

SENATE BILL No. 502

By Committee on Public Health and Welfare

2-11

1 AN ACT concerning public health; relating to licensure of maternity
2 centers; providing for separate authority to license such centers;
3 amending K.S.A. 65-177, 65-501, 65-503, 65-504, 65-505, 65-506, 65-
4 507, 65-508, 65-512, 65-513, 65-523, 65-525 and 75-4319 and
5 repealing the existing sections.

6
7 *Be it enacted by the Legislature of the State of Kansas:*

8 New Section 1. As used in this act:

9 (a) "Act" means sections 1 through 11, and amendments thereto.

10 (b) "Department" means the department of health and environment.

11 (c) "Maternity center" means a facility that provides delivery services
12 for normal, uncomplicated pregnancies. "Maternity center" does not
13 include a medical care facility as defined by K.S.A. 65-425, and
14 amendments thereto.

15 (d) "Person" means any individual, association, partnership,
16 corporation, government, governmental subdivision or other entity.

17 (e) "Secretary" means the secretary of health and environment or the
18 secretary's designee.

19 New Sec. 2. (a) It shall be unlawful for any person to conduct or
20 maintain a maternity center without a license or temporary permit issued
21 pursuant to this act. Nothing in this act shall apply to a residential facility
22 or hospital that is operated and maintained by a state agency as defined in
23 K.S.A. 75-3701, and amendments thereto.

24 (b) The secretary of health and environment shall have the power to
25 grant a license to a person to maintain a maternity center. A license granted
26 to maintain a maternity center shall state the name of the licensee, describe
27 the particular premises in or where the business shall be carried on and the
28 number of women that may be treated or cared for at any one time. No
29 greater number of women than are authorized in the license shall be kept
30 on those premises, and the business shall not be carried on in a building or
31 place not designated in the license. The license shall be kept posted in a
32 conspicuous place on the premises where the business is conducted.

33 (c) (1) A person seeking licensure as a maternity center shall submit
34 an application for such license to the department on forms and in the
35 manner required by the secretary. Such application shall contain such
36 information as the secretary may reasonably require.

1 (2) The secretary shall not issue a license until careful inspection of
2 the maternity center has been made according to the terms of this act and
3 such center has complied with all the requirements of this act. The
4 secretary may issue a temporary permit to operate for a period not to
5 exceed 90 days upon receipt of an initial application for license. The
6 secretary may extend the temporary permit to operate for an additional
7 period not to exceed 90 days if an applicant is not in full compliance with
8 the requirements of this act but has made efforts towards full compliance.

9 (3) In cases where neither approval or disapproval can be given
10 within a period of 30 days following formal request for such a study, the
11 secretary of health and environment may issue a temporary license without
12 fee pending final approval or disapproval of the center.

13 (d) Whenever the secretary of health and environment refuses to grant
14 a license to an applicant, the secretary shall issue an order to that effect
15 stating the reasons for such denial and within five days after the issuance
16 of such order shall notify the applicant of the refusal. Upon application,
17 not more than 15 days after the date of issuance of such order, a hearing on
18 the order shall be held in accordance with the provisions of the Kansas
19 administrative procedure act.

20 (e) In all cases where the secretary deems it necessary, an
21 investigation of the maternity center shall be made under the supervision
22 of the secretary or other designated qualified agents. For that purpose and
23 for any subsequent investigations, the secretary or such agents shall have
24 the right of entry and access to the premises of the center and to any
25 information deemed necessary to the completion of the investigation. In all
26 cases where an investigation is made, a report of the investigation of such
27 center shall be filed with the secretary.

28 (f) When the secretary finds upon investigation that any of the
29 provisions of this act are being violated, or that the maternity center is
30 maintained without due regard to the health, safety or welfare of women,
31 the secretary may issue an order revoking such license after giving notice
32 and conducting a hearing in accordance with the provisions of the Kansas
33 administrative procedure act. The order shall clearly state the reason for
34 the revocation.

35 (g) If the secretary revokes or refuses to renew a license, the person
36 who had a license revoked or not renewed shall not be eligible to apply for
37 a license for a period of one year subsequent to the date such revocation or
38 refusal to renew becomes final. If the secretary revokes or refuses to renew
39 a license of a person who has violated statutory requirements or rules and
40 regulations three or more times, such person shall be permanently
41 prohibited from applying for a new license under this act or from seeking
42 employment under another licensee.

43 (f) Any applicant or licensee aggrieved by a final order of the

1 secretary of health and environment denying or revoking a license under
2 this act may appeal the order in accordance with the Kansas judicial
3 review act.

4 New Sec. 3. (a) The annual fee for a license to conduct a maternity
5 center shall be fixed by the secretary of health and environment by rules
6 and regulations in an amount not exceeding \$150.

7 (1) The license fee shall be paid to the secretary when the license is
8 applied for and annually thereafter. The fee shall not be refundable.

9 (b) Any licensee who fails to renew such license within 30 days after
10 the expiration of the license shall pay to the secretary the renewal fee plus
11 a late fee in an amount equal to the fee for the renewal of a license.

12 (c) Any licensee applying for an amended license shall pay to the
13 secretary a fee established by rules and regulations of the secretary in an
14 amount not exceeding \$35.

15 (d) The secretary shall remit all moneys received by the secretary
16 from fees under the provisions of this section to the state treasurer in
17 accordance with the provisions of K.S.A. 75-4215, and amendments
18 thereto. Upon receipt of each such remittance, the state treasurer,
19 notwithstanding any other law to the contrary, shall deposit the entire
20 amount in the state treasury to the credit of the health facility fee fund. All
21 expenditures from the health facility fee fund shall be made only for the
22 purposes of this act in accordance with appropriation acts upon warrants of
23 the director of accounts and reports issued pursuant to vouchers approved
24 by the secretary of health and environment or by a person or persons
25 designated by the secretary. Notwithstanding any other law to the contrary,
26 no moneys shall be transferred or otherwise revert from this fund to the
27 state general fund by appropriation act or other act of the legislature.
28 Moneys available under this section by the creation of the health facility
29 fee fund shall not be substituted for or used to reduce or eliminate moneys
30 available to the department to administer the provisions of this act.
31 Nothing in this act shall be construed to authorize a reduction or
32 elimination of moneys made available by the state to local units of
33 government for the purposes of this act.

34 New Sec. 4. The secretary shall serve notice of the issuance,
35 limitation, modification, suspension or revocation of a license to conduct a
36 maternity center to the office of the state fire marshal and the county, city-
37 county or multi-county department of health where the center is located.

38 New Sec. 5. (a) Each maternity center licensee shall keep a record
39 upon forms prescribed and provided by the secretary of health and
40 environment and the secretary for children and families that shall include
41 the name of every patient, together with the patient's place of residence
42 during the year preceding admission to the center and the name and
43 address of the attending physician. Each maternity center licensee shall

1 apply to and receive without charge from the secretary of health and
2 environment and the secretary for children and families forms for such
3 records as may be required and such form shall contain a copy of this act.

4 (b) Information obtained under this section shall be confidential and
5 shall not be made public in a manner that would identify any individual.

6 (c) The provisions of this section providing for confidentiality of
7 records shall expire on July 1, 2027, unless the legislature acts to reenact
8 such provisions. The legislature shall review the provisions of this
9 subsection pursuant to K.S.A. 45-229, and amendments thereto, prior to
10 July 1, 2027.

11 New Sec. 6. (a) A maternity center subject to the provisions of this act
12 shall: (1) Be properly heated, plumbed, lighted and ventilated; (2) have
13 plumbing, water and sewerage systems which conform to all applicable
14 state and local laws; and (3) be operated with strict regard to the health,
15 safety and welfare of women and children .

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

22 (c) The secretary of health and environment shall adopt rules and
23 regulations for the operation and maintenance of maternity centers. The
24 rules and regulations for operating and maintaining maternity centers shall
25 be designed to promote the health, safety and welfare of women and
26 children served in such facilities by ensuring safe and adequate physical
27 surroundings, adequate handwashing, safe storage of toxic substances and
28 hazardous chemicals, sanitary diapering and toileting, home sanitation,
29 supervision and care of the patients by capable, qualified persons of
30 sufficient number, sudden infant death syndrome and safe sleep practices
31 training and crib safety.

32 New Sec. 7. The secretary shall inspect or cause to be inspected at
33 least once every 12 months each maternity center in the state. For the
34 purpose of inspection, the secretary or the secretary's authorized agent
35 shall have the right of entry and access thereto in every department and to
36 every place in the premises, shall call for and examine the records which
37 are required to be kept by the provisions of this act and shall make and
38 preserve a record of every inspection. The licensee shall give all
39 reasonable information to the authorized agent of the secretary of health
40 and environment and shall afford every reasonable facility for viewing the
41 premises and seeing the patients. No such patient without the consent of
42 the patient shall be required to be interviewed by any agent unless the
43 agent is an authorized person or an individual licensed by the state board

1 of healing arts to practice medicine and surgery.

2 New Sec. 8. (a) Whenever an authorized agent of the secretary finds a
3 maternity center is not being conducted according to law, it shall be the
4 duty of such agent to notify the licensee in writing of such changes or
5 alterations as the agent determines necessary in order to comply with the
6 requirements of the law, and the agent shall file a copy of such notice with
7 the secretary. It shall then be the duty of the licensee to make such changes
8 or alterations as are contained in the written notice within five days from
9 the receipt of such notice. Notice shall be given in accordance with the
10 provisions of the Kansas administrative procedure act.

11 (b) A person who violates the provisions of this act shall be guilty of
12 a class C nonperson misdemeanor and upon conviction shall be fined not
13 less than \$5 nor more than \$50. Each day that such person fails or refuses
14 to comply shall be deemed a separate offense under this act. If for 30 days
15 after any final conviction for such violation or revocation of license the
16 person still fails or refuses to comply with the orders in the notice under
17 subsection (a), upon notice and a hearing in accordance with the
18 provisions of the Kansas administrative procedure act, the building or
19 premises where the center is located may be closed until all provisions of
20 this act have been complied with.

21 (c) The county attorney of each county or district attorney in this state
22 is hereby authorized and required, upon complaint of any authorized agent
23 of the secretary, to file a complaint and prosecute to the final
24 determination, all actions or proceedings against any person under the
25 provisions of this act.

26 New Sec. 9. The secretary may limit, modify or suspend any license
27 or temporary permit issued under the provisions of this act upon any of the
28 following grounds and in the manner provided in this act:

29 (a) Violation by the licensee or holder of a temporary permit of any
30 provision of this act or of the rules and regulations promulgated under this
31 act;

32 (b) aiding, abetting or permitting the violating of any provision of this
33 act or of the rules and regulations promulgated under this act; or

34 (c) conduct in the operation or maintenance of a maternity center that
35 endangers the health, safety or welfare of any woman or child receiving
36 services from such maternity center.

37 New Sec. 10. (a) Records in the possession of the department or the
38 department's agents regarding maternity centers shall not be released
39 publicly in a manner that would identify individuals, except individual
40 names of licensees, applicants, facilities and maternity centers may be
41 released. Nothing in this section prohibits release of any information as
42 required by law.

43 (b) Records in the possession of the department or the department's

1 agents regarding maternity centers may be released to: (1) An agency or
2 organization authorized to receive notice under section 4, and amendments
3 thereto; (2) a local, state or federal governmental entity or subdivision
4 thereof; (3) a child and adult care food program sponsoring agency; or (4)
5 a disaster or emergency entity.

6 (c) The secretary shall prohibit the release of the name, address and
7 telephone number of a maternity center when the secretary determines that
8 prohibition of the release of the information is necessary to protect the
9 health, safety or welfare of the public or the patients of the maternity
10 center.

11 (d) Records under subsection (a), (b) or (c) shall be available to any
12 member of the standing committee on appropriations of the house of
13 representatives or the standing committee on ways and means of the
14 senate, or any successor committees, carrying out such member's or
15 committee's official functions in accordance with K.S.A. 75-4319, and
16 amendments thereto, in a closed or executive meeting. Except in limited
17 conditions established by $\frac{2}{3}$ of the members of such committee, records
18 received by the committee shall not be further disclosed. Unauthorized
19 disclosure may subject such member to discipline or censure from the
20 house of representatives or senate. Such records shall not identify
21 individuals but shall include data and contract information concerning
22 specific centers.

23 (e) (1) In any hearings conducted under the licensing or regulation
24 provisions of this act, the presiding officer may close the hearing to the
25 public to prevent public disclosure of matters relating to persons restricted
26 by other laws.

27 (2) The provisions of this subsection providing for confidentiality
28 shall expire on July 1, 2027, unless the legislature acts to reenact such
29 provisions. The legislature shall review the provisions of this subsection
30 pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2027.

31 New Sec. 11. Any license, certificate of registration or temporary
32 permit that was issued prior to the effective date of this act that is in effect
33 on the effective date of this act, shall continue in effect until the expiration
34 thereof, unless suspended or revoked prior to such time.

35 Sec. 12. K.S.A. 65-177 is hereby amended to read as follows: 65-177.

36 (a) (1) "Data," as used in K.S.A. 65-177 through 65-179, and amendments
37 thereto, includes all facts, information, records of interviews, written
38 reports, statements, notes or memoranda secured in connection with an
39 authorized medical research study.

40 (2) "Maternal death" means the death of any woman from any cause
41 while pregnant or within one calendar year of the end of any pregnancy,
42 regardless of the duration of the pregnancy or the site of the end of the
43 pregnancy.

1 (b) (1) The secretary of health and environment shall have access to
2 all law enforcement investigative information regarding a maternal death
3 in Kansas, any autopsy records and coroner's investigative records relating
4 to the death, any medical records of the mother and any records of the
5 Kansas department for children and families or any other state social
6 service agency that has provided services to the mother.

7 (2) (A) The secretary may apply to the district court for the issuance
8 of, and the district court may issue, a subpoena to compel the production
9 of any books, records or papers relevant to the cause of any maternal death
10 being investigated by the secretary. Any books, records or papers received
11 by the secretary pursuant to the subpoena shall be confidential and
12 privileged information and not subject to disclosure.

13 (B) The provisions of this paragraph providing for confidentiality of
14 records shall expire on July 1, 2023, unless the legislature acts to reenact
15 such provisions. The legislature shall review the provisions of this
16 paragraph pursuant to K.S.A. 45-229, and amendments thereto, prior to
17 July 1, 2023.

18 (c) The secretary of health and environment shall:

19 (1) Identify maternal death cases;

20 (2) review medical records and other relevant data;

21 (3) contact family members and other affected or involved persons to
22 collect additional relevant data;

23 (4) consult with relevant experts to evaluate the records and data
24 collected;

25 (5) make determinations regarding the preventability of maternal
26 deaths;

27 (6) develop recommendations and actionable strategies to prevent
28 maternal deaths; and

29 (7) disseminate findings and recommendations to the legislature,
30 healthcare providers, healthcare facilities and the general public.

31 (d) (1) Healthcare providers licensed pursuant to chapters 65 and 74
32 of the Kansas Statutes Annotated, and amendments thereto, medical care
33 facilities licensed pursuant to article 4 of chapter 65 of the Kansas Statutes
34 Annotated, and amendments thereto, maternity centers licensed pursuant
35 to ~~article 5 of chapter 65 of the Kansas Statutes Annotated~~ *sections 1*
36 *through 11*, and amendments thereto, and pharmacies licensed pursuant to
37 article 16 of chapter 65 of the Kansas Statutes Annotated, and amendments
38 thereto, shall provide reasonable access to all relevant medical records
39 associated with a maternal death case under review by the secretary.

40 (2) A healthcare provider, medical care facility, maternity center or
41 pharmacy providing access to medical records pursuant to this section
42 shall not be held liable for civil damages or be subject to criminal or
43 disciplinary administrative action for good faith efforts to provide such

1 records.

2 (e) (1) Information, records, reports, statements, notes, memoranda or
3 other data collected pursuant to this section shall be privileged and
4 confidential and shall not be admissible as evidence in any action of any
5 kind in any court or before another tribunal, board, agency or person. Such
6 information, records, reports, statements, notes, memoranda or other data
7 shall not be exhibited nor their contents disclosed in any way, in whole or
8 in part, by any officer or representative of the department of health and
9 environment or any other person, except as may be necessary for the
10 purpose of furthering the investigation of the case to which they relate. No
11 person participating in such investigation shall disclose, in any manner, the
12 information so obtained.

13 (2) The provisions of this subsection providing for confidentiality of
14 records shall expire on July 1, 2023, unless the legislature acts to reenact
15 such provisions. The legislature shall review the provisions of this
16 subsection pursuant to K.S.A. 45-229, and amendments thereto, prior to
17 July 1, 2023.

18 (f) (1) All proceedings and activities of the secretary or
19 representatives of the secretary under this section, opinions of the secretary
20 or representatives of the secretary formed as a result of such proceedings
21 and activities and records obtained, created or maintained pursuant to this
22 section, including records of interviews, written reports and statements
23 procured by the secretary or any other person, agency or organization
24 acting jointly or under contract with the department of health and
25 environment in connection with the requirements of this section, shall be
26 confidential and not subject to the provisions of the open records act or the
27 open meetings act or subject to subpoena, discovery or introduction into
28 evidence in any civil or criminal proceeding. Nothing in this section shall
29 be construed to limit or otherwise restrict the right to discover or use in
30 any civil or criminal proceeding any document or record that is available
31 and entirely independent of proceedings and activities of the secretary or
32 representatives of the secretary under this section.

33 (2) The secretary or representatives of the secretary shall not be
34 questioned in any civil or criminal proceeding regarding the information
35 presented in or opinions formed as a result of an investigation. Nothing in
36 this section shall be construed to prevent the secretary or representatives of
37 the secretary from testifying to information obtained independently of this
38 section or that is public information.

39 (3) The provisions of this subsection providing for confidentiality of
40 records shall expire on July 1, 2023, unless the legislature acts to reenact
41 such provisions. The legislature shall review the provisions of this
42 subsection pursuant to K.S.A. 45-229, and amendments thereto, prior to
43 July 1, 2023.

1 (g) Reports of aggregate non-individually identifiable data shall be
2 compiled on a routine basis for distribution in an effort to further study the
3 causes and problems associated with maternal deaths. Reports shall be
4 distributed to healthcare providers and medical care facilities and other
5 persons necessary to reduce the maternal death rate.

6 (h) The secretary of health and environment shall receive data
7 secured in connection with medical research studies conducted for the
8 purpose of reducing morbidity or mortality from maternal, perinatal and
9 anesthetic causes. Such studies may be conducted by the secretary of
10 health and environment and staff or with other qualified persons, agencies
11 or organizations. If such studies are conducted with any funding not
12 provided by the state of Kansas, then the source of such funding shall be
13 clearly identified in such study. Where authorization to conduct such a
14 study is granted by the secretary of health and environment, all data
15 voluntarily made available to the secretary of health and environment in
16 connection with such study shall be treated as confidential and shall be
17 used solely for purposes of medical research. Research files and opinions
18 expressed upon the evidence found in such research shall not be
19 admissible as evidence in any action in any court or before any other
20 tribunal, except that statistics or tables resulting from such data shall be
21 admissible and may be received as evidence. This section shall not affect
22 the right of any patient or such patient's guardians, representatives or heirs
23 to require hospitals, physicians, sanatoriums, rest homes, nursing homes or
24 other persons or agencies to furnish such patient's hospital record to such
25 patient's representatives upon written authorization, or the admissibility in
26 evidence thereof.

27 (i) No employee of the secretary of health and environment shall
28 interview any patient named in any such report, nor any relative of any
29 such patient, unless otherwise provided in K.S.A. 65-2422d, and
30 amendments thereto. Nothing in this section shall prohibit the publication
31 by the secretary of health and environment or a duly authorized
32 cooperating person, agency or organization, of final reports or statistical
33 compilations derived from morbidity or mortality studies, which reports or
34 compilations do not identify individuals, associations, corporations or
35 institutions which were the subjects of such studies, or reveal sources of
36 information.

37 Sec. 13. K.S.A. 65-501 is hereby amended to read as follows: 65-501.
38 It shall be unlawful for any person, firm, corporation or association to
39 conduct or maintain ~~a maternity center or a child care facility~~ for children
40 under 16 years of age without having a license or temporary permit
41 therefor from the secretary of health and environment. Nothing in this act
42 shall apply to:

43 (a) A residential facility or hospital that is operated and maintained by

1 a state agency as defined in K.S.A. 75-3701, and amendments thereto; or

2 (b) a summer instructional camp that:

3 (1) Is operated by a Kansas educational institution as defined in
4 K.S.A. 74-32,120, and amendments thereto, or a postsecondary
5 educational institution as defined in K.S.A. 74-3201b, and amendments
6 thereto;

7 (2) is operated for not more than five weeks;

8 (3) provides instruction to children, all of whom are 10 years of age
9 and older; and

10 (4) is accredited by an agency or organization acceptable to the
11 secretary of health and environment.

12 Sec. 14. K.S.A. 65-503 is hereby amended to read as follows: 65-503.

13 As used in this act:

14 (a) "Child placement agency" means a business or service conducted,
15 maintained or operated by a person engaged in finding homes for children
16 by placing or arranging for the placement of such children for adoption or
17 foster care.

18 (b) "Child care resource and referral agency" means a business or
19 service conducted, maintained or operated by a person engaged in
20 providing resource and referral services, including information of specific
21 services provided by child care facilities, to assist parents to find child
22 care.

23 (c) "Child care facility" means:

24 (1) A facility maintained by a person who has control or custody of
25 one or more children under 16 years of age, unattended by parent or
26 guardian, for the purpose of providing the children with food or lodging,
27 or both, except children in the custody of the secretary for children and
28 families who are placed with a prospective adoptive family pursuant to the
29 provisions of an adoptive placement agreement or who are related to the
30 person by blood, marriage or legal adoption;

31 (2) a children's home, orphanage, ~~maternity home~~, day care facility or
32 other facility of a type determined by the secretary to require regulation
33 under the provisions of this act;

34 (3) a child placement agency or child care resource and referral
35 agency, or a facility maintained by such an agency for the purpose of
36 caring for children under 16 years of age; or

37 (4) any receiving or detention home for children under 16 years of
38 age provided or maintained by, or receiving aid from, any city or county or
39 the state.

40 (d) "Day care facility" means a child care facility that includes a day
41 care home, preschool, child care center, school-age program or other
42 facility of a type determined by the secretary to require regulation under
43 the provisions of K.S.A. 65-501 et seq., and amendments thereto.

1 (e) "Person" means any individual, association, partnership,
2 corporation, government, governmental subdivision or other entity.

3 (f) "Boarding school" means a facility which provides 24-hour care to
4 school age children, provides education as its primary function, and is
5 accredited by an accrediting agency acceptable to the secretary of health
6 and environment.

7 ~~(g) "Maternity center" means a facility which provides delivery~~
8 ~~services for normal, uncomplicated pregnancies but does not include a~~
9 ~~medical care facility as defined by K.S.A. 65-425, and amendments~~
10 ~~thereto.~~

11 Sec. 15. K.S.A. 65-504 is hereby amended to read as follows: 65-504.

12 (a) The secretary of health and environment shall have the power to grant a
13 license to a person to maintain a ~~maternity center or~~ child care facility for
14 children under 16 years of age.

15 (1) A license granted to maintain a ~~maternity center or~~ child care
16 facility shall:

17 (A) State the name of the licensee,;

18 (B) describe the particular premises ~~in or at which~~ *where* the business
19 shall be carried on, ~~whether it shall receive and care for women or~~
20 ~~children,;~~ and

21 (C) the number of ~~women or~~ children that may be treated,
22 maintained, boarded or cared for at any one time.

23 (2) No greater number of ~~women or~~ children than is authorized in the
24 license shall be kept on those premises and the business shall not be
25 carried on in a building or place not designated in the license.

26 (4) The license shall be kept posted in a conspicuous place on the
27 premises where the business is conducted. A license granted to maintain a
28 day care facility shall have on its face an expiration sticker stating the date
29 of expiration of the license.

30 (5) The secretary of health and environment shall grant no license in
31 any case until careful inspection of the ~~maternity center or~~ child care
32 facility shall have been made according to the terms of this act and until
33 such ~~maternity center or~~ child care facility has complied with all the
34 requirements of this act. Except as provided by this subsection, no license
35 shall be granted without the approval of the secretary for children and
36 families.

37 (6) The secretary of health and environment may issue, without the
38 approval of the secretary for children and families, a temporary permit to
39 operate for a period not to exceed 90 days upon receipt of an initial
40 application for license. The secretary of health and environment may
41 extend, without the approval of the secretary for children and families, the
42 temporary permit to operate for an additional period not to exceed 90 days
43 if an applicant is not in full compliance with the requirements of this act

1 but has made efforts towards full compliance.

2 (b) (1) In all cases where the secretary for children and families
3 deems it necessary, an investigation of the ~~maternity center or~~ child care
4 facility shall be made under the supervision of the secretary for children
5 and families or other designated qualified agents. For that purpose and for
6 any subsequent investigations they shall have the right of entry and access
7 to the premises of the center or facility and to any information deemed
8 necessary to the completion of the investigation. In all cases where an
9 investigation is made, a report of the investigation of such center or facility
10 shall be filed with the secretary of health and environment.

11 (2) In cases where neither approval or disapproval can be given
12 within a period of 30 days following formal request for such a study, the
13 secretary of health and environment may issue a temporary license without
14 fee pending final approval or disapproval of the center or facility.

15 (c) Whenever the secretary of health and environment refuses to grant
16 a license to an applicant, the secretary shall issue an order to that effect
17 stating the reasons for such denial and within five days after the issuance
18 of such order shall notify the applicant of the refusal. Upon application not
19 more than 15 days after the date of its issuance a hearing on the order shall
20 be held in accordance with the provisions of the Kansas administrative
21 procedure act.

22 (d) When the secretary of health and environment finds upon
23 investigation or is advised by the secretary for children and families that
24 any of the provisions of this act or the provisions of K.S.A. 59-2123, and
25 amendments thereto, are being violated, or that the ~~maternity center or~~
26 child care facility is maintained without due regard to the health, safety or
27 welfare of any ~~woman or~~ child, the secretary of health and environment
28 may issue an order revoking such license after giving notice and
29 conducting a hearing in accordance with the provisions of the Kansas
30 administrative procedure act. The order shall clearly state the reason for
31 the revocation.

32 (e) If the secretary revokes or refuses to renew a license, the licensee
33 who had a license revoked or not renewed shall not be eligible to apply for
34 a license for a period of one year subsequent to the date such revocation or
35 refusal to renew becomes final. If the secretary revokes or refuses to renew
36 a license of a licensee who is a repeat, three or more times, violator of
37 statutory requirements or rules and regulations or is found to have
38 contributed to the death or serious bodily harm of a child under such
39 licensee's care, such licensee shall be permanently prohibited from
40 applying for a new license to provide child care or from seeking
41 employment under another licensee.

42 (f) Any applicant or licensee aggrieved by a final order of the
43 secretary of health and environment denying or revoking a license under

1 this act may appeal the order in accordance with the Kansas judicial
2 review act.

3 Sec. 16. K.S.A. 65-505 is hereby amended to read as follows: 65-505.

4 (a) (1) The annual fee for a license to conduct a ~~maternity center or child~~
5 care facility shall be fixed by the secretary of health and environment by
6 rules and regulations in an amount not exceeding the following:

7 ~~(1) For a maternity center, \$150;~~

8 ~~(2)(A) For a child placement agency, \$150;~~

9 ~~(3)(B) for a child care resource and referral agency, \$150; and~~

10 ~~(4)(C) for any other child care facility, \$75 plus \$1 times the~~
11 maximum number of children authorized under the license to be on the
12 premises at any one time.

13 (2) The license fee shall be paid to the secretary of health and
14 environment when the license is applied for and annually thereafter. The
15 fee shall not be refundable. No fee shall be charged for a license to
16 conduct a home for children ~~which~~ that is a family foster home as defined
17 in K.A.R. 28-4-311, ~~and amendments thereto on July 1, 2022.~~ Fees in
18 effect under this subsection (a) immediately prior to the effective date of
19 this act shall continue in effect on and after the effective date of this act
20 until a different fee is established by the secretary of health and
21 environment by rules and regulations under this subsection.

22 (b) Any licensee who fails to renew such license within 30 days after
23 the expiration of the license shall pay to the secretary the renewal fee plus
24 a late fee in an amount equal to the fee for the renewal of a license.

25 (c) Any licensee applying for an amended license shall pay to the
26 secretary of health and environment a fee established by rules and
27 regulations of the secretary in an amount not exceeding \$35.

28 (d) The secretary of health and environment shall remit all moneys
29 received by the secretary from fees under the provisions of this section to
30 the state treasurer in accordance with the provisions of K.S.A. 75-4215,
31 and amendments thereto. Upon receipt of each such remittance, the state
32 treasurer, notwithstanding any other law to the contrary, shall deposit the
33 entire amount in the state treasury to the credit of the ~~maternity centers and~~
34 child care licensing fee fund. All expenditures from the ~~maternity centers~~
35 ~~and~~ child care licensing fee fund shall be made only for the purposes of
36 article 5 of chapter 65 of the Kansas Statutes Annotated, ~~and amendments~~
37 ~~thereto~~, in accordance with appropriation acts upon warrants of the
38 director of accounts and reports issued pursuant to vouchers approved by
39 the secretary of health and environment or by a person or persons
40 designated by the secretary. Notwithstanding any other law to the contrary,
41 no moneys shall be transferred or otherwise revert from this fund to the
42 state general fund by appropriation act or other act of the legislature.
43 Moneys available under this section by the creation of the maternity

1 centers and child care licensing fee fund shall not be substituted for or
2 used to reduce or eliminate moneys available to the department of health
3 and environment to administer the provisions of article 5 of chapter 65 of
4 the Kansas Statutes Annotated, *and amendments thereto*. Nothing in this
5 act shall be construed to authorize a reduction or elimination of moneys
6 made available by the state to local units of government for the purposes
7 of article 5 of chapter 65 of the Kansas Statutes Annotated, *and*
8 *amendments thereto*.

9 (e) *On July 1, 2022, the maternity centers and child care licensing*
10 *fee fund of the department of health and environment is hereby*
11 *redesignated as the child care licensing fee fund of the department of*
12 *health and environment*.

13 Sec. 17. K.S.A. 65-506 is hereby amended to read as follows: 65-506.
14 The secretary of health and environment shall serve notice of the issuance,
15 limitation, modification, suspension or revocation of a license to conduct a
16 ~~maternity center or child care facility~~ to the secretary for children and
17 families, ~~juvenile justice authority~~ *the department of corrections*,
18 department of education, office of the state fire marshal, county, city-
19 county or multi-county department of health, and to any licensed child
20 placement agency or licensed child care resource and referral agency
21 serving the area where the center or facility is located. A ~~maternity center~~
22 ~~or child care facility~~ that has had a license limited, modified, suspended,
23 revoked or denied by the secretary of health and environment shall notify
24 in writing the parents or guardians of the enrollees of the limitation,
25 modification, suspension, revocation or denial. Neither the secretary for
26 children and families nor any other person shall place or cause to be placed
27 any ~~woman or child~~ under 16 years of age in any ~~maternity center or child~~
28 ~~care facility~~ not licensed by the secretary of health and environment.

29 Sec. 18. K.S.A. 65-507 is hereby amended to read as follows: 65-507.
30 (a) Each ~~maternity center~~ licensee shall keep a record upon forms
31 prescribed and provided by the secretary of health and environment and
32 the secretary for children and families which shall include the name of
33 every patient, together with the patient's place of residence during the year
34 preceding admission to the center and the name and address of the
35 attending physician. Each child care facility licensee shall keep a record
36 upon forms prescribed and provided by the secretary of health and
37 environment which shall include the name and age of each child received
38 and cared for in the facility; the name of the physician who attended any
39 sick children in the facility, together with the names and addresses of the
40 parents or guardians of such children; and such other information as the
41 secretary of health and environment or secretary for children and families
42 may require. Each ~~maternity center licensee and each child care facility~~
43 ~~licensee~~ shall apply to and shall receive without charge from the secretary

1 of health and environment and the secretary for children and families
2 forms for such records as may be required, which forms shall contain a
3 copy of this act.

4 (b) Information obtained under this section shall be confidential and
5 shall not be made public in a manner which would identify individuals.

6 Sec. 19. K.S.A. 65-508 is hereby amended to read as follows: 65-508.

7 (a) Any ~~maternity center or~~ child care facility subject to the provisions of
8 this act shall:

9 (1) Be properly heated, plumbed, lighted and ventilated;

10 (2) have plumbing, water and sewerage systems which conform to all
11 applicable state and local laws; and

12 (3) be operated with strict regard to the health, safety and welfare of
13 any ~~woman or~~ child.

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

21 (c) (1) The secretary of health and environment with the cooperation
22 of the secretary for children and families shall develop and adopt rules and
23 regulations for the operation and maintenance of ~~maternity centers and~~
24 child care facilities. The rules and regulations for operating and
25 maintaining ~~maternity centers and~~ child care facilities shall be designed to
26 promote the health, safety and welfare of any ~~woman or~~ child served in
27 such facilities by ensuring safe and adequate physical surroundings,
28 healthful food, adequate handwashing, safe storage of toxic substances and
29 hazardous chemicals, sanitary diapering and toileting, home sanitation,
30 supervision and care of the residents by capable, qualified persons of
31 sufficient number, after-hour care, an adequate program of activities and
32 services, sudden infant death syndrome and safe sleep practices training,
33 prohibition on corporal punishment, crib safety, protection from electrical
34 hazards, protection from swimming pools and other water sources, fire
35 drills, emergency plans, safety of outdoor playground surfaces, door locks,
36 safety gates and transportation and such appropriate parental participation
37 as may be feasible under the circumstances. Boarding schools are excluded
38 from requirements regarding the number of qualified persons who must
39 supervise and provide care to residents.

40 (2) Rules and regulations developed under this subsection shall
41 include provisions for the competent supervision and care of children in
42 day care facilities. For purposes of such rules and regulations, competent
43 supervision as this term relates to children less than five years of age

1 includes, but is not limited to, direction of activities, adequate oversight
2 including sight or sound monitoring, or both, physical proximity to
3 children, diapering and toileting practices; and for all children, competent
4 supervision includes, but is not limited to, planning and supervision of
5 daily activities, safe sleep practices, including, but not limited to, visual or
6 sound monitoring, periodic checking, emergency response procedures and
7 drills, illness and injury response procedures, food service preparation and
8 sanitation, playground supervision, pool and water safety practices.

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

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

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

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

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

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

25 (g) Each child cared for in a child care facility, including children of
26 the person maintaining the facility, shall be required to have current such
27 immunizations as the secretary of health and environment considers
28 necessary. The person maintaining a child care facility shall maintain a
29 record of each child's immunizations and shall provide to the secretary of
30 health and environment such information relating thereto, in accordance
31 with rules and regulations of the secretary, but the person maintaining a
32 child care facility shall not have such person's license revoked solely for
33 the failure to have or to maintain the immunization records required by
34 this subsection.

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

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

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

43 Sec. 20. K.S.A. 65-512 is hereby amended to read as follows: 65-512.

1 (a) It is hereby made the duty of the secretary of health and environment to
2 inspect or cause to be inspected at least once every 15 months prior to July
3 1, 2012, and once every 12 months thereafter, every ~~maternity center or~~
4 child care facility, unless otherwise provided in subsections (b) and (c).
5 For the purpose of inspection the secretary or the secretary's authorized
6 agent shall have the right of entry and access thereto in every department
7 and to every place in the premises, shall call for and examine the records
8 which are required to be kept by the provisions of this act and shall make
9 and preserve a record of every inspection. The licensee shall give all
10 reasonable information to the authorized agent of the secretary of health
11 and environment and shall afford every reasonable facility for viewing the
12 premises and seeing the patients or children therein. No such patient or
13 child without the consent of the patient or child shall be required to be
14 interviewed by any agent unless the agent is an authorized person or a
15 licensed physician.

16 (b) (1) On or after the effective date of this act, the secretary of health
17 and environment shall commence the inspection of registered family day
18 care homes pursuant to K.S.A. 65-533, and amendments thereto.

19 (2) The secretary of health and environment shall conduct an
20 inspection of any child care facility upon receiving a complaint. Any new
21 child care facility shall be inspected prior to issuance of a license. The
22 secretary may conduct an inspection of any child care facility that has a
23 record of repeated complaints or serious violations at any time. The
24 secretary shall inspect any child care facility that provides services to
25 military families receiving military assistance for child care every 12
26 months.

27 ~~(c) (1) Except as provided in subsection (b)(2), the following~~
28 ~~categories of child care facilities which were in compliance on the~~
29 ~~effective date of this act are not required to be inspected until July 1, 2011:~~
30 ~~Day care homes, as defined in K.A.R. 28-4-113; group day care homes, as~~
31 ~~defined in K.A.R. 28-4-113; child care centers, as defined in K.A.R. 28-4-~~
32 ~~420; preschools, as defined in K.A.R. 28-4-420; school-age programs, as~~
33 ~~defined in K.A.R. 28-4-576; and drop-in programs, as defined in K.A.R.~~
34 ~~28-4-700.~~

35 ~~(2) The provisions of this subsection shall expire on July 1, 2011.~~

36 Sec. 21. K.S.A. 65-513 is hereby amended to read as follows: 65-513.
37 Whenever an authorized agent of the secretary of health and environment
38 or secretary for children and families finds a ~~maternity center or~~ child care
39 facility is not being conducted according to law, it shall be the duty of such
40 agent to notify the licensee in writing of such changes or alterations as the
41 agent determines necessary in order to comply with the requirements of
42 the law, and the agent shall file a copy of such notice with the secretary of
43 health and environment. It shall thereupon be the duty of the licensee to

1 make such changes or alterations as are contained in the written notice
2 within five days from the receipt of such notice. Notice shall be given in
3 accordance with the provisions of the Kansas administrative procedure act.

4 Sec. 22. K.S.A. 65-523 is hereby amended to read as follows: 65-523.
5 The secretary may limit, modify or suspend any license or temporary
6 permit issued under the provisions of K.S.A. 65-501 through 65-516, and
7 amendments thereto, upon any of the following grounds and in the manner
8 provided in this act:

9 (a) Violation by the licensee or holder of a temporary permit of any
10 provision of this act or of the rules and regulations promulgated under this
11 act;

12 (b) aiding, abetting or permitting the violating of any provision of this
13 act or of the rules and regulations promulgated under this act;

14 (c) conduct in the operation or maintenance, ~~or both the operation and~~
15 ~~maintenance, of a maternity center or child care facility which~~ *that* is
16 inimical to the health, safety or welfare of any ~~woman or child~~ receiving
17 services from such ~~maternity center or child care facility~~, or the public;

18 (d) the conviction of a licensee or holder of a temporary permit, at
19 any time during licensure or during the time the temporary permit is in
20 effect, of crimes as defined in K.S.A. 65-516, and amendments thereto;
21 and

22 (e) a third or subsequent violation by the licensee or holder of a
23 temporary permit of ~~subsection (b) of~~ K.S.A. 65-530(b), and amendments
24 thereto.

25 Sec. 23. K.S.A. 65-525 is hereby amended to read as follows: 65-525.

26 (a) Records in the possession of the department of health and environment
27 or its agents regarding child care facilities ~~or maternity centers~~ shall not be
28 released publicly in a manner that would identify individuals, except
29 individual names of licensees, applicants, *and* facilities ~~and maternity~~
30 ~~centers~~ may be released. Nothing in this section prohibits release of any
31 information as required by law.

32 (b) Records in the possession of the department of health and
33 environment or its agents regarding child care facilities ~~or maternity~~
34 ~~centers~~ may be released to:

35 (1) An agency or organization authorized to receive notice under
36 K.S.A. 65-506, and amendments thereto;

37 (2) any local, state or federal governmental entity or subdivision
38 thereof;

39 (3) any child and adult care food program sponsoring agency; or

40 (4) any disaster or emergency entity.

41 (c) The secretary of health and environment shall prohibit the release
42 of the name, address and telephone number of a ~~maternity center or~~ child
43 care facility when the secretary determines that prohibition of the release

1 of the information is necessary to protect the health, safety or welfare of
2 the public or the patients or children enrolled in the ~~maternity center or~~
3 child care facility.

4 (d) Any records under subsection (a), (b) or (c) shall be available to
5 any member of the standing committee on appropriations of the house of
6 representatives or the standing committee on ways and means of the senate
7 carrying out such member's or committee's official functions in accordance
8 with K.S.A. 75-4319, and amendments thereto, in a closed or executive
9 meeting. Except in limited conditions established by $\frac{2}{3}$ of the members of
10 such committee, records received by the committee shall not be further
11 disclosed. Unauthorized disclosure may subject such member to discipline
12 or censure from the house of representatives or senate. Such records shall
13 not identify individuals but shall include data and contract information
14 concerning specific facilities.

15 (e) In any hearings conducted under the licensing or regulation
16 provisions of K.S.A. 65-501 et seq., and amendments thereto, the
17 presiding officer may close the hearing to the public to prevent public
18 disclosure of matters relating to persons restricted by other laws.

19 Sec. 24. K.S.A. 75-4319 is hereby amended to read as follows: 75-
20 4319. (a) Upon formal motion made, seconded and carried, all public
21 bodies and agencies subject to the open meetings act may recess, but not
22 adjourn, open meetings for closed or executive meetings. Any motion to
23 recess for a closed or executive meeting shall include:

24 (1) A statement describing the subjects to be discussed during the
25 closed or executive meeting;

26 (2) the justification listed in subsection (b) for closing the meeting;
27 and

28 (3) the time and place at which the open meeting shall resume. The
29 complete motion shall be recorded in the minutes of the meeting and shall
30 be maintained as a part of the permanent records of the public body or
31 agency. Discussion during the closed or executive meeting shall be limited
32 to those subjects stated in the motion.

33 (b) Justifications for recess to a closed or executive meeting may only
34 include the following, the need:

35 (1) To discuss personnel matters of nonelected personnel;

36 (2) for consultation with an attorney for the public body or agency
37 which would be deemed privileged in the attorney-client relationship;

38 (3) to discuss employer-employee negotiations whether or not in
39 consultation with the representative or representatives of the public body
40 or agency;

41 (4) to discuss data relating to financial affairs or trade secrets of
42 corporations, partnerships, trusts, and individual proprietorships;

43 (5) to discuss matters relating to actions adversely or favorably

1 affecting a person as a student, patient or resident of a public institution,
2 except that any such person shall have the right to a public hearing if
3 requested by the person;

4 (6) for the preliminary discussion of the acquisition of real property;

5 (7) to discuss matters relating to parimutuel racing permitted to be
6 discussed in a closed or executive meeting pursuant to K.S.A. 74-8804,
7 and amendments thereto;

8 (8) to discuss matters relating to the care of children permitted to be
9 discussed in a closed or executive meeting pursuant to K.S.A. 38-2212(d)
10 (1) or 38-2213(e), and amendments thereto;

11 (9) to discuss matters relating to the investigation of child deaths
12 permitted to be discussed in a closed or executive meeting pursuant to
13 K.S.A. 22a-243(j), and amendments thereto;

14 (10) to discuss matters relating to patients and providers permitted to
15 be discussed in a closed or executive meeting pursuant to K.S.A. 39-
16 7,119(g), and amendments thereto;

17 (11) to discuss matters required to be discussed in a closed or
18 executive meeting pursuant to a tribal-state gaming compact;

19 (12) to discuss matters relating to security measures, if the discussion
20 of such matters at an open meeting would jeopardize such security
21 measures, that protect:

22 (A) Systems, facilities or equipment used in the production,
23 transmission or distribution of energy, water or communications services;

24 (B) transportation and sewer or wastewater treatment systems,
25 facilities or equipment;

26 (C) a public body or agency, public building or facility or the
27 information system of a public body or agency; or

28 (D) private property or persons, if the matter is submitted to the
29 public body or agency for purposes of this paragraph.

30 For purposes of this paragraph, "security" means measures that protect
31 against criminal acts intended to intimidate or coerce the civilian
32 population, influence government policy by intimidation or coercion or to
33 affect the operation of government by disruption of public services, mass
34 destruction, assassination or kidnapping. Security measures include, but
35 are not limited to, intelligence information, tactical plans, resource
36 deployment and vulnerability assessments;

37 (13) to discuss matters relating to maternity centers and child care
38 facilities permitted to be discussed in a closed or executive meeting
39 pursuant to K.S.A. 65-525(~~d~~)(e), *and amendments thereto, and section 10,*
40 *and amendments thereto;*

41 (14) to discuss matters relating to the office of inspector general
42 permitted to be discussed in a closed or executive meeting pursuant to
43 K.S.A. 75-7427, and amendments thereto; and

1 (15) for the governor's domestic violence fatality review board to
2 conduct case reviews.

3 (c) No binding action shall be taken during closed or executive
4 recesses, and such recesses shall not be used as a subterfuge to defeat the
5 purposes of this act.

6 (d) Any confidential records or information relating to security
7 measures provided or received under the provisions of subsection (b)(12),
8 shall not be subject to subpoena, discovery or other demand in any
9 administrative, criminal or civil action.

10 Sec. 25. K.S.A. 65-177, 65-501, 65-503, 65-504, 65-505, 65-506, 65-
11 507, 65-508, 65-512, 65-513, 65-523, 65-525 and 75-4319 are hereby
12 repealed.

13 Sec. 26. This act shall take effect and be in force from and after its
14 publication in the statute book.