

As Amended by House Committee

Session of 2021

HOUSE BILL No. 2224

By Committee on Federal and State Affairs

2-3

1 AN ACT concerning public health; relating to infectious disease testing;
2 crimes in which bodily fluids may have been transmitted from one
3 person to another; expanding the definition of infectious disease;
4 amending K.S.A. 65-6009 and K.S.A. 2020 Supp. 65-6001 and
5 repealing the existing sections.

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

8 Section 1. K.S.A. 2020 Supp. 65-6001 is hereby amended to read as
9 follows: 65-6001. As used in K.S.A. 65-6001 through 65-6010, and
10 amendments thereto, unless the context clearly requires otherwise:

11 (a) "AIDS" means the disease acquired immune deficiency syndrome.
12 (b) "HIV" means the human immunodeficiency virus.
13 (c) "Laboratory confirmation of HIV infection" means positive test
14 results from a confirmation test approved by the secretary.

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

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

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

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

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

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

27 (j) "Emergency services employee" means an emergency medical
28 service provider as ~~defined under~~ *described in* K.S.A. 65-6112, and
29 amendments thereto, or a firefighter.

30 (k) "Law enforcement employee" means:

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

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

36 (3) any person employed by a city or county who is in charge of a jail

1 or section of jail, including jail guards and those who conduct searches of
2 persons taken into custody; or

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

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

8 (m) "Infectious disease" means ~~AIDS~~ *those diseases designated by*
9 *the secretary through rules and regulations adopted pursuant to K.S.A. 65-*
10 *128, and amendments thereto, as infectious or contagious in their nature.*

11 (n) "Infectious disease tests" means tests approved by the secretary
12 for detection of infectious diseases.

13 (o) "Juvenile correctional facility staff" means an employee of the
14 ~~juvenile justice authority~~ *department of corrections* working in a juvenile
15 correctional facility as defined in K.S.A. 2020 Supp. 38-2302, and
16 amendments thereto.

17 Sec. 2. K.S.A. 65-6009 is hereby amended to read as follows: 65-
18 6009. (a) **(1)** At the time of an appearance before a magistrate under
19 K.S.A. 22-2901, and amendments thereto, the magistrate shall inform any
20 person arrested and charged with a crime in which it appears from the
21 nature of the charge that the transmission of body fluids from one person to
22 another may have been involved of the availability of infectious disease
23 tests and shall cause the alleged victim of such a crime, if any, to be
24 notified that infectious disease tests and counseling are available.

25 **(2) The court shall order a person arrested and charged to submit**
26 **to infectious disease tests if:**

27 **(A)** The victim of the crime or the county or district attorney requests
28 the court to order ~~infectious disease~~ **such** tests of the alleged offender ~~or if~~
29 ~~the person arrested and charged with a crime stated; or~~

30 **(B) such person stated they had an infectious disease or were**
31 **infected with an infectious disease, or used words of like effect,** to the
32 law enforcement officer making such arrest ~~that the such arrested person~~
33 ~~arrested and charged with the crime has an infectious disease or is infected~~
34 ~~with an infectious disease, or used words of like effect, the court shall~~
35 ~~order the arrested person to submit to infectious disease tests.~~

36 **(3)** Testing for infectious disease shall occur not later than 48 hours
37 after the alleged offender appears before a magistrate under K.S.A. 22-
38 2901, and amendments thereto. The results of any test obtained under this
39 section shall be inadmissible in any criminal or civil proceeding. The court
40 shall also order the arrested person to submit to follow-up tests for
41 infectious diseases as may be medically appropriate.

42 (b) Upon conviction of a person for any crime ~~which~~ *that* the court
43 determines from the facts of the case involved or was likely to have

1 involved the transmission of body fluids from one person to another, the
2 court: (1) May order the convicted person to submit to infectious disease
3 tests; or (2) shall order the convicted person to submit to infectious disease
4 tests if the victim of the crime or the parent or legal guardian of the victim,
5 if the victim is a minor, requests the court to issue such order. If infectious
6 disease tests are ordered under this subsection, the victim of the crime, if
7 any, who is not a minor, shall designate a ~~health-care~~ *healthcare* provider
8 or counselor to receive such information on behalf of the victim. If the
9 victim is a minor, the parent or legal guardian of the victim shall designate
10 the ~~health-care~~ *healthcare* provider or counselor to receive such
11 information.

12 (c) The results of any infectious disease test ordered under subsection
13 (a) shall be disclosed to the law enforcement officer making such arrest,
14 the ~~arrested~~ *person-arrested*, the victim, the parent or legal guardian of the
15 victim and such other persons as the court determines have a legitimate
16 need to know the test result in order to provide for their protection. The
17 results of any infectious disease test ordered under subsection (b) shall be
18 disclosed to the court which ordered the test, the convicted person and to
19 the person designated under subsection (b) by the victim or victims of the
20 crime or by the parent or legal guardian of a victim if the victim is a minor.
21 If an infectious disease test ordered under this section results in a positive
22 reaction, the results shall be reported to the secretary of health and
23 environment and to the secretary of corrections.

24 (d) ~~As used in this section, infectious disease includes HIV and~~
25 ~~hepatitis B.~~

26 (e) The costs of any counseling and testing provided under this
27 section shall be paid from amounts appropriated to the department of
28 health and environment for that purpose. The court shall order the
29 ~~adjudicated~~ ~~arrested~~ ~~or~~ ~~convicted~~ *person* to pay restitution to the
30 department of health and environment for the costs of any counseling
31 provided under this section and the costs of any test ordered or otherwise
32 performed under this section.

33 Sec. 3. K.S.A. 65-6009 and K.S.A. 2020 Supp. 65-6001 are hereby
34 repealed.

35 Sec. 4. This act shall take effect and be in force from and after its
36 publication in the Kansas register.