansas senate or house of*
22 *representatives who fails to complete or refuses to participate in the*
23 *substance abuse treatment program as required under this section shall be*
24 *ineligible to receive public funds for legislative compensation or expenses*
25 *until completion of such substance abuse treatment program. Upon*
26 *completion of substance abuse treatment, such member of the Kansas*
27 *senate or house of representatives shall be subject to periodic drug*
28 *screening. Upon a second valid positive test result, the member of the*
29 *Kansas senate or house of representatives shall be ordered to complete*
30 *again a substance abuse treatment program approved by the director of*
31 *legislative administrative services and shall not receive legislative*
32 *compensation or expenses for a period of 12 months, or until such*
33 *member of the Kansas senate or house of representatives completes the*
34 *substance abuse treatment program. Upon a third valid positive test result,*
35 *such member's compensation and expenses shall be terminated.*

36 (g) The secretary of administration may adopt such rules and
37 regulations as necessary to carry out the provisions of this section.

38 (h) "Safety sensitive positions" means the following:

39 (1) All state law enforcement officers who are authorized to carry
40 firearms;

41 (2) all state corrections officers;

42 (3) all state parole officers;

43 (4) heads of state agencies who are appointed by the governor and

1 employees on the governor's staff;

2 (5) all employees with access to secure facilities of a correctional
3 institution, as defined in K.S.A. 2013 Supp. 21-5914, and amendments
4 thereto;

5 (6) all employees of a juvenile correctional facility, as defined in
6 K.S.A. 2013 Supp. 38-2302, and amendments thereto;

7 (7) all employees within an institution of mental health, as defined in
8 K.S.A. 76-12a01, and amendments thereto, who provide clinical,
9 therapeutic or habilitative services to the clients and patients of those
10 institutions; and

11 (8) all employees who have access to a secured biological laboratory
12 in the office of laboratory services of the department of health and
13 environment.

14 Sec. 2. K.S.A. 2013 Supp. 75-4362 is hereby repealed.

15 Sec. 3. This act shall take effect and be in force from and after its
16 publication in the statute book.