

## HOUSE BILL No. 2234

By Committee on Judiciary

1-31

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1 AN ACT concerning public health; relating to infectious disease testing;  
2 amending K.S.A. 65-6009 and repealing the existing section.

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

5 Section 1. K.S.A. 65-6009 is hereby amended to read as follows: 65-  
6 6009. (a) At the time of an appearance before a magistrate under K.S.A.  
7 22-2901, and amendments thereto, the magistrate shall inform any person  
8 arrested and charged with a crime in which it appears from the nature of  
9 the charge that the transmission of body fluids from one person to another  
10 may have been involved of the availability of infectious disease tests and  
11 shall cause the alleged victim of such a crime, if any, to be notified that  
12 infectious disease tests and counseling are available. If the victim of the  
13 crime or the county or district attorney requests the court to order  
14 infectious disease tests of the alleged offender or if the person arrested and  
15 charged with a crime stated to the law enforcement officer making such  
16 arrest that the person arrested and charged with the crime has an infectious  
17 disease or is infected with an infectious disease, or used words of like  
18 effect, the court shall order the arrested person to submit to infectious  
19 disease tests. *Testing for infectious disease shall occur not later than 48*  
20 *hours after the alleged offender appears before a magistrate under K.S.A.*  
21 *22-2901, and amendments thereto.* The results of any test obtained under  
22 this section shall be inadmissible in any criminal or civil proceeding. *The*  
23 *court shall also order the arrested person to submit to follow-up tests for*  
24 *infectious diseases as may be medically appropriate.*

25 (b) Upon conviction of a person for any crime which the court  
26 determines from the facts of the case involved or was likely to have  
27 involved the transmission of body fluids from one person to another, the  
28 court: (1) May order the convicted person to submit to infectious disease  
29 tests; or (2) shall order the convicted person to submit to infectious disease  
30 tests if the victim of the crime or the parent or legal guardian of the victim,  
31 if the victim is a minor, requests the court to issue such order. If infectious  
32 disease tests are ordered under this subsection, the victim of the crime, if  
33 any, who is not a minor, shall designate a health care provider or counselor  
34 to receive such information on behalf of the victim. If the victim is a  
35 minor, the parent or legal guardian of the victim shall designate the health  
36 care provider or counselor to receive such information.

1 (c) The results of any infectious disease test ordered under subsection  
2 (a) shall be disclosed to the law enforcement officer making such arrest,  
3 the person arrested and such other persons as the court determines have a  
4 legitimate need to know the test result in order to provide for their  
5 protection. The results of any infectious disease test ordered under  
6 subsection (b) shall be disclosed to the court which ordered the test, the  
7 convicted person and to the person designated under subsection (b) by the  
8 victim or victims of the crime or by the parent or legal guardian of a victim  
9 if the victim is a minor. If an infectious disease test ordered under this  
10 section results in a positive reaction, the results shall be reported to the  
11 secretary of health and environment and to the secretary of corrections.

12 (d) As used in this section, infectious disease includes HIV and  
13 hepatitis B.

14 (e) The costs of any counseling and testing provided under this  
15 section shall be paid from amounts appropriated to the department of  
16 health and environment for that purpose. The court shall order the  
17 adjudicated person to pay restitution to the department of health and  
18 environment for the costs of any counseling provided under this section  
19 and the costs of any test ordered or otherwise performed under this section.

20 Sec. 2. K.S.A. 65-6009 is hereby repealed.

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