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

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

(a) "AIDS" means the disease acquired immune deficiency syndrome.
(b) "HIV" means the human immunodeficiency virus.
(c) "Laboratory confirmation of HIV infection" means positive test results from a confirmation test approved by the secretary.
(d) "Secretary" means the secretary of health and environment.
(e) "Physician" means any person licensed to practice medicine and surgery.
(f) "Laboratory director" means the person responsible for the professional, administrative, organizational and educational duties of a laboratory.
(g) "HIV infection" means the presence of HIV in the body.
(h) "Racial/ethnic group" shall be designated as either white, black, Hispanic, Asian/Pacific islander or American Indian/Alaskan Native.
(i) "Corrections officer" means an employee of the department of corrections as defined in subsections (f) and (g) of K.S.A. 75-5202, and amendments thereto.
(j) "Emergency services employee" means an attendant as defined under K.S.A. 65-6112, and amendments thereto, a supervised student as described under K.S.A. 65-6129a, and amendments thereto, an observer authorized by the employing agency or entity or a salaried or volunteer firefighter.
(k) "Law enforcement employee" means:

(1) Any police officer or law enforcement officer as defined under K.S.A. 74-5602, and amendments thereto;
(2) any person in the service of a city police department or county sheriff's office who performs law enforcement duties without pay and is considered a reserve officer;
(3) any person employed by a city or county who is in charge of a jail or section of jail, including jail guards and those who conduct searches of persons taken into custody; or

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

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

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

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

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

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

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

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

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

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

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

(v) "Other potentially infectious materials" means semen, vaginal
secretions, cerebrospinal fluid, synovial fluid, pleural fluid, pericardial fluid, peritoneal fluid, amniotic fluid or any body fluid visibly contaminated with blood.

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

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

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

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

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

Sec. 3. K.S.A. 65-6008 is hereby amended to read as follows: 65-6008. (a) If a corrections officer, emergency services employee, law enforcement employee or juvenile correctional facility staff comes in contact with or otherwise is exposed to transmission of body fluids from one or more other persons while performing duties within the scope of such employee's duties as an employee, the head of the employing agency or entity may make application to a court of competent jurisdiction for an order requiring such other person or persons to submit to infectious disease tests. Whenever any care provider is directly exposed to blood or other
potentially infectious materials of a source patient in a manner that may
transmit a communicable disease, the source patient shall be deemed to
have consented to testing for communicable diseases. The source patient
shall also be deemed to have consented to the release of such test results
to the care provider.

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

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

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

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

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

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

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

(1) There is probable cause to believe that the employee care
provider involved has come in contact with or otherwise has been exposed
to transmission of the body fluids blood or other potentially infectious
materials of the person or persons sought to be tested; and

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

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

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

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

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

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

(k) The notification to the care provider shall advise the care provider of possible exposure to a particular communicable disease and recommend that the care provider seek medical attention. The notification shall be provided as soon as is reasonably possible following determination that the source patient has a communicable disease. The notification shall not include the name of the source patient unless the
source patient consents. If the care provider who sustained an exposure
determines the identity of the source patient, the identity of the source
patient shall be confidential information and shall not be disclosed by the
care provider to any other individual unless a specific written release is
obtained from the source patient.

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

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

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

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

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

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

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

(2) The provider of training, as specified by K.S.A. 65-6112, and
amendments thereto, of the supervised student shall pay the costs of testing for the source patient and supervised student in the event the supervised student is exposed.

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

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

(B) a signature from the observer.

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

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

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

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