

SESSION OF 2023

SUPPLEMENTAL NOTE ON SENATE BILL NO. 6

As Recommended by Senate Committee on
Public Health and Welfare

Brief*

SB 6 would restrict the duties and authority of the Secretary of Health and Environment (Secretary) and local health officers regarding infectious and contagious diseases. The bill would amend statutes relating to tuberculosis, remove the reporting requirement for teachers and school administrators regarding knowledge or suspicion of an infectious or contagious disease, remove the requirement for enforcement of isolation and quarantine orders by law enforcement officers, provide employment protection for employees who isolate or quarantine, and address orders for school closure during a disaster.

General Authority of the Secretary of Health and Environment (Section 1)

The bill would amend the statute establishing the general powers and functions of the Secretary to specifically state that the Secretary is prohibited from carrying out such powers and functions if those powers conflict with any other statute or expand their authority.

Statutory Provisions Related to Tuberculosis (Section 2)

The bill would amend the statutes related to infectious and contagious diseases to make it unlawful for any person to violate any provisions relating to tuberculosis, or any

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

associated rules or regulations made by the Secretary. Any such violation would be a class C nonperson misdemeanor. The bill would clarify the statutes included in this provision.

Teacher and School Administrator Reporting (Section 3)

The bill would remove the requirement for a teacher or school administrator to report to local health officials a person who has or is suspected of having an infectious or contagious disease.

County, Joint Board of Health, and Local Health Officer Authority (Section 4)

The bill would remove the authority of the county or joint board of health or local health officer to prohibit public gatherings when necessary for the control of infectious or contagious disease.

Authority of Secretary and Local Health Officer Regarding Infectious or Contagious Diseases (Section 5)

The bill would remove the authority of the Secretary to designate infectious or contagious diseases. The Secretary would be required to submit a report of infectious or contagious diseases to the Speaker of the House of Representatives and the President of the Senate.

The bill would authorize the Secretary to recommend to the public and educate them in ways to prevent the spread of diseases. The bill would remove the authority of the Secretary to provide for the testing for infectious or contagious diseases and the isolation and quarantine of persons afflicted with such diseases and to issue medically necessary orders and rules and regulations to prevent the spread of disease to the public.

The bill would authorize the Secretary to make recommendations for preventing the spread and introduction and spread of infectious or contagious diseases. The bill would remove the Secretary's authority to develop and adopt rules and regulations for the protection of individuals who provide medical and nursing services, clinical or forensic laboratory services, emergency medical services, firefighting, law enforcement and correctional services, or other services or persons who receive the services provided or are employed in other services where the individual or person may encounter occupational exposure to blood or other infectious material.

The bill would remove the authority of either the local health officer or Secretary to issue an order to an individual who may have been exposed to an infectious or contagious disease to seek evaluation and treatment. It would authorize the local health officer to recommend the individual seek appropriate and necessary evaluation and treatment.

The bill would remove the authority of either the local health officer or Secretary to issue an order to a person or group of people who may have been exposed to an infectious or contagious disease to go into and remain in isolation or quarantine. It would authorize the local health officer to recommend the person or group of people to go into isolation or quarantine.

The bill would remove the authority of either the local health officer or Secretary to issue an order to an individual who may have been exposed to an infectious or contagious disease and has refused medical examination, treatment, or testing to go to isolation or quarantine. It would authorize the local health officer to recommend the individual to go into isolation or quarantine. The bill would remove refusal to be vaccinated as a reason to recommend isolation or quarantine.

The bill would remove the authority of either the local health officer or Secretary to issue an order on behalf of a minor child or a ward, who may have been exposed to an

infectious or contagious disease and whose parent or guardian has refused medical examination, treatment, or testing for such child or ward to go to isolation or quarantine. It would authorize the local health officer to recommend that the minor child or ward go into isolation or quarantine. The bill would remove refusal to be vaccinated as a reason to recommend isolation or quarantine.

Enforcement by Law Enforcement Officers (Section 6)

The bill would remove the requirement that any sheriff, deputy sheriff, or other law enforcement officer assist in the execution or enforcement of any orders regarding compliance with the orders of the local health officer or Secretary pertaining to infectious or contagious diseases.

Employment Protections (Section 7)

The bill would prohibit public or private employers from discharging an employee who was solely for following an isolation or quarantine recommendation from a local health officer. If an employer was found in violation of such prohibition in an action against the employer, the prevailing plaintiff would be awarded actual damages the person sustained, costs, and reasonable attorney fees.

Local Health Officer Authority (Section 8)

The bill would amend the authority of a local health officer regarding investigations of cases of infectious, contagious, or communicable diseases to require the use of medically necessary and reasonable measures. The bill would also remove the requirement that a local health officer perform other duties that may be required by the Secretary. The bill would also remove language pertaining to orders issued by a local health officer regarding the remediation of any infectious disease.

Orders for School Closure (Section 9)

The bill would amend the provisions regarding school closure to remove an order issued by the Secretary as a basis for a “disaster.”

Background

The bill was introduced by Senator Steffen.

Senate Committee on Public Health and Welfare

In the Senate Committee hearing on February 13, 2023, **proponent** testimony was provided by Senator Steffen who stated the objective of the bill was to remove the ability of the Secretary of Health and Environment and local county officers to restrict individuals freedom of movement and shift their role to one of making recommendations and educating the public. Proponent testimony was provided by four physicians, two precinct committeewomen, and four private citizens, generally stating public health emergency decisions need to be made by elected officials, and public health policies implemented during the COVID-19 pandemic were unproven and ineffective. A representative of the Johnson County Sheriff’s Office provided proponent testimony in support of the removal of statutory language requiring law enforcement officers to enforce quarantine orders. The representative stated these orders were unconstitutional because there was no probable cause to take the individual into custody, and law enforcement officers are not equipped in cases of serious health emergencies.

Written-only proponent testimony was received from Representative Jacobs and 24 private citizens.

Opponent testimony was provided by representatives of the Kansas Association of Local Health Departments, the Kansas Chapter of the American Academy of Pediatrics, and

the Kansas Department of Health and Environment. The opponents highlighted the concern that they would be unable to act in cases of public health concern such as a meningitis or an Ebola outbreak because the notification system is to state offices who then coordinate with the local health officials. Local health officials stated the mission of public health is to ensure the public has the freedom to move around in an environment free from disease.

Written-only opponent testimony was provided by representatives of nine local or county health departments, the Kansas Academy of Family Physicians, the Kansas Association of Counties, the Kansas Health Foundation, the Kansas Hospital Association, the Kansas Medical Society, the Kansas Public Health Association, the Kansas State Nurses Association, Oral Health Kansas, and one private citizen.

Written-only neutral testimony was received from a representative of Community Care Network of Kansas.

Fiscal Information

According to the fiscal note on the bill prepared by the Division of the Budget, the Kansas Department of Health and Environment states enactment of the bill could increase costs related to public health investigations and response due to a potential increase in cases and contacts of infectious diseases. The agency is unable to estimate a fiscal effect but stated this could include increased costs for local governments and insurance companies, including the state Medicaid program.

The Kansas State Department of Education reported that enactment of the bill would not result in a fiscal effect for school districts or the agency.

Any fiscal effect associated with the bill is not reflected in *The FY 2024 Governor's Budget Report*.

The Kansas Association of Counties stated the bill could affect counties and local health departments, but a fiscal effect could not be estimated.

Public health; isolation; quarantine; local health officer; infectious or contagious disease