

SENATE BILL No. 436

By Committee on Public Health and Welfare

2-3

1 AN ACT concerning public health; relating to responses to infectious or
2 contagious disease by certain public and private entities; ensuring a
3 right to in-person visitation at medical care facilities and adult care
4 homes; prohibiting certain public health orders related to isolation and
5 quarantine, stay-at-home orders, curfews and face masks; providing
6 criminal penalties for an individual who disregards an isolation or
7 quarantine recommendation when great bodily harm to another person
8 or death of another person results from such act; limiting state of
9 disaster emergency powers of the governor and state of local disaster
10 emergency powers of counties and cities related to stay-at-home orders,
11 curfews and face masks; powers of the secretary of health and
12 environment and local health officers; isolation or quarantine
13 recommendations; amending K.S.A. 65-129, 65-129b, 65-129c and 65-
14 129d and K.S.A. 2021 Supp. 21-5424, 48-925, 48-932, 65-101, 65-201
15 and 65-202 and repealing the existing sections.
16

17 *Be it enacted by the Legislature of the State of Kansas:*

18 New Section 1. No medical care facility, as defined in K.S.A. 65-425,
19 and amendments thereto, shall take action to prevent a person receiving
20 care at such medical care facility from receiving in-person visitation from
21 the following persons:

22 (a) The agent for healthcare decisions established by a durable power
23 of attorney for healthcare decisions pursuant to K.S.A. 58-625 et seq., and
24 amendments thereto; and

25 (b) (1) the spouse of such person receiving care;

26 (2) if the person receiving care does not have a spouse or such spouse
27 is unavailable, then the next of kin of such person receiving care; or

28 (3) if the person receiving care does not have a next of kin or such
29 next of kin is unavailable, then a person designated by such person
30 receiving care.

31 New Sec. 2. No adult care home, as defined in K.S.A. 39-923, and
32 amendments thereto, shall take action to prevent a person receiving care at
33 such adult care home from receiving in-person visitation from the
34 following persons:

35 (a) The agent for healthcare decisions established by a durable power
36 of attorney for healthcare decisions pursuant to K.S.A. 58-625 et seq., and

1 amendments thereto; and

2 (b) (1) the spouse of such person receiving care;

3 (2) if the person receiving care does not have a spouse or such spouse
4 is unavailable, then the next of kin of such person receiving care; or

5 (3) if the person receiving care does not have a next of kin or such
6 next of kin is unavailable, then a person designated by such person
7 receiving care.

8 New Sec. 3. (a) Notwithstanding any provision of law to the contrary,
9 a governmental entity or public official shall not:

10 (1) Order or otherwise impose upon a United States citizen any
11 period of isolation or quarantine based on an epidemic or other public
12 health reason;

13 (2) order or otherwise require that a United States citizen remain at
14 home based on an epidemic or other public health reason;

15 (3) order or otherwise impose upon a United States citizen any
16 curfew based on an epidemic or other public health reason; or

17 (4) order or otherwise require that a United States citizen wear a face
18 mask based on an epidemic or other public health reason.

19 (b) A governmental entity or public official may recommend that a
20 United States citizen take an action described in subsection (a).

21 New Sec. 4. The provisions of this act are severable. If any portion of
22 the act is declared unconstitutional or invalid, or the application of any
23 portion of the act to any person or circumstance is held unconstitutional or
24 invalid, the invalidity shall not affect other portions of the act that can be
25 given effect without the invalid portion or application, and the
26 applicability of such other portions of the act to any person or
27 circumstance shall remain valid and enforceable.

28 Sec. 5. K.S.A. 2021 Supp. 21-5424 is hereby amended to read as
29 follows: 21-5424. (a) It is unlawful for an individual, who knows oneself
30 to be infected with a life threatening communicable disease, to:

31 (1) Engage in sexual intercourse or sodomy with another individual
32 with the intent to expose that individual to that life threatening
33 communicable disease;

34 (2) sell or donate one's own blood, blood products, semen, tissue,
35 organs or other body fluids with the intent to expose the recipient to a life
36 threatening communicable disease; or

37 (3) share with another individual a hypodermic needle, syringe, or
38 both, for the introduction of drugs or any other substance into, or for the
39 withdrawal of blood or body fluids from, the other individual's body with
40 the intent to expose another person to a life threatening communicable
41 disease.

42 (b) *It is unlawful for an individual to disregard a recommendation*
43 *from a governmental entity or public official that such individual go to*

1 *and remain in isolation or quarantine based on an epidemic or other*
2 *public health reason when:*

3 (1) *A governmental entity or public official communicated the*
4 *recommendation to the individual in accordance with K.S.A. 65-129c, and*
5 *amendments thereto; and*

6 (2) *great bodily harm to another person or death of another person*
7 *results from such individual's disregard of the recommendation.*

8 (c) Violation of this section is a severity level 7, person felony.

9 ~~(e)~~(d) As used in this section:

10 (1) "Sexual intercourse" shall not include penetration by any object
11 other than the male sex organ; and

12 (2) "sodomy" shall not include the penetration of the anal opening by
13 any object other than the male sex organ.

14 Sec. 6. K.S.A. 2021 Supp. 48-925 is hereby amended to read as
15 follows: 48-925. (a) During any state of disaster emergency declared under
16 K.S.A. 48-924, and amendments thereto, the governor shall be
17 commander-in-chief of the organized and unorganized militia and of all
18 other forces available for emergency duty. To the greatest extent
19 practicable, the governor shall delegate or assign command authority by
20 prior arrangement, embodied in appropriate executive orders or in rules
21 and regulations of the adjutant general, but nothing shall restrict the
22 authority of the governor to do so by executive orders issued at the time of
23 a disaster.

24 (b) Under the provisions of this act and for the implementation of this
25 act, the governor may issue executive orders to exercise the powers
26 conferred by subsection (c) that have the force and effect of law during the
27 period of a state of disaster emergency declared under K.S.A. 48-924(b),
28 and amendments thereto, or as provided in K.S.A. 2021 Supp. 48-924b,
29 and amendments thereto. The chairperson of the legislative coordinating
30 council shall call a meeting of the council to occur within 24 hours of the
31 issuance of an executive order issued pursuant to this section for the
32 purposes of reviewing such order. Such executive orders shall be null and
33 void after the period of a state of disaster emergency has ended. Such
34 executive orders may be revoked at any time by concurrent resolution of
35 the legislature or, when the legislature is not in session or is adjourned
36 during session for three or more days, such orders may be revoked by the
37 legislative coordinating council with the affirmative vote of five members
38 thereof.

39 (c) Except as provided in K.S.A. 2021 Supp. 48-924b, and
40 amendments thereto, during a state of disaster emergency declared under
41 K.S.A. 48-924, and amendments thereto, in addition to any other powers
42 conferred upon the governor by law and subject to the provisions of
43 subsections (d) and (e), the governor may:

1 (1) Suspend the provisions of any regulatory statute prescribing the
2 procedures for conduct of state business, or the orders or rules and
3 regulations of any state agency which implements such statute, if strict
4 compliance with the provisions of such statute, order or rule and regulation
5 would prevent, hinder or delay in any way necessary action in coping with
6 the disaster;

7 (2) utilize all available resources of the state government and of each
8 political subdivision as reasonably necessary to cope with the disaster;

9 (3) transfer the supervision, personnel or functions of state
10 departments and agencies or units thereof for the purpose of performing or
11 facilitating emergency management activities;

12 (4) subject to any applicable requirements for compensation under
13 K.S.A. 48-933, and amendments thereto, commandeer or utilize any
14 private property if the governor finds such action necessary to cope with
15 the disaster;

16 (5) direct and compel the evacuation of all or part of the population
17 from any area of the state stricken or threatened by a disaster, if the
18 governor deems this action necessary for the preservation of life or other
19 disaster mitigation, response or recovery;

20 (6) prescribe routes, modes of transportation and destinations in
21 connection with such evacuation;

22 (7) control ingress and egress of persons and animals to and from a
23 disaster area, the movement of persons and animals within the area and the
24 occupancy by persons and animals of premises therein;

25 (8) suspend or limit the sale, dispensing or transportation of alcoholic
26 beverages, explosives and combustibles;

27 (9) make provision for the availability and use of temporary
28 emergency housing;

29 (10) require and direct the cooperation and assistance of state and
30 local governmental agencies and officials; and

31 (11) perform and exercise such other functions, powers and duties in
32 conformity with the constitution and the bill of rights of the state of
33 Kansas and with the statutes of the state of Kansas, except any regulatory
34 statute specifically suspended under the authority of subsection (c)(1), as
35 are necessary to promote and secure the safety and protection of the
36 civilian population.

37 (d) The governor shall not have the power or authority to limit or
38 otherwise restrict the sale, purchase, transfer, ownership, storage, carrying
39 or transporting of firearms or ammunition, or any component or
40 combination thereof, including any components or combination thereof
41 used in the manufacture of firearms or ammunition, or seize or authorize
42 the seizure of any firearms or ammunition, or any component or
43 combination thereto, except as otherwise permitted by state or federal law

1 pursuant to subsection (c)(8) or any other executive authority.

2 (e) The governor shall not have the power under the provisions of the
3 Kansas emergency management act ~~or the provisions of any other law to:~~

4 (1) Alter or modify any provisions of the election laws of the state
5 including, but not limited to, the method by which elections are conducted
6 or the timing of such elections;

7 (2) *order or otherwise impose upon a United States citizen any*
8 *period of isolation or quarantine based on an epidemic or other public*
9 *health reason;*

10 (3) *order or otherwise require that a United States citizen remain at*
11 *home based on an epidemic or other public health reason;*

12 (4) *order or otherwise impose upon a United States citizen any*
13 *curfew based on an epidemic or other public health reason; or*

14 (5) *order or otherwise require that a United States citizen wear a face*
15 *mask based on an epidemic or other public health reason.*

16 (f) The governor shall exercise the powers conferred by subsection
17 (c) by issuance of executive orders under subsection (b). Each executive
18 order issued pursuant to the authority granted by subsection (b) shall
19 specify the provision or provisions of subsection (c) by specific reference
20 to each paragraph of subsection (c) that confers the power under which the
21 executive order was issued. The adjutant general, subject to the direction
22 of the governor, shall administer such executive orders.

23 (g) (1) Any party aggrieved by an executive order issued pursuant to
24 this section that has the effect of substantially burdening or inhibiting the
25 gathering or movement of individuals or the operation of any religious,
26 civic, business or commercial activity, whether for-profit or not-for-profit,
27 may file a civil action in the district court of the county in which such
28 party resides or in the district court of Shawnee county, Kansas, within 30
29 days after the issuance of such executive order. Notwithstanding any order
30 issued pursuant to K.S.A. 2021 Supp. 20-172(a), and amendments thereto,
31 the court shall conduct a hearing within 72 hours after receipt of a petition
32 in any such action. The court shall grant the request for relief unless the
33 court finds such executive order is narrowly tailored to respond to the state
34 of disaster emergency and uses the least restrictive means to achieve such
35 purpose. The court shall issue an order on such petition within seven days
36 after the hearing is conducted. If the court does not issue an order on such
37 petition within seven days, the relief requested in the petition shall be
38 granted.

39 (2) Relief under this section shall not include a stay or injunction
40 concerning the contested executive order that applies beyond the county in
41 which the petition was filed.

42 (3) The supreme court may adopt emergency rules of procedure to
43 facilitate the efficient adjudication of any hearing requested under this

1 subsection, including, but not limited to, rules for consolidation of similar
2 hearings.

3 (h) (1) The board of county commissioners of any county may issue
4 an order relating to public health that includes provisions that are less
5 stringent than the provisions of an executive order effective statewide
6 issued by the governor. Any board of county commissioners issuing such
7 an order must make the following findings and include such findings in the
8 order:

9 (A) The board has consulted with the local health officer or other
10 local health officials regarding the governor's executive order;

11 (B) following such consultation, implementation of the full scope of
12 the provisions in the governor's executive order are not necessary to
13 protect the public health and safety of the county; and

14 (C) all other relevant findings to support the board's decision.

15 (2) If the board of county commissioners of a county issues an order
16 pursuant to paragraph (1), such order shall operate in the county in lieu of
17 the governor's executive order.

18 Sec. 7. K.S.A. 2021 Supp. 48-932 is hereby amended to read as
19 follows: 48-932. (a) A state of local disaster emergency may be declared
20 by the chairperson of the board of county commissioners of any county, or
21 by the mayor or other principal executive officer of each city of this state
22 having a disaster emergency plan, upon a finding by such officer that a
23 disaster has occurred or the threat thereof is imminent within such county
24 or city. No state of local disaster emergency shall be continued for a period
25 in excess of seven days or renewed, except with the consent of the board
26 of county commissioners of such county or the governing body of such
27 city. Any order or proclamation declaring, continuing or terminating a
28 local disaster emergency shall be given prompt and general publicity and
29 shall be filed with the county clerk or city clerk. Any such declaration may
30 be reviewed, amended or revoked by the board of county commissioners
31 or the governing body of the city, respectively, at a meeting of such
32 governing body.

33 (b) In the event of the absence of the chairperson of the board of
34 county commissioners from the county or the incapacity of such
35 chairperson, the board of county commissioners, by majority action of the
36 remaining members thereof, may declare a state of local disaster
37 emergency in the manner provided in and subject to the provisions of
38 subsection (a). In the event of the absence of the mayor or other principal
39 executive officer of a city from the city or the incapacity of such mayor or
40 officer, the governing body of the city, by majority action of the remaining
41 members thereof, may declare a state of local disaster emergency in the
42 manner provided in and subject to the provisions of subsection (a). Any
43 state of local disaster emergency and any actions taken pursuant to

1 applicable local and interjurisdictional disaster emergency plans, under
2 this subsection shall continue and have full force and effect as authorized
3 by law unless modified or terminated in the manner prescribed by law.

4 (c) The declaration of a local disaster emergency shall activate the
5 response and recovery aspects of any and all local and interjurisdictional
6 disaster emergency plans which are applicable to such county or city, and
7 shall initiate the rendering of aid and assistance thereunder.

8 (d) No interjurisdictional disaster agency or any official thereof may
9 declare a local disaster emergency, unless expressly authorized by the
10 agreement pursuant to which the agency functions. However, an
11 interjurisdictional disaster agency shall provide aid and services in
12 accordance with the agreement pursuant to which it functions in the case
13 of a state of local disaster emergency declared under subsection (a).

14 (e) *A governmental entity or public official shall not have the power
15 under the provisions of the Kansas emergency management act or any
16 other law to:*

17 (1) *Order or otherwise impose upon a United States citizen any
18 period of isolation or quarantine based on an epidemic or other public
19 health reason;*

20 (2) *order or otherwise require that a United States citizen remain at
21 home based on an epidemic or other public health reason;*

22 (3) *order or otherwise impose upon a United States citizen any
23 curfew based on an epidemic or other public health reason; or*

24 (4) *order or otherwise require that a United States citizen wear a face
25 mask based on an epidemic or other public health reason.*

26 ~~(e)~~(f) (1) Any party aggrieved by an action taken by a local unit of
27 government pursuant to this section that has the effect of substantially
28 burdening or inhibiting the gathering or movement of individuals or the
29 operation of any religious, civic, business or commercial activity, whether
30 for-profit or not-for-profit, may file a civil action in the district court of the
31 county in which such action was taken within 30 days after such action is
32 taken. Notwithstanding any order issued pursuant to K.S.A. 2021 Supp.
33 20-172(a), and amendments thereto, the court shall conduct a hearing
34 within 72 hours after receipt of a petition in any such action. The court
35 shall grant the request for relief unless the court finds such action is
36 narrowly tailored to respond to the state of local disaster emergency and
37 uses the least restrictive means to achieve such purpose. The court shall
38 issue an order on such petition within seven days after the hearing is
39 conducted. If the court does not issue an order on such petition within
40 seven days, the relief requested in the petition shall be granted.

41 (2) Relief under this section shall not include a stay or injunction
42 concerning the contested action that applies beyond the county in which
43 the action was taken.

1 (3) The supreme court may adopt emergency rules of procedure to
2 facilitate the efficient adjudication of any hearing requested under this
3 subsection, including, but not limited to, rules for consolidation of similar
4 hearings.

5 Sec. 8. K.S.A. 2021 Supp. 65-101 is hereby amended to read as
6 follows: 65-101. (a) *Except as provided in section 3, and amendments*
7 *thereto*, the secretary of health and environment shall exercise general
8 supervision of the health of the people of the state and may:

9 (1) Where authorized by any other statute, require reports from
10 appropriate persons relating to the health of the people of the state so a
11 determination of the causes of sickness and death among the people of the
12 state may be made through the use of these reports and other records;

13 (2) investigate the causes of disease, including especially, epidemics
14 and endemics, the causes of mortality and effects of locality, employments,
15 conditions, food, water supply, habits and other circumstances affecting
16 the health of the people of this state and the causes of sickness and death;

17 (3) advise other offices and agencies of government concerning
18 location, drainage, water supply, disposal of excreta and heating and
19 ventilation of public buildings;

20 (4) make sanitary inspection and survey of such places and localities
21 as the secretary deems advisable;

22 (5) take action to prevent the introduction of infectious or contagious
23 disease into this state and to prevent the spread of infectious or contagious
24 disease within this state;

25 (6) provide public health outreach services to the people of the state
26 including educational and other activities designed to increase the
27 individual's awareness and appropriate use of public and other preventive
28 health services.

29 (b) The secretary of health and environment may adopt rules and
30 regulations necessary to carry out the provisions of subsection (a). In
31 addition to other remedies provided by law, the secretary is authorized to
32 apply to the district court, and such court shall have jurisdiction upon a
33 hearing and for cause shown to grant a temporary or permanent injunction
34 to compel compliance with such rules and regulations.

35 (c) In the event of a state of disaster emergency declared by the
36 governor pursuant to K.S.A. 48-924, and amendments thereto, or a state of
37 local disaster emergency declared pursuant to K.S.A. 48-932, and
38 amendments thereto, the legislature may revoke an order issued by the
39 secretary to take action related to such disaster emergency as provided in
40 this subsection. Such order may be revoked at any time by concurrent
41 resolution of the legislature or, when the legislature is not in session or is
42 adjourned during session for three or more days, such order may be
43 revoked by the legislative coordinating council with the affirmative vote of

1 five members thereof.

2 Sec. 9. K.S.A. 65-129 is hereby amended to read as follows: 65-129.

3 Any person violating, refusing or neglecting to obey any of the rules and
4 regulations adopted by the secretary of health and environment for the
5 prevention, suppression and control of infectious or contagious diseases,~~or~~
6 ~~who leaves any isolation area of a hospital or other quarantined area~~
7 ~~without the consent of the local health officer having jurisdiction, or who~~
8 ~~evades or breaks quarantine~~ or knowingly ~~conceals~~ *concealing* a case of
9 infectious or contagious disease shall be guilty of a class C misdemeanor.

10 Sec. 10. K.S.A. 65-129b is hereby amended to read as follows: 65-
11 129b.~~(a)~~ Notwithstanding the provisions of K.S.A. 65-119, 65-122, 65-
12 123, 65-126 and 65-128, and amendments thereto, and any rules or
13 regulations adopted thereunder, in investigating actual or potential
14 exposures to an infectious or contagious disease that is potentially life-
15 threatening, the local health officer or the secretary:

16 ~~(A)~~(a) May issue ~~an order requiring~~ *a recommendation advising*
17 an individual who the local health officer or the secretary has reason to
18 believe has been exposed to an infectious or contagious disease to seek
19 appropriate and necessary evaluation and treatment;

20 ~~(B)~~(b) when the local health officer or the secretary determines that it
21 is medically necessary and reasonable to prevent or reduce the spread of
22 the disease or outbreak believed to have been caused by the exposure to an
23 infectious or contagious disease, may ~~order~~ *issue a recommendation*
24 *advising* an individual or group of individuals to go to and remain in
25 places of isolation or quarantine until the local health officer or the
26 secretary determines that the individual no longer poses a substantial risk
27 of transmitting the disease or condition to the public;

28 ~~(C)~~(c) if a competent individual of 18 years of age or older or an
29 emancipated minor refuses vaccination, medical examination, treatment or
30 testing under this section, may ~~require~~ *issue a recommendation advising*
31 the individual to go to and remain in a place of isolation or quarantine until
32 the local health officer or the secretary determines that the individual no
33 longer poses a substantial risk of transmitting the disease or condition to
34 the public; and

35 ~~(D)~~(d) if, on behalf of a minor child or ward, a parent or guardian
36 refuses vaccination, medical examination, treatment or testing under this
37 section, may ~~require~~ *issue a recommendation advising* the minor child or
38 ward to go to and remain in a place of isolation or quarantine and must
39 allow the parent or guardian to accompany the minor child or ward until
40 the local health officer or the secretary determines that the minor child or
41 ward no longer poses a substantial risk of transmitting the disease or
42 condition to the public; ~~and~~

43 ~~(2) may order any sheriff, deputy sheriff or other law enforcement~~

1 ~~officer of the state or any subdivision to assist in the execution or~~
 2 ~~enforcement of any order issued under this section.~~

3 Sec. 11. K.S.A. 65-129c is hereby amended to read as follows: 65-
 4 129c. (a) If the local health officer or the secretary ~~requires~~ *issues a*
 5 *recommendation advising* an individual or a group of individuals to go to
 6 and remain in places of isolation or quarantine under K.S.A. 65-129b, and
 7 amendments thereto, the local health officer or the secretary shall issue ~~an~~
 8 ~~order~~ *the recommendation* to the individual or group of individuals.

9 (b) ~~The order recommendation~~ shall specify:

10 (1) The identity of the individual or group of individuals subject to
 11 isolation or quarantine;

12 (2) the premises subject to isolation or quarantine;

13 (3) the date and time at which isolation or quarantine commences;

14 (4) the suspected infectious or contagious disease causing the
 15 outbreak or disease, if known;

16 (5) the basis upon which isolation or quarantine is justified; and

17 (6) the availability of a hearing to contest the ~~order recommendation~~.

18 (c) (1) Except as provided in paragraph (2) ~~of subsection (e)~~, the
 19 ~~order recommendation~~ shall be in writing and given to the individual or
 20 group of individuals prior to the individual or group of individuals being
 21 ~~required~~ *advised* to go to and remain in places of isolation and quarantine.

22 (2) (A) If the local health officer or the secretary determines that the
 23 notice required under paragraph (1) ~~of subsection (e)~~ is impractical
 24 because of the number of individuals or geographical areas affected, the
 25 local health officer or the secretary shall ensure that the affected
 26 individuals are fully informed of the ~~order recommendation~~ using the best
 27 possible means available.

28 (B) If the ~~order recommendation~~ applies to a group of individuals and
 29 it is impractical to provide written individual copies under paragraph (1) ~~of~~
 30 ~~subsection (e)~~, the written ~~order recommendation~~ may be posted in a
 31 conspicuous place in the isolation or quarantine premises.

32 (d) (1) An individual or group of individuals ~~isolated or quarantined~~
 33 *subject to a recommendation* under this section may request a hearing in
 34 district court contesting the isolation or quarantine, as provided in article
 35 15 of chapter 60 of the Kansas Statutes Annotated, *and amendments*
 36 *thereto*, but the provisions of this section shall apply to any ~~order~~
 37 ~~recommendation~~ issued under K.S.A. ~~65-129a to 65-129b through 65-~~
 38 ~~129d, inclusive,~~ and amendments thereto, notwithstanding any conflicting
 39 provisions contained in that article.

40 (2) A request for a hearing may not stay or enjoin an isolation or
 41 quarantine ~~order recommendation~~.

42 (3) Upon receipt of a request under this subsection ~~(d)~~, the court shall
 43 conduct a hearing within 72 hours after receipt of the request.

1 (4) (A) In any proceedings brought for relief under this subsection
2 ~~(4)~~, the court may extend the time for a hearing upon a showing by the
3 local health officer or the secretary or other designated official that
4 extraordinary circumstances exist that justify the extension.

5 (B) In granting or denying an extension, the court shall consider the
6 rights of the affected individual, the protection of the public health, the
7 severity of the health emergency and the availability, if necessary, of
8 witnesses and evidence.

9 (C) (i) The court shall grant the request for relief unless the court
10 determines that the isolation or quarantine ~~order~~ *recommendation* is
11 necessary and reasonable to prevent or reduce the spread of the disease or
12 outbreak believed to have been caused by the exposure to an infectious or
13 contagious disease.

14 (ii) If feasible, in making a determination under this ~~paragraph (C)~~
15 *subparagraph*, the court may consider the means of transmission, the
16 degree of contagion, and, to the extent possible, the degree of public
17 exposure to the disease.

18 (5) An order of the court authorizing the isolation or quarantine
19 issued under this section shall:

20 (A) Identify the isolated or quarantined individual or group of
21 individuals by name or shared characteristics;

22 (B) specify factual findings warranting isolation or quarantine; and

23 (C) except as provided in ~~paragraph (2)~~ of subsection (c)(2), be in
24 writing and given to the individual or group of individuals.

25 (6) If the court determines that the notice required in ~~paragraph (C)~~ of
26 subsection (d)(5) is impractical because of the number of individuals or
27 geographical areas affected, the court shall ensure that the affected
28 individuals are fully informed of the order using the best possible means
29 available.

30 (7) An order of the court authorizing isolation or quarantine shall be
31 effective for a period not to exceed 30 days. The court shall base its
32 decision on the standards provided under this section.

33 (8) In the event that an individual cannot personally appear before the
34 court, proceedings may be conducted:

35 (A) By an individual's authorized representative; and

36 (B) through any means that allows other individuals to fully
37 participate.

38 (9) In any proceedings brought under this section, the court may
39 order the consolidation of individual claims into group claims where:

40 (A) The number of individuals involved or affected is so large as to
41 render individual participation impractical;

42 (B) there are questions of law or fact common to the individual
43 claims or rights to be determined;

1 (C) the group claims or rights to be determined are typical of the
2 affected individual's claims or rights; and

3 (D) the entire group will be adequately represented in the
4 consolidation.

5 (10) The court shall appoint counsel to represent individuals or a
6 group of individuals who are not otherwise represented by counsel.

7 (11) The supreme court of Kansas may develop emergency rules of
8 procedure to facilitate the efficient adjudication of any proceedings
9 brought under this section.

10 Sec. 12. K.S.A. 65-129d is hereby amended to read as follows: 65-
11 129d. It shall be unlawful for any public or private employer to discharge
12 an employee solely because the employee or an immediate family member
13 of the employee is under ~~an order~~ *a recommendation* of isolation or
14 quarantine. The violation of this section is punishable as a violation of
15 K.S.A. 65-129, and amendments thereto.

16 Sec. 13. K.S.A. 2021 Supp. 65-201 is hereby amended to read as
17 follows: 65-201. (a) The board of county commissioners of each county
18 shall act as the county board of health for the county. Each county board
19 shall appoint a person licensed to practice medicine and surgery,
20 preference being given to persons who have training in public health, who
21 shall serve as the local health officer and who shall act in an advisory
22 capacity to the county board of health. The appointing authority of city-
23 county, county or multicounty health units with less than 100,000
24 population may appoint a qualified local health program administrator as
25 the local health officer if a person licensed to practice medicine and
26 surgery or person licensed to practice dentistry is designated as a
27 consultant to direct the administrator on program and related medical and
28 professional matters. The local health officer or local health program
29 administrator shall hold office at the pleasure of the board.

30 (b) (1) Except as provided in paragraph (2), any ~~order~~
31 *recommendation* issued by the local health officer, including ~~orders~~
32 *recommendations* issued as a result of an executive order of the governor,
33 may be reviewed, ~~amended or revoked~~ by the board of county
34 commissioners of the county affected by such ~~order~~ *recommendation* at a
35 meeting of the board. ~~Any order reviewed or amended by the board shall~~
36 ~~include an expiration date set by the board and may be amended or~~
37 ~~revoked at an earlier date by a majority vote of the board.~~

38 (2) *Except as provided in section 3, and amendments thereto*, if a
39 local health officer determines it is necessary to issue ~~an order mandating~~
40 ~~the wearing of face masks~~, *a recommendation* limiting the size of
41 gatherings of individuals, curtailing the operation of business, controlling
42 the movement of the population of the county or limiting religious
43 gatherings, the local health officer shall propose such ~~an order~~ *a*

1 *recommendation* to the board of county commissioners. At the next
2 regularly scheduled meeting of the board or at a special meeting of the
3 board, the board shall review such ~~proposed order~~ *recommendation* and
4 may take any action related to the ~~proposed order~~ *recommendation* the
5 board determines is necessary. The ~~order~~ *recommendation* shall become
6 effective if approved by the board or, if the board is unable to meet, if
7 approved by the chairperson of the board or the vice chairperson of the
8 board in the chairperson's absence or disability.

9 (c) The board of county commissioners in any county having a
10 population of less than 15,000 may contract with the governing body of
11 any hospital located in such county for the purpose of authorizing such
12 governing body of the hospital to supply services to a county board of
13 health.

14 (d) (1) Any party aggrieved by ~~an order~~ *a recommendation* issued
15 pursuant to subsection (b)(2) may file a civil action in the district court of
16 the county in which the ~~order~~ *recommendation* was issued within 30 days
17 after such ~~order~~ *recommendation* is issued. Notwithstanding any order
18 issued pursuant to K.S.A. 2021 Supp. 20-172(a), and amendments thereto,
19 the court shall conduct a hearing within 72 hours after receipt of a petition
20 in any such action. The court shall grant the request for relief unless the
21 court finds such ~~order~~ *recommendation* is narrowly tailored to the purpose
22 stated in the ~~order~~ *recommendation* and uses the least restrictive means to
23 achieve such purpose. The court shall issue an order on such petition
24 within seven days after the hearing is conducted. If the court does not issue
25 an order on such petition within seven days, the relief requested in the
26 petition shall be granted.

27 (2) Relief under this section shall not include a stay or injunction
28 concerning the contested action that applies beyond the county in which
29 the action was taken.

30 (3) The supreme court may adopt emergency rules of procedure to
31 facilitate the efficient adjudication of any hearing requested under this
32 subsection, including, but not limited to, rules for consolidation of similar
33 hearings.

34 Sec. 14. K.S.A. 2021 Supp. 65-202 is hereby amended to read as
35 follows: 65-202. (a) (1) The local health officer in each county throughout
36 the state, immediately after such officer's appointment, shall take the same
37 oath of office prescribed by law for the county officers, shall give bond of
38 \$500 conditioned for the faithful performance of the officer's duties, shall
39 keep an accurate record of all the transactions of such office, shall turn
40 over to the successor in office or to the county or joint board of health
41 selecting such officer, on the expiration of such officer's term of office, all
42 records, documents and other articles belonging to the office and shall
43 faithfully account to *the* board of county commissioners and to the county

1 and state for all moneys coming into the office. Such officer shall notify
2 the secretary of health and environment of such officer's appointment and
3 qualification, and provide the secretary with such officer's contact
4 information.

5 (2) Such officer shall receive and distribute without delay in the
6 county all forms from the secretary of health and environment to the
7 rightful persons, all returns from persons licensed to practice medicine and
8 surgery, assessors and local boards to said secretary, shall keep an accurate
9 record of all of the transactions of such office and shall turn over all
10 records and documents kept by such officer, the successor in office, or to
11 the county or joint board electing such officer, on the expiration of the
12 term of office.

13 (3) The local health officer shall upon the opening of the fall term of
14 school, make a sanitary inspection of each school building and grounds,
15 and shall make such additional inspections as are necessary to protect the
16 public health of the students of the school.

17 ~~(e)~~(b) (1) ~~Such~~ *The local health officer* shall make an investigation of
18 each case of smallpox, diphtheria, typhoid fever, scarlet fever, acute
19 anterior poliomyelitis (infantile paralysis), epidemic cerebro-spinal
20 meningitis and such other acute infectious, contagious or communicable
21 diseases as may be required, and, *except as provided in section 3, and*
22 *amendments thereto*, shall: (A) Use all known measures to prevent the
23 spread of any such infectious, contagious or communicable disease; and
24 shall (B) perform such other duties as this act, the county or joint board,
25 board of health or the secretary of health and environment may require.

26 (2) ~~Any order recommendation~~ issued by the local health officer,
27 including ~~orders recommendations~~ issued as a result of an executive order
28 of the governor, on behalf of a county regarding the remediation of any
29 infectious, *contagious or communicable* disease may be reviewed,
30 ~~amended or revoked~~ by the board of county commissioners of any county
31 affected by such ~~order recommendation~~ in the manner provided by K.S.A.
32 65-201(b), and amendments thereto.

33 (c) Such officer shall receive compensation as set by the board and
34 with the approval of the board of health may employ a skilled professional
35 nurse and other additional personnel whenever deemed necessary for the
36 protection of the public health.

37 (d) For any failure or neglect of the local health officer to perform
38 any of the duties prescribed in this act, the officer may be removed from
39 office by the county board of health. In addition to removal from office,
40 for any failure or neglect to perform any of the duties prescribed by this
41 act, the local health officer shall be deemed guilty of a *an unclassified*
42 misdemeanor and, upon conviction, be fined not less \$10 nor more than
43 \$100 for each and every offense.

1 Sec. 15. K.S.A. 65-129, 65-129b, 65-129c and 65-129d and K.S.A.
2 2021 Supp. 21-5424, 48-925, 48-932, 65-101, 65-201 and 65-202 are
3 hereby repealed.

4 Sec. 16. This act shall take effect and be in force from and after its
5 publication in the Kansas register.