

## SENATE BILL No. 390

By Committee on Public Health and Welfare

1-24

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1 AN ACT concerning public health; relating to medical care; enacting the  
2 conscientious right to refuse act; prohibiting discrimination against  
3 individuals who refuse certain medical interventions and creating a  
4 civil cause of action against entities who discriminate based upon such  
5 medical care refusal; revoking the authority of the secretary of health  
6 and environment to order individuals to isolate or quarantine and  
7 impose penalties for violations thereof; repealing K.S.A. 65-126, 65-  
8 127, 65-129 and 65-129c.  
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10 *Be it enacted by the Legislature of the State of Kansas:*

11 Section 1. (a) This section shall be known and may be cited as the  
12 conscientious right to refuse act.

13 (b) An employer, healthcare entity, school or person shall not commit  
14 any of the following acts based on an individual's refusal of any  
15 vaccination, biologic, pharmaceutical, drug, gene editing technology,  
16 DNA- or RNA-based product if such individual's refusal is for reasons of  
17 conscience:

18 (1) Adverse employment action, including, but not limited to, refusal  
19 to hire, dismissal or warning of possible dismissal, demotion, transfer,  
20 reassignment, suspension, reprimand, withholding of work, assessing any  
21 monetary penalty or unreasonable charge or discrimination in  
22 compensation or in terms, conditions or privileges of employment;

23 (2) denial of goods or services;

24 (3) denial of entry to a place otherwise accessible to the general  
25 public;

26 (4) segregation or separation of such individual from others without a  
27 valid business necessity;

28 (5) denial of housing;

29 (6) assessment of a financial penalty against such individual; or

30 (7) treatment of an individual differently from any other individual  
31 who accepted the medical intervention described in this subsection.

32 (c) (1) An individual who suffers any direct or indirect injury as a  
33 result of a violation of this section shall have a private cause of action for  
34 actual damages, injunctive relief and any other appropriate relief. Any  
35 action commenced under this section shall be filed within two years from  
36 the date that the injury occurs or after the act giving rise to the cause of

1 action.

2 (2) In an action brought for a violation of this section, a prevailing  
3 plaintiff shall recover three times the amount of actual damages sustained  
4 or \$10,000, whichever is greater, and the cost of the suit, including  
5 reasonable attorney fees.

6 (d) As used in this section:

7 (1) "Conscience" means theistic and non-theistic moral and ethical  
8 beliefs as to what is right and wrong that are sincerely held with the  
9 strength of traditional religious views.

10 (2) "Employer" means any person in this state who employs one or  
11 more persons. "Employer" includes the state of Kansas and all political  
12 subdivisions of the state.

13 (3) "Governmental entity" means the same as in K.S.A. 75-6102, and  
14 amendments thereto.

15 (4) "Healthcare entity" means a healthcare provider, a licensed  
16 medical care facility, a provider-sponsored organization, an insurance  
17 company, a health maintenance organization or administrator of a health  
18 benefits plan or any other healthcare facility or organization.

19 (5) "Healthcare provider" means any person licensed or otherwise  
20 authorized by law to provide healthcare services in this state or a  
21 professional corporation organized pursuant to the professional  
22 corporation law of Kansas by persons who are authorized by law to form  
23 such corporation and are healthcare providers, as defined in this  
24 subsection, or an officer, employee or agent thereof acting in the course  
25 and scope of employment or agency.

26 (6) "Medical care facility" means a hospital, ambulatory surgical  
27 center or recuperation center, an adult care home, a hospice certified to  
28 participate in the medicare program under C.F.R. 418.1 § et seq. that  
29 provides services only to hospice patients, a public health center, mental  
30 health center or mental health clinic licensed by the state of Kansas, a  
31 licensed psychiatric hospital or other facility or office where services of a  
32 healthcare provider are provided directly to patients.

33 (7) "Person" means an individual, partnership, association,  
34 organization, corporation, company, governmental entity, legal  
35 representative, trustee, trustee in bankruptcy or receiver.

36 (8) "School" means a public school or accredited nonpublic school or  
37 postsecondary educational institution as defined in K.S.A. 74-3201b, and  
38 amendments thereto.

39 Sec. 2. K.S.A. 65-126, 65-127, 65-129 and 65-129c are hereby  
40 repealed.

41 Sec. 3. This act shall take effect and be in force from and after its  
42 publication in the statute book.