

SENATE BILL No. 491

By Committee on Ways and Means

3-10

1 AN ACT concerning public health; relating to infectious disease testing;
2 crimes in which bodily fluids may have been transmitted from one
3 person to another; amending the definition of infectious disease;
4 amending K.S.A. 65-6009 and K.S.A. 2019 Supp. 65-6001 and
5 repealing the existing sections.

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

8 Section 1. K.S.A. 2019 Supp. 65-6001 is hereby amended to read as
9 follows: 65-6001. As used in K.S.A. 65-6001 through 65-6010, and
10 amendments thereto, unless the context clearly requires otherwise:

11 (a) "AIDS" means the disease acquired immune deficiency syndrome.
12 (b) "HIV" means the human immunodeficiency virus.
13 (c) "Laboratory confirmation of HIV infection" means positive test
14 results from a confirmation test approved by the secretary.

15 (d) "Secretary" means the secretary of health and environment.

16 (e) "Physician" means any person licensed to practice medicine and
17 surgery.

18 (f) "Laboratory director" means the person responsible for the
19 professional, administrative, organizational and educational duties of a
20 laboratory.

21 (g) "HIV infection" means the presence of HIV in the body.

22 (h) "Racial/ethnic group" shall be designated as either white, black,
23 Hispanic, Asian/Pacific islander or American Indian/Alaskan Native.

24 (i) "Corrections officer" means an employee of the department of
25 corrections as described in K.S.A. 75-5202(f) and (g), and amendments
26 thereto.

27 (j) "Emergency services employee" means an emergency medical
28 service provider as ~~defined under~~ *described in* K.S.A. 65-6112, and
29 amendments thereto, or a firefighter.

30 (k) "Law enforcement employee" means:

31 (1) Any police officer or law enforcement officer as defined under
32 K.S.A. 74-5602, and amendments thereto;

33 (2) any person in the service of a city police department or county
34 sheriff's office who performs law enforcement duties without pay and is
35 considered a reserve officer;

36 (3) any person employed by a city or county who is in charge of a jail

1 or section of jail, including jail guards and those who conduct searches of
2 persons taken into custody; or

3 (4) any person employed by a city, county or the state of Kansas who
4 works as a scientist or technician in a forensic laboratory.

5 (l) "Employing agency or entity" means the agency or entity
6 employing a corrections officer, emergency services employee, law
7 enforcement employee or jailer.

8 (m) "Infectious disease" means ~~AIDS~~ *those diseases designated by*
9 *the secretary through rules and regulations adopted pursuant to K.S.A. 65-*
10 *128, and amendments thereto, as infectious or contagious in their nature.*

11 (n) "Infectious disease tests" means tests approved by the secretary
12 for detection of infectious diseases.

13 (o) "Juvenile correctional facility staff" means an employee of the
14 ~~juvenile justice authority~~ *department of corrections* working in a juvenile
15 correctional facility as defined in K.S.A. 2019 Supp. 38-2302, and
16 amendments thereto.

17 Sec. 2. K.S.A. 65-6009 is hereby amended to read as follows: 65-
18 6009. (a) At the time of an appearance before a magistrate under K.S.A.
19 22-2901, and amendments thereto, the magistrate shall inform any person
20 arrested and charged with a crime in which it appears from the nature of
21 the charge that the transmission of body fluids from one person to another
22 may have been involved of the availability of infectious disease tests and
23 shall cause the alleged victim of such a crime, if any, to be notified that
24 infectious disease tests and counseling are available. If the victim of the
25 crime or the county or district attorney requests the court to order
26 infectious disease tests of the alleged offender or if the person arrested and
27 charged with a crime stated to the law enforcement officer making such
28 arrest that the person arrested and charged with the crime has an infectious
29 disease or is infected with an infectious disease, or used words of like
30 effect, the court shall order the arrested person to submit to infectious
31 disease tests. Testing for infectious disease shall occur not later than 48
32 hours after the alleged offender appears before a magistrate under K.S.A.
33 22-2901, and amendments thereto. The results of any test obtained under
34 this section shall be inadmissible in any criminal or civil proceeding. The
35 court shall also order the arrested person to submit to follow-up tests for
36 infectious diseases as may be medically appropriate.

37 (b) Upon conviction of a person for any crime which the court
38 determines from the facts of the case involved or was likely to have
39 involved the transmission of body fluids from one person to another, the
40 court: (1) May order the convicted person to submit to infectious disease
41 tests; or (2) shall order the convicted person to submit to infectious disease
42 tests if the victim of the crime or the parent or legal guardian of the victim,
43 if the victim is a minor, requests the court to issue such order. If infectious

1 disease tests are ordered under this subsection, the victim of the crime, if
2 any, who is not a minor, shall designate a health care provider or counselor
3 to receive such information on behalf of the victim. If the victim is a
4 minor, the parent or legal guardian of the victim shall designate the health
5 care provider or counselor to receive such information.

6 (c) The results of any infectious disease test ordered under subsection
7 (a) shall be disclosed to the law enforcement officer making such arrest,
8 the person arrested, the victim, the parent or legal guardian of the victim
9 and such other persons as the court determines have a legitimate need to
10 know the test result in order to provide for their protection. The results of
11 any infectious disease test ordered under subsection (b) shall be disclosed
12 to the court which ordered the test, the convicted person and to the person
13 designated under subsection (b) by the victim or victims of the crime or by
14 the parent or legal guardian of a victim if the victim is a minor. If an
15 infectious disease test ordered under this section results in a positive
16 reaction, the results shall be reported to the secretary of health and
17 environment and to the secretary of corrections.

18 ~~(d) As used in this section, infectious disease includes HIV and~~
19 ~~hepatitis B.~~

20 (e) The costs of any counseling and testing provided under this
21 section shall be paid from amounts appropriated to the department of
22 health and environment for that purpose. The court shall order the
23 adjudicated person to pay restitution to the department of health and
24 environment for the costs of any counseling provided under this section
25 and the costs of any test ordered or otherwise performed under this section.

26 Sec. 3. K.S.A. 65-6009 and K.S.A. 2019 Supp. 65-6001 are hereby
27 repealed.

28 Sec. 4. This act shall take effect and be in force from and after its
29 publication in the statute book.