

SENATE BILL No. 304

By Committee on Federal and State Affairs

3-23

1 AN ACT concerning the COVID-19 contact tracing privacy act; removing
2 the sunset provision; amending K.S.A. 2020 Supp. 48-961 and
3 repealing the existing section.
4

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

6 Section 1. K.S.A. 2020 Supp. 48-961 is hereby amended to read as
7 follows: 48-961. (a) This section shall be known and may be cited as the
8 COVID-19 contact tracing privacy act.

9 (b) The purpose of this act is to protect the privacy of persons whose
10 information is collected through contact tracing and the confidentiality of
11 contact data.

12 (c) (1) Except as provided by paragraph (2), neither the state nor any
13 municipality, officer or official or agent thereof, may conduct or authorize
14 contact tracing.

15 (2) Whenever the secretary or a local health officer determines
16 contact tracing is necessary to perform a public health duty assigned by
17 statute to such official, the secretary or local health officer may conduct or
18 authorize contact tracing as provided by this section.

19 (d) (1) Subject to the availability of appropriations, the secretary or a
20 local health officer may employ, contract for or engage contact tracers.

21 (2) Persons acting as contact tracers under authority of this subsection
22 shall meet the qualifications and training prescribed by rules and
23 regulations of the secretary adopted pursuant to subsection (j). ~~Until such~~
24 ~~rules and regulations are adopted, but no later than August 1, 2020,~~
25 ~~persons acting as contact tracers may act under the supervision of the~~
26 ~~secretary and in compliance with the other provisions of this act.~~

27 (3) (A) Before collecting any contact data, each person acting as a
28 contact tracer shall execute, under oath, on a form prescribed by rules and
29 regulations of the secretary adopted pursuant to subsection (j), an
30 acknowledgment of familiarity with this section and the duties it imposes
31 upon such person, including the duty of confidentiality.

32 (B) The state or municipal entity hiring, contracting with or engaging
33 the contact tracer shall maintain a copy of each such executed form for not
34 less than one year after such person's duties as a contact tracer end, or
35 pursuant to applicable records retention schedules, whichever is later.

36 (4) A contact tracer employed, contracted or engaged by the secretary

1 shall be deemed a state employee under the Kansas tort claims act, K.S.A.
2 75-6101 et seq., and amendments thereto. A contact tracer employed,
3 contracted or engaged by a local health officer shall be deemed an
4 employee of the county under the Kansas tort claims act, K.S.A. 75-6101
5 et seq., and amendments thereto.

6 (e) (1) A contact tracer shall not disclose the identity of an infected
7 person to a contact.

8 (2) Only contact data specifically authorized by the secretary
9 pursuant to rules and regulations of the secretary adopted pursuant to
10 subsection (j) may be collected as part of contact tracing.

11 (3) The secretary, a local health officer or a contact tracer shall not
12 produce contact data pursuant to a subpoena unless such subpoena is
13 issued by a court and is accompanied by a valid protective order
14 preventing further disclosure of such data.

15 (4) Contact data shall be:

16 (A) Used only for the purpose of contact tracing and not for any other
17 purpose;

18 (B) confidential and shall not be disclosed, produced in response to
19 any Kansas open records act request or made public, unless the disclosure
20 is necessary to conduct contact tracing; and

21 (C) safely and securely destroyed when no longer necessary for
22 contact tracing, pursuant to rules and regulations of the secretary adopted
23 pursuant to subsection (j).

24 (f) (1) Participation in contact tracing shall be voluntary, and no
25 contact or infected person shall be compelled to participate in, nor be
26 prohibited from participating in, contact tracing.

27 (2) Any contact or infected person who in good faith discloses to a
28 contact tracer information requested by such contact tracer under authority
29 of this subsection shall be immune from civil, criminal and administrative
30 liability for such disclosure.

31 (3) No criminal, civil or administrative liability shall arise against a
32 contact or infected person solely due to such person's failure to cooperate
33 in contact tracing conducted pursuant to this subsection.

34 (g) Contact tracing shall not be conducted through the use of any
35 service or means that uses cellphone location data to identify or track,
36 directly or indirectly, the movement of persons.

37 (h) (1) No third party shall be required to collect or maintain data
38 regarding infected persons or contacts for the purpose of contact tracing.

39 (2) Except as provided by paragraph (3), no contact tracer shall obtain
40 contact data related to an infected person or contact from any third party.

41 (3) Contact data voluntarily collected or maintained by a third party
42 may be obtained by a contact tracer only if:

43 (A) The third party provides such information to the contact tracer

1 voluntarily and with the consent of the infected person or contact whose
2 information is disclosed; or

3 (B) such information is provided pursuant to a valid warrant.

4 (i) (1) A person may bring a civil action to enjoin violations of this
5 section.

6 (2) A knowing violation of this section is a class C nonperson
7 misdemeanor.

8 (3) Contact data shall be deemed personal information within the
9 meaning of K.S.A. 50-6,139b(a)(3), and amendments thereto.

10 (4) The remedies provided by this subsection shall be in addition to
11 each other and to any other available civil or criminal remedies authorized
12 by law.

13 (j) The secretary shall promulgate rules and regulations to implement,
14 administer and enforce the provisions of this section prior to August 1,
15 2020.

16 (k) As used in this section, unless the context otherwise requires:

17 (1) "Contact" means a person known to have been in association with
18 an infected person as to have had an opportunity of acquiring an infection.

19 (2) "Contact tracing" means identifying persons who may have been
20 exposed to an infected person for the purpose of containing the spread of
21 COVID-19 by notifying the contact that the contact may have been
22 exposed, should be tested and should self-quarantine.

23 (3) "Contact tracer" means a person or entity employed, contracted or
24 engaged by the department of health and environment or by a local health
25 agency to conduct contact tracing.

26 (4) "COVID-19" means the novel coronavirus identified as SARS-
27 CoV-2.

28 (5) "Contact data" means information collected through contact
29 tracing and includes medical, epidemiological, individual movement or
30 mobility, names or other data.

31 (6) "Infected person" means a person known or reasonably suspected
32 to be infected with COVID-19.

33 (7) "Local health officer" means a person appointed by a county
34 board of health pursuant to K.S.A. 65-201, and amendments thereto.

35 (8) "Municipality" means the same as in K.S.A. 75-6102, and
36 amendments thereto.

37 (9) "Secretary" means the secretary of health and environment.

38 (10) "State" means the same as in K.S.A. 75-6102, and amendments
39 thereto.

40 ~~(1) The provisions of this section shall expire on May 1, 2021.~~

41 Sec. 2. K.S.A. 2020 Supp. 48-961 is hereby repealed.

42 Sec. 3. This act shall take effect and be in force from and after its
43 publication in the Kansas register.