

SESSION OF 2021

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2224

As Amended by House Committee on Federal
and State Affairs

Brief*

HB 2224, as amended, would modify the law governing court-ordered testing for infectious diseases.

Infectious Disease Testing

Current law requires that at the time of an appearance before a magistrate judge, the magistrate shall inform any person arrested and charged with a crime in which it appears, from the nature of the charge, the transmission of body fluids from one person to another may have been involved, of the availability of infectious disease tests and shall notify alleged victims that infectious disease tests and counseling are available.

The bill would require a court to order a person who has been arrested and charged to submit to infectious disease tests if:

- The victim of the crime or the county or district attorney requests the court to order such tests; or
- Such person stated they have an infectious disease or were infected with an infectious disease, or used words of like effect to the arresting law enforcement officer.

*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>

The bill would also require convicted persons to pay restitution to the Department of Health and Environment (KDHE). Current law requires adjudicated persons to pay restitution for such costs.

Definitions

The bill would amend the definition of “infectious disease” to include any diseases designated by KDHE as “infectious or contagious in their nature” through rules and regulations adopted pursuant to continuing law.

[*Note:* the bill would also make a technical amendment replacing a reference to the Juvenile Justice Authority (Authority) with a reference to the Department of Corrections. The Authority was abolished by 2013 Executive Reorganization Order (ERO) No. 42. The Authority’s duties were transferred by the ERO to the Department of Corrections.]

Technical and Conforming Amendments

The bill would also make technical and conforming amendments to ensure consistency in statutory phrasing.

Effective Date

The bill would be in effect upon publication in the Kansas Register.

Background

The bill was introduced by the House Committee on Federal and State Affairs at the request of Representative Barker.

House Committee on Federal and State Affairs

In the House Committee hearing on February 11, 2021, representatives of the Kansas Association of Chiefs of Police, the Kansas Peace Officers Association, and the Kansas Sheriffs Association; KDHE; and the League of Kansas Municipalities testified as **proponents** of the bill, stating the bill would update the law by allowing KDHE to define a list of infectious diseases in rules and regulations, which would allow the agency to efficiently address diseases, such as COVID-19, more quickly. Written-only proponent testimony was submitted by representatives of the Kansas State Council of Firefighters and the Kansas State Lodge of the Fraternal Order of Police.

A representative of Equality Kansas testified as an **opponent** of the bill, stating the bill would make arrest grounds for compulsory medical testing, assessment of costs, and public disclosure of medical information. Written-only opponent testimony was submitted by a representative of the Kansas Association of Criminal Defense Lawyers. No other testimony was provided.

The House Committee amended the bill to make clarifications concerning when court-ordered testing is required and clarifying that court-ordered restitution costs would be incurred by the person convicted. The House Committee also made a technical and conforming amendments.

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, KDHE indicates the fiscal effect of the bill would likely be negligible and could be absorbed within existing resources.

Any fiscal effect associated with the bill is not reflected in *The FY 2022 Governor's Budget Report*.

Infectious diseases; bodily fluids; Department of Health and Environment