

## HOUSE BILL No. 2498

By Representatives Fairchild, Burris, Garber, Howe, Jacobs, Lee, Murphy, Proctor  
and Rhiley

1-20

1 AN ACT concerning public health; relating to immunizations; childhood  
2 immunizations required for care at a child care facility or attendance at  
3 a school; prohibiting the secretary of health and environment from  
4 requiring a COVID-19 vaccine therefor; amending K.S.A. 65-508 and  
5 72-6262 and repealing the existing sections.  
6

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

8 Section 1. K.S.A. 65-508 is hereby amended to read as follows: 65-  
9 508. (a) Any maternity center or child care facility subject to the  
10 provisions of this act shall:

11 (1) Be properly heated, plumbed, lighted and ventilated;  
12 (2) have plumbing, water and sewerage systems ~~which~~ *that* conform  
13 to all applicable state and local laws; and  
14 (3) be operated with strict regard to the health, safety and welfare of  
15 any woman or child.

16 (b) Every maternity center or child care facility shall furnish or cause  
17 to be furnished for the use of each resident and employee individual towel,  
18 wash cloth, comb and individual drinking cup or sanitary bubbling  
19 fountain, and toothbrushes for all other than infants, and shall keep or  
20 require such articles to be kept at all times in a clean and sanitary  
21 condition. Every maternity center or child care facility shall comply with  
22 all applicable fire codes and rules and regulations of the state fire marshal.

23 (c) (1) The secretary of health and environment with the cooperation  
24 of the secretary for children and families shall develop and adopt rules and  
25 regulations for the operation and maintenance of maternity centers and  
26 child care facilities. The rules and regulations for operating and  
27 maintaining maternity centers and child care facilities shall be designed to  
28 promote the health, safety and welfare of any woman or child served in  
29 such facilities by ensuring safe and adequate physical surroundings,  
30 healthful food, adequate handwashing, safe storage of toxic substances and  
31 hazardous chemicals, sanitary diapering and toileting, home sanitation,  
32 supervision and care of the residents by capable, qualified persons of  
33 sufficient number, after-hour care, an adequate program of activities and  
34 services, sudden infant death syndrome and safe sleep practices training,  
35 prohibition on corporal punishment, crib safety, protection from electrical

1 hazards, protection from swimming pools and other water sources, fire  
2 drills, emergency plans, safety of outdoor playground surfaces, door locks,  
3 safety gates and transportation and such appropriate parental participation  
4 as may be feasible under the circumstances. Boarding schools are excluded  
5 from requirements regarding the number of qualified persons who must  
6 supervise and provide care to residents.

7 (2) Rules and regulations developed under this subsection shall  
8 include provisions for the competent supervision and care of children in  
9 day care facilities. For purposes of such rules and regulations, competent  
10 supervision as this term relates to children less than five years of age  
11 includes, but is not limited to, direction of activities, adequate oversight  
12 including sight or sound monitoring, or both, physical proximity to  
13 children, diapering and toileting practices; and for all children, competent  
14 supervision includes, but is not limited to, planning and supervision of  
15 daily activities, safe sleep practices, including, but not limited to, visual or  
16 sound monitoring, periodic checking, emergency response procedures and  
17 drills, illness and injury response procedures, food service preparation and  
18 sanitation, playground supervision, pool and water safety practices.

19 (d) In addition to any rules and regulations adopted under this section  
20 for safe sleep practices, child care facilities shall ensure that all of the  
21 following requirements are met for children under 12 months of age:

22 (1) A child shall only be placed to sleep on a surface and in an area  
23 that has been approved for use as such by the secretary of health and  
24 environment;

25 (2) the sleep surface shall be free from soft or loose bedding,  
26 including, but not limited to, blankets, bumpers and pillows; and

27 (3) the sleep surface shall be free from toys, including mobiles and  
28 other types of play equipment or devices.

29 (e) Child care facilities shall ensure that children over 12 months of  
30 age only be placed to sleep on a surface and in an area that has been  
31 approved for use as such by the secretary of health and environment.

32 (f) The secretary of health and environment may exercise discretion  
33 to make exceptions to requirements in subsections (d) and (e) where  
34 special health needs exist.

35 (g) (1) Each child cared for in a child care facility, including children  
36 of the person maintaining the facility, shall be required to have current  
37 such immunizations as the secretary of health and environment considers  
38 necessary. The person maintaining a child care facility shall maintain a  
39 record of each child's immunizations and shall provide to the secretary of  
40 health and environment such information relating thereto, in accordance  
41 with rules and regulations of the secretary, but the person maintaining a  
42 child care facility shall not have such person's license revoked solely for  
43 the failure to have or to maintain the immunization records required by

1 this subsection.

2 (2) (A) *The secretary of health and environment shall not require a*  
3 *child cared for in a child care facility to receive a COVID-19 vaccine.*

4 (B) *As used in this paragraph, "COVID-19 vaccine" means an*  
5 *immunization, vaccination or injection against disease caused by the novel*  
6 *coronavirus identified as SARS-CoV-2 or disease caused by a variant of*  
7 *the virus.*

8 (h) The immunization requirement of subsection (g) shall not apply if  
9 one of the following is obtained:

10 (1) Certification from a licensed physician stating that the physical  
11 condition of the child is such that immunization would endanger the child's  
12 life or health; or

13 (2) a written statement signed by a parent or guardian that the parent  
14 or guardian is an adherent of a religious denomination whose teachings are  
15 opposed to immunizations.

16 Sec. 2. K.S.A. 72-6262 is hereby amended to read as follows: 72-  
17 6262. (a) (1) In each school year, every pupil enrolling or enrolled in any  
18 school for the first time in this state, and each child enrolling or enrolled  
19 for the first time in a preschool or day care program operated by a school,  
20 and such other pupils as may be designated by the secretary, prior to  
21 admission to and attendance at school, shall present to the appropriate  
22 school board certification from a physician or local health department that  
23 the pupil has received such tests and inoculations as are deemed necessary  
24 by the secretary by such means as are approved by the secretary. Pupils  
25 who have not completed the required inoculations may enroll or remain  
26 enrolled while completing the required inoculations if a physician or local  
27 health department certifies that the pupil has received the most recent  
28 appropriate inoculations in all required series. Failure to timely complete  
29 all required series shall be deemed non-compliance.

30 (2) (A) *The secretary of health and environment shall not require a*  
31 *pupil described in paragraph (1) to receive a COVID-19 vaccine.*

32 (B) *As used in this paragraph, "COVID-19 vaccine" means an*  
33 *immunization, vaccination or injection against disease caused by the novel*  
34 *coronavirus identified as SARS-CoV-2 or disease caused by a variant of*  
35 *the virus.*

36 (b) As an alternative to the certification required under subsection (a),  
37 a pupil shall present:

38 (1) An annual written statement signed by a licensed physician stating  
39 the physical condition of the child to be such that the tests or inoculations  
40 would seriously endanger the life or health of the child, or

41 (2) a written statement signed by one parent or guardian that the child  
42 is an adherent of a religious denomination whose religious teachings are  
43 opposed to such tests or inoculations.

1 (c) On or before May 15 of each school year, the school board of  
2 every school affected by this act shall notify the parents or guardians of all  
3 known pupils who are enrolled or who will be enrolling in the school of  
4 the provisions this act and any policy regarding the implementation of the  
5 provisions of this act adopted by the school board.

6 (d) If a pupil transfers from one school to another, the school from  
7 which the pupil transfers shall forward with the pupil's transcript the  
8 certification or statement showing evidence of compliance with the  
9 requirements of this act to the school to which the pupil transfers.

10 Sec. 3. K.S.A. 65-508 and 72-6262 are hereby repealed.

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