

Governmental Response to COVID-19 Pandemic; Health Care; Businesses; Immunity; Interference With the Conduct of a Hospital; Battery Against a Health Care Provider; House Sub. for Sub. for SB 286

House Sub. for Sub. for SB 286 amends and extends the expiration dates and effectiveness of provisions regarding the governmental response to the COVID-19 pandemic; amends certain healthcare provider immunity provisions related to the COVID-19 public health emergency; creates the crime of interference with the conduct of a hospital; and increases the penalty for the crime of battery when committed against a healthcare provider.

The bill takes effect upon publication in the *Kansas Register*.

Governmental Response to the COVID-19 Pandemic

The bill extends the expiration dates and effectiveness of various provisions regarding the governmental response to the COVID-19 pandemic from March 31, 2022, until January 20, 2023. For the provisions that expired on March 31, 2022, the bill states that notwithstanding this expiration, the provisions will be in force and effect on and after the effective date of the bill.

The provisions that are extended include:

- Expansion of telemedicine;
- Use of hospital beds and non-hospital space;
- Immunity from civil liability for health care providers related to the COVID-19 public health emergency;
- Immunity from civil liability for COVID-19 claims for businesses in substantial compliance with public health directives;
- Retroactivity provisions regarding immunity from civil liability; and
- Bed usage by critical access hospitals.

The bill also amends the provisions regarding immunity from civil liability for health care providers. Previous law provided health care providers with immunity from civil liability for damages, administrative fines, or penalties for acts, omissions, health care decisions, or the rendering of or the failure to render health care services, including services that are altered, delayed, or withheld, as a direct response to the COVID-19 public health emergency. The bill limits the applicability of this immunity provision to health care providers that are not employed by or providing health care services at a medical care facility, as defined in statutes governing standards for such facilities. In addition to the extension of this provision until January 20, 2023, the bill states the provision will apply to such claims accruing on or after March 30, 2022, and prior to the effective date of the bill. [*Note*: Under continuing law, the immunity period began March 12, 2020.]

For health care providers employed by or providing health care services at a medical care facility, the bill provides immunity from civil liability for damages, administrative fines, or penalties that arise out of or relate to acts, omissions, health care decisions, or the rendering of or the failure to render health care services, including services that are altered, delayed, or withheld, related to the COVID-19 public health emergency. This immunity shall not apply to a health care provider employed by or providing health care services at a medical care facility that denies health care services to a person at such medical facility based solely on such person's COVID-19 vaccination status. Additionally, the bill provides that this immunity will apply to any claims for damages or liability that arise out of or relate to acts, omissions, or health care decisions occurring between the effective date of the bill and January 20, 2023, related to the COVID-19 public health emergency, and will apply to any cause of action accruing on or after the effective date of the bill and prior to January 20, 2023.

Interference With the Conduct of a Hospital

The bill creates the crime of interference with the conduct of a hospital, defined as:

- Conduct at or in a hospital so as to knowingly deny an employee of the hospital to enter, to use the facilities of, or to leave any such hospital;
- Knowingly impeding any employee of a hospital from the performance of such employee's duties or activities through the use of:
 - Restraint with the intent to prevent such employee from freely moving to a different location or to provide care for another person;
 - Abduction, coercion, or intimidation; or
 - By force and violence or threat thereof; or
- Knowingly refusing to leave a hospital upon being requested to leave by the employee charged with maintaining order in such hospital, if such person is committing, threatens to commit, or incites others to commit any act that did, or would if completed, disrupt, impair, interfere with, or obstruct the mission, processes, procedures, or functions of the hospital.

The bill also creates the crime of aggravated interference with the conduct of a hospital, which is defined as any of the above conduct when in possession of any weapon included in the crimes of criminal use of weapons or criminal carrying of a weapon.

For purposes of the new crimes, the bill defines "employee" to mean a person employed by, providing health care services at, volunteering at, or participating in an educational course of instruction at a hospital; and defines "hospital" to mean the same as defined in statutes governing the licensing, inspection, and regulation of hospitals.

Interference with the conduct of a hospital is a class A nonperson misdemeanor, and aggravated interference with the conduct of a hospital is a severity level 6 person felony.

Battery Against a Health Care Provider

The bill amends the crime of battery to define battery against a health care provider as a battery committed against a health care provider while such provider is engaged in the performance of such provider's duty. "Healthcare provider" is defined to mean a person who is licensed, registered, certified, or otherwise authorized by the State of Kansas to provide health care services in this state and employed or providing health care services at a hospital. Battery against a health care provider is a class A person misdemeanor.

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