

SENATE BILL No. 541

By Committee on Federal and State Affairs

3-1

1 AN ACT concerning *governmental action; relating to* public health;
2 requiring compensation for the use, restriction on use, damage, loss or
3 destruction of property as a result of certain governmental actions
4 *prohibiting a governmental entity or public official from ordering or*
5 *otherwise requiring a person to wear a face mask as a response to a*
6 *contagious or infectious disease; {prohibiting a governmental entity*
7 *or public official from restricting worship services or activities;}*
8 providing that orders and similar actions by public officials relating to
9 ~~face mask mandates, gathering limitations; {and} business restrictions~~
10 ~~and religious gathering limitations~~ shall not exceed 30 days in duration
11 at a time before being renewed or allowed to expire; requiring court
12 petitions challenging such orders and actions to be ruled on without
13 unreasonable delay; prohibiting school officials from issuing or
14 requiring use of a COVID-19 vaccination passport or discriminating
15 against a student based upon COVID-19 vaccination status; requiring
16 schools to recognize exemptions from vaccination requirements ~~and~~
17 ~~face mask mandates~~; modifying judicial review provisions related to
18 certain executive orders issued during a state of disaster emergency and
19 certain actions taken by a local unit of government during a state of
20 local disaster emergency; *limiting powers of the governor and other*
21 *governmental entities under the Kansas emergency management act*
22 *related to the exercise of religion*; prescribing powers, duties and
23 functions of the board of education of each school district, the
24 governing body of each community college and the governing body of
25 each technical college related to contagious or infectious disease and
26 modifying judicial review provisions related thereto; removing the
27 sunset provision in the COVID-19 contact tracing privacy act;
28 prohibiting schools and child care facilities from denying access to
29 facilities unless there are reasonable grounds to believe that the person
30 is actually infected with a disease suspected of being infectious or
31 contagious; ~~authorizing reimbursement of property taxes levied upon~~
32 ~~businesses shut down or restricted as a result of certain governmental~~
33 ~~actions related to contagious or infectious disease~~; amending K.S.A.
34 65-119, 65-122 and 72-6262 and K.S.A. 2021 Supp. 48-925, 48-925c,

1 48-925d, 48-932, 48-961, 65-101, 65-201 and ~~79-1614~~ **65-202** and
2 repealing the existing sections.

3
4 *Be it enacted by the Legislature of the State of Kansas:*

5 ~~New Section 1.—(a) Each person within this state shall act and manage~~
6 ~~the affairs of such person and such person's property in any way that~~
7 ~~reasonably will assist and not detract from the ability of the state and the~~
8 ~~public successfully to prevent and respond to contagious or infectious~~
9 ~~disease. This obligation includes appropriate personal service and~~
10 ~~appropriate use of property in response to a governmental action. This~~
11 ~~section neither increases nor decreases these obligations but recognizes~~
12 ~~their existence under the constitution and statutes and the common law of~~
13 ~~this state. Compensation for services or for the taking, use or restriction on~~
14 ~~use of property shall be only to the extent that obligations recognized in~~
15 ~~this subsection are exceeded in a particular case and only to the extent that~~
16 ~~the claimant may not be deemed to have volunteered services or property~~
17 ~~without compensation.~~

18 ~~(b) No personal services may be compensated by the state or any~~
19 ~~subdivision or agency thereof under this section except pursuant to statute~~
20 ~~enacted or ordinance duly adopted therefor.~~

21 ~~(c) Compensation for property shall be provided only if the property~~
22 ~~was commandeered, restricted for use or otherwise used pursuant to a~~
23 ~~governmental action and the destruction, use or restriction on use of such~~
24 ~~property was ordered by a public official pursuant to such governmental~~
25 ~~action.~~

26 ~~(d) Any person claiming compensation for the use, restriction on use,~~
27 ~~damage, loss or destruction of property under this section as a result of a~~
28 ~~governmental action shall file a claim therefor in the district court in the~~
29 ~~same manner as any other civil action. The court shall determine the~~
30 ~~validity of such claim in the same manner and under the same procedures~~
31 ~~prescribed for condemnation actions pursuant to K.S.A. 26-501 et seq.,~~
32 ~~and amendments thereto. Unless the amount of compensation on account~~
33 ~~of property damaged, lost or destroyed is agreed upon by the claimant and~~
34 ~~the governmental entity, the amount of compensation shall be calculated in~~
35 ~~the same manner as compensation due for a taking of property pursuant to~~
36 ~~the condemnation law of this state.~~

37 ~~(e) Any award of compensation for the commandeering, use or~~
38 ~~restriction on use of the property by the governmental entity shall:~~

39 ~~(1) Be paid by the governmental entity ordering the commandeering,~~
40 ~~use or restriction on use of the property at issue;~~

41 ~~(2) be limited to the actual cost of such use or restriction on use as~~
42 ~~determined by the board of appraisers; and~~

43 ~~(3) not include loss of present or future profits, opportunity cost or~~

1 other extraordinary damages.

2 (f) ~~As used in this section:~~

3 (1) ~~"Governmental action" means an order, resolution or ordinance~~
4 ~~related to a contagious or infectious disease issued or adopted by the state,~~
5 ~~county, city or other political subdivision of the state, including, but not~~
6 ~~limited to, an order, resolution or ordinance issued or adopted pursuant to a~~
7 ~~declared state of disaster emergency under K.S.A. 48-924, and~~
8 ~~amendments thereto, or a declared state of local disaster emergency under~~
9 ~~K.S.A. 48-932, and amendments thereto, that mandates the wearing of face~~
10 ~~masks, limits the size of gatherings of individuals, restricts the operation of~~
11 ~~business, controls the movement of persons or limits religious gatherings;~~

12 (2) ~~"private property" means the same as defined in K.S.A. 77-703,~~
13 ~~and amendments thereto, and any other personal or business property used~~
14 ~~or restricted for use by a governmental entity pursuant to a governmental~~
15 ~~action;~~

16 (3) ~~"restriction on use" or "restricted for use" means:~~

17 (A) ~~Any taking as defined in K.S.A. 77-703, and amendments~~
18 ~~thereto;~~

19 (B) ~~any restriction, limitation on access to or operation of private~~
20 ~~property;~~

21 (C) ~~exertion of control over any private property for any amount of~~
22 ~~time pursuant to a governmental action; or~~

23 (D) ~~substantially burdening the operation of any religious, civic,~~
24 ~~business or commercial entity, whether for-profit or not-for-profit.~~

25 (g) ~~This section shall only apply to a governmental action taken on or~~
26 ~~after the effective date of this act.~~

27 ~~New Sec. 2. **Section 1.** (a) (1) If a city adopts an ordinance or takes~~
28 ~~any action related to a contagious or infectious disease, including, but not~~
29 ~~limited to, an order, resolution or ordinance issued or adopted pursuant to a~~
30 ~~declared state of disaster emergency under K.S.A. 48-924, and~~
31 ~~amendments thereto, or a declared state of local disaster emergency under~~
32 ~~K.S.A. 48-932, and amendments thereto, that mandates the wearing of face~~
33 ~~masks, limits the size of gatherings of individuals, restricts the operation of~~
34 ~~business; *{or}* controls the movement of persons or limits religious~~
35 ~~gatherings, such ordinance or action shall not exceed 30 days in duration at~~
36 ~~a time before such ordinance or action shall be renewed, modified,~~
37 ~~rescinded or allowed to expire.~~

38 (2) For purposes of this section, "restricts the operation of business"
39 includes, but is not limited to, any occupancy limitation, limitation on
40 periods of operation or the exertion by any governmental entity of other
41 significant control on business resources, property or functionality.

42 (b) (1) Any party aggrieved by an ordinance adopted or an action
43 taken pursuant to subsection (a) may file a civil action in the district court

1 of the county in which the city is located within 30 days after such
2 ordinance is adopted or such action is taken. Notwithstanding any order
3 issued pursuant to K.S.A. 2021 Supp. 20-172(a), and amendments thereto,
4 the court shall conduct a hearing within 72 hours after receipt of a petition
5 in any such action. The court shall grant the request for relief unless the
6 court finds such order is narrowly tailored to the purpose stated in the
7 order and uses the least restrictive means to achieve such purpose. The
8 court shall issue an order on such petition without unreasonable delay after
9 the hearing is conducted.

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

13 (3) In an action under this section, the court shall award a prevailing
14 plaintiff the cost of the suit, including reasonable attorney fees.

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

19 ~~New Sec.—3:~~ 2. (a) Notwithstanding any provision of law to the
20 contrary, postsecondary educational institutions, as defined in K.S.A. 74-
21 3201b, and amendments thereto, the state board of education, local boards
22 of education, schools or school officials shall not:

23 (1) Issue a COVID-19 vaccination passport to any individual without
24 such individual's consent;

25 (2) require an individual to use a COVID-19 vaccination passport for
26 any purpose; or

27 (3) refuse access to education or a place accessible to the general
28 public or separate an individual from others based on such individual's
29 COVID-19 vaccination status.

30 (b) Violation of any provision of this section is a class A nonperson
31 misdemeanor.

32 (c) As used in this section:

33 (1) "COVID-19 vaccination passport" means a document, digital
34 record or software application indicating an individual's COVID-19
35 vaccination status;

36 (2) "COVID-19 vaccination status" means an indication of whether a
37 person has received one or more doses of a COVID-19 vaccine; and

38 (3) "COVID-19 vaccine" means an immunization, vaccination or
39 injection against disease caused by the novel coronavirus identified as
40 SARS-CoV-2 or disease caused by a variant of the virus.

41 ~~New Sec. 4. (a) If a school district or any school building or activity~~
42 ~~thereof requires some or all students, district personnel or visitors to wear~~
43 ~~a face mask covering the mouth or nose for any reason, any student,~~

1 ~~district personnel or visitor with a medical condition or religious~~
2 ~~opposition preventing the wearing of a face mask shall not be required to~~
3 ~~wear such face mask on school property or at school activities if such~~
4 ~~person presents:~~

5 ~~(1) A written statement signed by a licensed physician or parent or~~
6 ~~guardian, or signed by the person if such person is 18 years of age or older,~~
7 ~~stating the physical condition of the person to be such that wearing a face~~
8 ~~mask would seriously endanger the life or health of the person; or~~

9 ~~(2) a written statement signed by one parent or guardian, or signed by~~
10 ~~the person if such person is 18 years of age or older, that wearing a face~~
11 ~~mask would violate sincerely held religious beliefs of the person. The~~
12 ~~person shall be granted an exemption requested in accordance with this~~
13 ~~paragraph based on sincerely held religious beliefs without inquiring into~~
14 ~~the sincerity of the request.~~

15 ~~(b) On or before May 15 of each school year, the school board of~~
16 ~~every school affected by this section shall notify all district personnel and~~
17 ~~the parents or guardians of all known students who are enrolled or who~~
18 ~~will be enrolling in the school of the provisions of this section and any~~
19 ~~policy regarding the implementation of the provisions of this section~~
20 ~~adopted by the school board.~~

21 ~~(c) If a student transfers from one school to another, the school from~~
22 ~~which the student transfers shall forward with the student's transcript the~~
23 ~~certification or statement described in subsection (a) to the school to which~~
24 ~~the student transfers.~~

25 ~~(d) No student, district personnel or visitor who has presented a~~
26 ~~certification or other documentation pursuant to subsection (a) shall be:~~

27 ~~(1) Denied enrollment or full, in-person participation in any school~~
28 ~~activity because of such action; or~~

29 ~~(2) segregated or separated from other individuals because of such~~
30 ~~action.~~

31 ~~(e) As used in this section:~~

32 ~~(1) "Religious beliefs" includes, but is not limited to, theistic and~~
33 ~~non-theistic moral and ethical beliefs as to what is right and wrong that are~~
34 ~~sincerely held with the strength of traditional religious views; and~~

35 ~~(2) all other terms mean the same as defined in K.S.A. 72-6261, and~~
36 ~~amendments thereto.~~

37 *New Sec. 3. (a) Notwithstanding any provision of law to the*
38 *contrary, a governmental entity or public official shall not order or*
39 *otherwise require a person to wear a face mask as a response to a*
40 *contagious or infectious disease.*

41 *(b) A governmental entity or public official may recommend that a*
42 *person wear a face mask as a response to a contagious or infectious*
43 *disease.*

1 ***{New Sec. 4. Notwithstanding any provision of law to the contrary,***
2 ***a governmental entity or public official shall not:***

3 ***(a) Restrict the manner of any worship service or activity in any***
4 ***way in this state;***

5 ***(b) suspend, regulate or prohibit the conduct of any worship service***
6 ***or activity in this state, regardless of whether the worship service or***
7 ***activity is conducted inside a building, inside a temporary structure or***
8 ***outdoors; or***

9 ***(c) limit the number of participants of any worship service or***
10 ***activity in this state, other than by enforcing limitations on the number***
11 ***of persons in a building imposed by fire codes.}***

12 ~~New Sec. 5.4. {5.}~~ The provisions of this act are severable. If any
13 portion of the act is declared unconstitutional or invalid, or the application
14 of any portion of the act to any person or circumstance is held
15 unconstitutional or invalid, the invalidity shall not affect other portions of
16 the act that can be given effect without the invalid portion or application,
17 and the applicability of such other portions of the act to any person or
18 circumstance shall remain valid and enforceable.

19 ~~Sec. 6.5. {6.}~~ K.S.A. 2021 Supp. 48-925 is hereby amended to read
20 as follows: 48-925. (a) During any state of disaster emergency declared
21 under K.S.A. 48-924, and amendments thereto, the governor shall be
22 commander-in-chief of the organized and unorganized militia and of all
23 other forces available for emergency duty. To the greatest extent
24 practicable, the governor shall delegate or assign command authority by
25 prior arrangement, embodied in appropriate executive orders or in rules
26 and regulations of the adjutant general, but nothing shall restrict the
27 authority of the governor to do so by executive orders issued at the time of
28 a disaster.

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

1 (c) Except as provided in K.S.A. 2021 Supp. 48-924b, and
2 amendments thereto, during a state of disaster emergency declared under
3 K.S.A. 48-924, and amendments thereto, in addition to any other powers
4 conferred upon the governor by law and subject to the provisions of
5 ~~subsections~~ **subsection (d)** ~~and (e)~~, the governor may:

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

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

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

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

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

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

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

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

32 (9) make provision for the availability and use of temporary
33 emergency housing;

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

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

42 (d) **(1)** The governor shall not have the power or authority to limit or
43 otherwise restrict the sale, purchase, transfer, ownership, storage, carrying

1 or transporting of firearms or ammunition, or any component or
2 combination thereof, including any components or combination thereof
3 used in the manufacture of firearms or ammunition, or seize or authorize
4 the seizure of any firearms or ammunition, or any component or
5 combination thereto, except as otherwise permitted by state or federal law
6 pursuant to subsection (c)(8) or any other executive authority.

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

10 *(A)* Alter or modify any provisions of the election laws of the state
11 including, but not limited to, the method by which elections are conducted
12 or the timing of such elections; *or*

13 *(B)* ~~order or otherwise require a person to wear a face mask as a~~
14 ~~response to a contagious or infectious disease.~~

15 *(3)* ~~No rule, regulation or executive order issued by the governor or~~
16 ~~any other governmental entity pursuant to the Kansas emergency~~
17 ~~management act shall apply to the exercise of religion in a church,~~
18 ~~synagogue or other place of worship.~~

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

26 ~~(f)~~ *(f)* (1) Any party aggrieved by an executive order issued pursuant
27 to this section that has the effect of substantially burdening or inhibiting
28 the gathering or movement of individuals or the operation of any religious,
29 civic, business or commercial activity, whether for-profit or not-for-profit,
30 may file a civil action in the district court of the county in which such
31 party resides or in the district court of Shawnee county, Kansas, within 30
32 days after the issuance of such executive order. Notwithstanding any order
33 issued pursuant to K.S.A. 2021 Supp. 20-172(a), and amendments thereto,
34 the court shall conduct a hearing within 72 hours after receipt of a petition
35 in any such action. The court shall grant the request for relief unless the
36 court finds such executive order is narrowly tailored to respond to the state
37 of disaster emergency and uses the least restrictive means to achieve such
38 purpose. The court shall issue an order on such petition ~~within seven days~~
39 ~~without unreasonable delay~~ after the hearing is conducted. ~~If the court~~
40 ~~does not issue an order on such petition within seven days, the relief~~
41 ~~requested in the petition shall be granted.~~

42 (2) Relief under this section shall not include a stay or injunction
43 concerning the contested executive order that applies beyond the county in

1 which the petition was filed.

2 (3) *In an action under this section, the court shall award a prevailing*
3 *plaintiff the cost of the suit, including reasonable attorney fees.*

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

8 ~~(h)~~(g) (1) The board of county commissioners of any county may
9 issue an order relating to public health that includes provisions that are less
10 stringent than the provisions of an executive order effective statewide
11 issued by the governor. Any board of county commissioners issuing such
12 an order must make the following findings and include such findings in the
13 order:

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

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

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

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

23 ~~Sec. 7-6 {7,}~~ K.S.A. 2021 Supp. 48-925c is hereby amended to read
24 as follows: 48-925c. (a) (1) ~~During the state of disaster emergency related~~
25 ~~to the COVID-19 health emergency described in K.S.A. 2021 Supp. 48-~~
26 ~~924b, and amendments thereto, Only the board of education responsible~~
27 ~~for the maintenance, development and operation of a school district shall~~
28 ~~have the authority to take any action, issue any order or adopt any policy~~
29 ~~made or taken in response to such disaster emergency a contagious or~~
30 ~~infectious disease that affects the operation of any school or attendance~~
31 ~~center of such school district, including, but not limited to, any action,~~
32 ~~order or policy that:~~

33 (A) Closes or has the effect of closing any school or attendance center
34 of such school district;

35 (B) authorizes or requires any form of attendance other than full-time,
36 in-person attendance at a school in the school district, including, but not
37 limited to, hybrid or remote learning; or

38 (C) mandates any action by any students or employees of a school
39 district while on school district property.

40 (2) An action taken, order issued or policy adopted by the board of
41 education of a school district pursuant to paragraph (1) shall:

42 (A) Only affect the operation of schools under the jurisdiction of the
43 board and shall not affect the operation of nonpublic schools; *and*

1 (B) *not exceed 30 days in duration at a time before such action, order*
2 *or policy shall be renewed, modified, rescinded or allowed to expire.*

3 (3) ~~During any such disaster emergency,~~ The state board of education,
4 the governor, the department of health and environment, a local health
5 officer, a city health officer or any other state or local unit of government
6 may provide guidance, consultation or other assistance to the board of
7 education of a school district but shall not take any action ~~related to such~~
8 ~~disaster emergency~~ that affects the operation of any school or attendance
9 center of such school district ~~pursuant as described in~~ to paragraph (1).

10 (b) Any meeting of a board of education of a school district
11 discussing an action, order or policy described in this section, including
12 any hearing by the board under subsection (c), shall be open to the public
13 in accordance with the open meetings act, K.S.A. 75-4317 et seq., and
14 amendments thereto, and may be conducted by electronic audio-visual
15 communication when necessary to secure the health and safety of the
16 public, the board and employees.

17 (c) (1) An employee, a student or the parent or guardian of a student
18 aggrieved by an action taken, order issued or policy adopted by the board
19 of education of a school district pursuant to subsection (a)(1), or an action
20 of any employee of a school district violating any such action, order or
21 policy, may request a hearing by such board of education to contest such
22 action, order or policy within 30 days after the action was taken, order was
23 issued or policy was adopted by the board of education. Any such request
24 shall not stay or enjoin such action, order or policy.

25 (2) Upon receipt of a request under paragraph (1), the board of
26 education shall conduct a hearing within 72 hours of receiving such
27 request for the purposes of reviewing, amending or revoking such action,
28 order or policy. The board shall issue a decision within seven days after the
29 hearing is conducted.

30 (3) The board of education may adopt emergency rules of procedure
31 to 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 (d) (1) An employee, a student or the parent or guardian of a student
35 aggrieved by a decision of the board of education under subsection (c)(2)
36 may file a civil action in the district court of the county in which such
37 party resides or in the district court of Shawnee county, Kansas, within 30
38 days after such decision is issued by the board. Notwithstanding any order
39 issued pursuant to K.S.A. 2021 Supp. 20-172(a), and amendments thereto,
40 the court shall conduct a hearing within 72 hours after receipt of a petition
41 in any such action. The court shall grant the request for relief unless the
42 court finds the action taken, order issued or policy adopted by the board of
43 education is narrowly tailored to respond to the state of disaster emergency

1 and uses the least restrictive means to achieve such purpose. The court
2 shall issue an order on such petition ~~within seven days without~~
3 *unreasonable delay* after the hearing is conducted. ~~If the court does not~~
4 ~~issue an order on such petition within seven days, the relief requested in~~
5 ~~the petition shall be granted.~~

6 (2) Relief under this section shall not include a stay or injunction
7 concerning the contested action taken, order issued or policy adopted by
8 the board of education that applies beyond the county in which the petition
9 was filed.

10 (3) *In an action under this section, the court shall award a prevailing*
11 *plaintiff the cost of the suit, including reasonable attorney fees.*

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

16 ~~Sec. 8-7. {8.}~~ K.S.A. 2021 Supp. 48-925d is hereby amended to read
17 as follows: 48-925d. (a) (1) ~~During the state of disaster emergency related~~
18 ~~to the COVID-19 health emergency described in K.S.A. 2021 Supp. 48-~~
19 ~~924b, and amendments thereto;~~ Only the governing body of a community
20 college, as established pursuant to K.S.A. 71-201, and amendments
21 thereto, or the governing body of a technical college, as established
22 pursuant to K.S.A. 74-32,452, and amendments thereto, shall have the
23 authority to take any action, issue any order or adopt any policy made or
24 taken in response to ~~such disaster emergency~~ *a contagious or infectious*
25 *disease* that affects the operation of the community college or technical
26 college governed by such governing body, including, but not limited to,
27 any action, order or policy that:

28 (A) Closes or has the effect of closing any community college or
29 technical college;

30 (B) authorizes or requires any form of attendance at any community
31 college or technical college; or

32 (C) mandates any action by any students or employees of a
33 community college or technical college while on college property.

34 (2) ~~During any such disaster emergency,~~ *An action taken, order issued*
35 *or policy adopted by the governing body of a community college or*
36 *technical college pursuant to paragraph (1) shall not exceed 30 days in*
37 *duration at a time before such action, order or policy shall be renewed,*
38 *modified, rescinded or allowed to expire.*

39 (3) The state board of regents, the governor, the department of health
40 and environment, a local health officer, a city health officer, the Kansas
41 association of community college trustees, the Kansas technical college
42 association or any other state or local unit of government may provide
43 guidance, consultation or other assistance to the governing body of a

1 community college or technical college, but shall not take any action
2 ~~related to such disaster emergency~~ that affects the operation of any such
3 college *as described in paragraph (1)*.

4 (b) Any meeting of a governing body of a community college or
5 technical college discussing an action, order or policy described in this
6 section, including any hearing by such governing body under subsection
7 (c), shall be open to the public in accordance with the open meetings act,
8 K.S.A. 75-4317 et seq., and amendments thereto, and may be conducted
9 by electronic audio-visual communication when necessary to secure the
10 health and safety of the public, the governing body and employees.

11 (c) (1) An employee or a student aggrieved by an action taken, order
12 issued or policy adopted by the governing body of a community college or
13 technical college pursuant to subsection (a)(1), or an action of any
14 employee of such college violating any such action, order or policy, may
15 request a hearing by such governing body to contest such action, order or
16 policy. Any such request shall not stay or enjoin such action, order or
17 policy.

18 (2) Upon receipt of a request under paragraph (1), the governing body
19 shall conduct a hearing within 72 hours of receiving such request for the
20 purposes of reviewing, amending or revoking such action, order or policy.
21 The governing body shall issue a decision within seven days after the
22 hearing is conducted.

23 (3) The governing body may adopt emergency rules of procedure to
24 facilitate the efficient adjudication of any hearing requested under this
25 subsection, including, but not limited to, rules for consolidation of similar
26 hearings.

27 (d) (1) An employee or a student aggrieved by a decision of the
28 governing body under subsection (c)(2) may file a civil action in the
29 district court of the county in which such party resides or in the district
30 court of Shawnee county, Kansas, within 30 days after such decision is
31 issued by the governing body. Notwithstanding any order issued pursuant
32 to K.S.A. 2021 Supp. 20-172(a), and amendments thereto, the court shall
33 conduct a hearing within 72 hours after receipt of a petition in any such
34 action. The court shall grant the request for relief unless the court finds the
35 action taken, order issued or policy adopted by the governing body is
36 narrowly tailored to respond to the state of disaster emergency and uses the
37 least restrictive means to achieve such purpose. The court shall issue an
38 order on such petition ~~within seven days~~ *without unreasonable delay* after
39 the hearing is conducted. ~~If the court does not issue an order on such~~
40 ~~petition within seven days, the relief requested in the petition shall be~~
41 ~~granted.~~

42 (2) Relief under this section shall not include a stay or injunction
43 concerning the contested action taken, order issued or policy adopted by

1 the governing body that applies beyond the county in which the petition
2 was filed.

3 (3) *In an action under this section, the court shall award a prevailing*
4 *plaintiff the cost of the suit, including reasonable attorney fees.*

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

9 ~~Sec. 9-8. {9.}~~ K.S.A. 2021 Supp. 48-932 is hereby amended to read
10 as follows: 48-932. (a) A state of local disaster emergency may be declared
11 by the chairperson of the board of county commissioners of any county, or
12 by the mayor or other principal executive officer of each city of this state
13 having a disaster emergency plan, upon a finding by such officer that a
14 disaster has occurred or the threat thereof is imminent within such county
15 or city. No state of local disaster emergency shall be continued for a period
16 in excess of seven days or renewed, except with the consent of the board
17 of county commissioners of such county or the governing body of such
18 city. Any order or proclamation declaring, continuing or terminating a
19 local disaster emergency shall be given prompt and general publicity and
20 shall be filed with the county clerk or city clerk. Any such declaration may
21 be reviewed, amended or revoked by the board of county commissioners
22 or the governing body of the city, respectively, at a meeting of such
23 governing body.

24 (b) In the event of the absence of the chairperson of the board of
25 county commissioners from the county or the incapacity of such
26 chairperson, the board of county commissioners, by majority action of the
27 remaining members thereof, may declare a state of local disaster
28 emergency in the manner provided in and subject to the provisions of
29 subsection (a). In the event of the absence of the mayor or other principal
30 executive officer of a city from the city or the incapacity of such mayor or
31 officer, the governing body of the city, by majority action of the remaining
32 members thereof, may declare a state of local disaster emergency in the
33 manner provided in and subject to the provisions of subsection (a). Any
34 state of local disaster emergency and any actions taken pursuant to
35 applicable local and interjurisdictional disaster emergency plans, under
36 this subsection shall continue and have full force and effect as authorized
37 by law unless modified or terminated in the manner prescribed by law.

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

42 (d) No interjurisdictional disaster agency or any official thereof may
43 declare a local disaster emergency, unless expressly authorized by the

1 agreement pursuant to which the agency functions. However, an
2 interjurisdictional disaster agency shall provide aid and services in
3 accordance with the agreement pursuant to which it functions in the case
4 of a state of local disaster emergency declared under subsection (a).

5 (e) (1) ***A governmental entity or public official shall not have the***
6 ***power under the provisions of the Kansas emergency management act or***
7 ***any other law to order or otherwise require a person to wear a face mask***
8 ***as a response to a contagious or infectious disease.***

9 (2) ***No action taken by a governmental entity or public official***
10 ***pursuant to the Kansas emergency management act shall apply to the***
11 ***exercise of religion in a church, synagogue or other place of worship.***

12 (f) (1) Any party aggrieved by an action taken by a local unit of
13 government pursuant to this section that has the effect of substantially
14 burdening or inhibiting the gathering or movement of individuals or the
15 operation of any religious, civic, business or commercial activity, whether
16 for-profit or not-for-profit, may file a civil action in the district court of the
17 county in which such action was taken within 30 days after such action is
18 taken. Notwithstanding any order issued pursuant to K.S.A. 2021 Supp.
19 20-172(a), and amendments thereto, the court shall conduct a hearing
20 within 72 hours after receipt of a petition in any such action. The court
21 shall grant the request for relief unless the court finds such action is
22 narrowly tailored to respond to the state of local disaster emergency and
23 uses the least restrictive means to achieve such purpose. The court shall
24 issue an order on such petition ~~within seven days~~ *without unreasonable*
25 *delay* after the hearing is conducted. ~~If the court does not issue an order on~~
26 ~~such petition within seven days, the relief requested in the petition shall be~~
27 ~~granted.~~

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

31 (3) ***In an action under this section, the court shall award a prevailing***
32 ***plaintiff the cost of the suit, including reasonable attorney fees.***

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

37 ~~Sec. 10-9-10.~~ ***{10.}*** K.S.A. 2021 Supp. 48-961 is hereby amended to read
38 as follows: 48-961. (a) This section shall be known and may be cited as the
39 COVID-19 contact tracing privacy act.

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

43 (c) (1) Except as provided by paragraph (2), neither the state nor any

1 municipality, officer or official or agent thereof, may conduct or authorize
2 contact tracing.

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

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

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

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

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

24 (4) A contact tracer employed, contracted or engaged by the secretary
25 shall be deemed a state employee under the Kansas tort claims act, K.S.A.
26 75-6101 et seq., and amendments thereto. A contact tracer employed,
27 contracted or engaged by a local health officer shall be deemed an
28 employee of the county under the Kansas tort claims act, K.S.A. 75-6101
29 et seq., and amendments thereto.

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

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

35 (3) The secretary, a local health officer or a contact tracer shall not
36 produce contact data pursuant to a subpoena unless such subpoena is
37 issued by a court and is accompanied by a valid protective order
38 preventing further disclosure of such data;

39 (4) Contact data shall be:

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

42 (B) confidential and shall not be disclosed, produced in response to
43 any Kansas open records act request or made public, unless the disclosure

1 is necessary to conduct contact tracing; and

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

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

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

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

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

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

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

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

24 (A) The third party provides such information to the contact tracer
25 voluntarily and with the consent of the infected person or contact whose
26 information is disclosed; or

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

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

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

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

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

37 (j) The secretary shall promulgate rules and regulations to implement,
38 administer and enforce the provisions of this section ~~prior to August 1,~~
39 ~~2020.~~

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

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

43 (2) "Contact tracing" means identifying persons who may have been

1 exposed to an infected person for the purpose of containing the spread of
2 COVID-19 by notifying the contact that the contact may have been
3 exposed, should be tested and should self-quarantine.

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

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

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

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

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

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

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

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

21 ~~(1) The provisions of this section shall expire on May 1, 2021.~~
22 ~~Notwithstanding the prior expiration of this section on May 1, 2021, the~~
23 ~~provisions of this section shall be in force and effect on and after the~~
24 ~~effective date of this act.~~

25 ~~Sec. 4-10. {11.}~~ K.S.A. 2021 Supp. 65-101 is hereby amended to
26 read as follows: 65-101. (a) *Except as provided in subsection (d) and*
27 *~~section 3~~ {sections 3 and 4}, and amendments thereto,* the secretary of
28 health and environment shall exercise general supervision of the health of
29 the people of the state and may:

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

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

38 (3) advise other offices and agencies of government concerning
39 location, drainage, water supply, disposal of excreta and heating and
40 ventilation of public buildings;

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

43 (5) take action to prevent the introduction of infectious or contagious

1 disease into this state and to prevent the spread of infectious or contagious
2 disease within this state;

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

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

13 (c) In the event of a state of disaster emergency declared by the
14 governor pursuant to K.S.A. 48-924, and amendments thereto, or a state of
15 local disaster emergency declared pursuant to K.S.A. 48-932, and
16 amendments thereto, the legislature may revoke an order issued by the
17 secretary to take action related to such disaster emergency as provided in
18 this subsection. Such order may be revoked at any time by concurrent
19 resolution of the legislature or, when the legislature is not in session or is
20 adjourned during session for three or more days, such order may be
21 revoked by the legislative coordinating council with the affirmative vote of
22 five members thereof.

23 (d) (1) *If the secretary takes any action related to a contagious or*
24 *infectious disease that ~~mandates the wearing of face masks~~, limits the size*
25 *of gatherings of individuals, restricts the operation of business; {or}*
26 *controls the movement of persons ~~or limits religious gatherings~~, such*
27 *action shall:*

28 (A) *Be narrowly tailored to the purpose of the action and use the*
29 *least restrictive means to achieve such purpose; and*

30 (B) *not exceed 30 days in duration at a time before such action shall*
31 *be renewed, modified, rescinded or allowed to expire.*

32 (2) *For purposes of this section, "restricts the operation of business"*
33 *includes, but is not limited to, any occupancy limitation, limitation on*
34 *periods of operation or the exertion of other significant control on*
35 *business resources, property or functionality.*

36 ~~Sec. 42.~~ ~~H.~~ ~~{12.}~~ K.S.A. 65-119 is hereby amended to read as
37 follows: 65-119. (a) Any county or joint board of health or local health
38 officer having knowledge of any infectious or contagious disease, or of a
39 death from such disease, within their jurisdiction, shall immediately
40 exercise and maintain a supervision over such case or cases during their
41 continuance, seeing that all such cases are properly cared for and that the
42 provisions of this act as to isolation, restriction of communication,
43 quarantine and disinfection are duly enforced, *except as provided in K.S.A.*

1 65-201, and amendments thereto. The county or joint board of health or
2 local health officer shall communicate without delay all information as to
3 existing conditions to the secretary of health and environment. The local
4 health officer shall confer personally, if practicable, otherwise by letter,
5 with the person in attendance upon the case, as to its future management
6 and control. The county or joint board of health or local health officer is
7 hereby empowered and authorized to prohibit public gatherings when
8 necessary for the control of any and all infectious or contagious disease,
9 *except as provided in K.S.A. 65-201, and amendments thereto.*

10 (b) Any disclosure or communication of information relating to
11 infectious or contagious diseases required to be disclosed or
12 communicated under subsection (a) ~~of this section~~ shall be confidential
13 and shall not be disclosed or made public beyond the requirements of
14 subsection (a) ~~of this section~~ or subsection (a) of K.S.A. 65-118(a), except
15 as otherwise permitted by ~~subsection (c) of K.S.A. 65-118(c).~~

16 ~~Sec. 13-12. {13.}~~ K.S.A. 65-122 is hereby amended to read as
17 follows: 65-122. (a) No person afflicted with an infectious or contagious
18 disease dangerous to the public health shall be admitted into any public,
19 parochial or private school or licensed child care facility. It shall be the
20 duty of the parent or guardian, and the principal or other person in charge
21 of any public, parochial, private school or licensed child care facility to
22 exclude therefrom any child or other person affected with a disease
23 suspected of being infectious or contagious until the expiration of the
24 prescribed period of isolation or quarantine for the particular infectious or
25 contagious disease. If the attending person licensed to practice medicine
26 and surgery or local health officer finds upon examination that the person
27 affected with a disease, suspected of being infectious or contagious is not
28 suffering from an infectious or contagious disease, he or she may submit a
29 certificate to this effect to the person in charge of the public, parochial,
30 private school or licensed child care facility and such person shall be
31 readmitted to school or to the child care facility.

32 (b) *No person shall be denied access to any public, parochial or*
33 *private school or licensed child care facility under this section unless*
34 *there are reasonable grounds to believe that such person is actually*
35 *infected with a disease suspected of being infectious or contagious. The*
36 *provisions of K.S.A. 72-5180, and amendments thereto, shall not apply for*
37 *the purposes of providing remote education to any student excluded from a*
38 *facility under this section.*

39 ~~Sec. 14-13. {14.}~~ K.S.A. 2021 Supp. 65-201 is hereby amended to
40 read as follows: 65-201. (a) The board of county commissioners of each
41 county shall act as the county board of health for the county. Each county
42 board shall appoint a person licensed to practice medicine and surgery,
43 preference being given to persons who have training in public health, who

1 shall serve as the local health officer and who shall act in an advisory
 2 capacity to the county board of health. The appointing authority of city-
 3 county, county or multicounty health units with less than 100,000
 4 population may appoint a qualified local health program administrator as
 5 the local health officer if a person licensed to practice medicine and
 6 surgery or person licensed to practice dentistry is designated as a
 7 consultant to direct the administrator on program and related medical and
 8 professional matters. The local health officer or local health program
 9 administrator shall hold office at the pleasure of the board.

10 (b) (1) Except as provided in paragraph (2), any order issued by the
 11 local health officer, including orders issued as a result of an executive
 12 order of the governor, may be reviewed, amended or revoked by the board
 13 of county commissioners of the county affected by such order at a meeting
 14 of the board. Any order reviewed or amended by the board shall include an
 15 expiration date set by the board and may be amended or revoked at an
 16 earlier date by a majority vote of the board.

17 (2) (A) ~~Except as provided in section 3~~ *{sections 3 and 4}, and*
 18 *amendments thereto*, if a local health officer determines it is necessary ~~to~~
 19 *{for}* an order ~~mandating the wearing of face masks, to be issued~~
 20 *limiting the size of gatherings of individuals, curtailing restricting* the
 21 *operation of business, {or}* controlling the movement of the population of
 22 *the county or limiting religious gatherings*, the local health officer shall
 23 propose such an order to the board of county commissioners. At the next
 24 regularly scheduled meeting of the board or at a special meeting of the
 25 board, the board shall review such proposed order and may take any action
 26 related to the proposed order the board determines is necessary. The order
 27 shall become effective *{only}* if:

28 (i) Approved by the board or, if the board is unable to meet, if
 29 approved by the chairperson of the board or the vice chairperson of the
 30 board in the chairperson's absence or disability; *and*

31 (ii) *a declared state of disaster emergency under K.S.A. 48-924, and*
 32 *amendments thereto, or a declared state of local disaster emergency*
 33 *under K.S.A. 48-932, and amendments thereto, is currently in effect}.*
 34 *Such*

35 *{(B) An} order {approved pursuant to subparagraph (A)} shall{:*

36 (i) *Be rescinded upon the expiration of a declared state of disaster*
 37 *emergency under K.S.A. 48-924, and amendments thereto, or a declared*
 38 *state of local disaster emergency under K.S.A. 48-932, and amendments*
 39 *thereto; and*

40 (ii) *not exceed 30 days in duration at a time before such order shall*
 41 *be renewed, modified, rescinded or allowed to expire.*

42 ~~(B){(C)}~~ *{(C)}* *For purposes of this section, "restricting the operation of*
 43 *business" includes, but is not limited to, any occupancy limitation,*

1 *limitation on periods of operation or the exertion by any governmental*
2 *entity of other significant control on business resources, property or*
3 *functionality.*

4 (c) The board of county commissioners in any county having a
5 population of less than 15,000 may contract with the governing body of
6 any hospital located in such county for the purpose of authorizing such
7 governing body of the hospital to supply services to a county board of
8 health.

9 (d) (1) Any party aggrieved by an order issued pursuant to subsection
10 (b)(2) may file a civil action in the district court of the county in which the
11 order was issued within 30 days after such order is issued.
12 Notwithstanding any order issued pursuant to K.S.A. 2021 Supp. 20-
13 172(a), and amendments thereto, the court shall conduct a hearing within
14 72 hours after receipt of a petition in any such action. The court shall grant
15 the request for relief unless the court finds such order is narrowly tailored
16 to the purpose stated in the order and uses the least restrictive means to
17 achieve such purpose. The court shall issue an order on such petition
18 ~~within seven days without unreasonable delay~~ after the hearing is
19 conducted. ~~If the court does not issue an order on such petition within~~
20 ~~seven days, the relief requested in the petition shall be granted.~~

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

24 (3) *In an action under this section, the court shall award a prevailing*
25 *plaintiff the cost of the suit, including reasonable attorney fees.*

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

30 ***Sec. 14. {15.} K.S.A. 2021 Supp. 65-202 is hereby amended to read***
31 ***as follows: 65-202. (a) (1) The local health officer in each county***
32 ***throughout the state, immediately after such officer's appointment, shall***
33 ***take the same oath of office prescribed by law for the county officers,***
34 ***shall give bond of \$500 conditioned for the faithful performance of the***
35 ***officer's duties, shall keep an accurate record of all the transactions of***
36 ***such office, shall turn over to the successor in office or to the county or***
37 ***joint board of health selecting such officer, on the expiration of such***
38 ***officer's term of office, all records, documents and other articles***
39 ***belonging to the office and shall faithfully account to the board of***
40 ***county commissioners and to the county and state for all moneys coming***
41 ***into the office. Such officer shall notify the secretary of health and***
42 ***environment of such officer's appointment and qualification, and***
43 ***provide the secretary with such officer's contact information.***

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

9 (3) *The local health officer shall upon the opening of the fall term*
 10 *of school, make a sanitary inspection of each school building and*
 11 *grounds, and shall make such additional inspections as are necessary to*
 12 *protect the public health of the students of the school.*

13 ~~(e)(b) (1) Such~~ *The local health officer shall make an investigation*
 14 *of each case of smallpox, diphtheria, typhoid fever, scarlet fever, acute*
 15 *anterior poliomyelitis (infantile paralysis), epidemic cerebro-spinal*
 16 *meningitis and such other acute infectious, contagious or communicable*
 17 *diseases as may be required, and, except as provided in—section 3—*
 18 *{sections 3 and 4}, and amendments thereto, shall: (A) Use all known*
 19 *measures to prevent the spread of any such infectious, contagious or*
 20 *communicable disease; and shall (B) perform such other duties as this*
 21 *act, the county or joint board, board of health or the secretary of health*
 22 *and environment may require.*

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

29 (c) *Such officer shall receive compensation as set by the board and*
 30 *with the approval of the board of health may employ a skilled*
 31 *professional nurse and other additional personnel whenever deemed*
 32 *necessary for the protection of the public health.*

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

40 ~~Sec. 15. {16.}~~ K.S.A. 72-6262 is hereby amended to read as follows:
 41 72-6262. (a) In each school year, every ~~pup~~ *student* enrolling or enrolled
 42 in any school for the first time in this state, and each child enrolling or
 43 enrolled for the first time in a preschool or day care program operated by a

1 school, and such other ~~pupils~~ *students* as may be designated by the
2 secretary, prior to admission to and attendance at school, shall present to
3 the appropriate school board certification from a physician or local health
4 department that the ~~pupil~~ *student* has received such tests and inoculations
5 as are deemed necessary by the secretary by such means as are approved
6 by the secretary. ~~Pupils~~ *Students* who have not completed the required
7 inoculations may enroll or remain enrolled while completing the required
8 inoculations if a physician or local health department certifies that the
9 ~~pupil~~ *student* has received the most recent appropriate inoculations in all
10 required series. Failure to timely complete all required series shall be
11 deemed non-compliance.

12 (b) As an alternative to the certification required under subsection (a),
13 a ~~pupil~~ *student* shall present:

14 (1) An annual written statement signed by a licensed physician stating
15 the physical condition of the child to be such that the tests or inoculations
16 would seriously endanger the life or health of the child; or

17 (2) a written statement signed by one parent or guardian that ~~the child~~
18 ~~is an adherent of a religious denomination whose religious teachings are~~
19 ~~opposed to~~ such tests or inoculations *would violate sincerely held religious*
20 *beliefs of the parent, guardian or child. The student shall be granted an*
21 *exemption requested in accordance with this paragraph based on sincerely*
22 *held religious beliefs without inquiring into the sincerity of the request.*

23 (c) *As an alternative to the certification required under subsection*
24 *(a), if an inoculation or test does not have final approval by the federal*
25 *food and drug administration, the student may present:*

26 (1) *An annual written statement signed by a licensed physician or a*
27 *parent or guardian stating the physical condition of the child to be such*
28 *that the test or inoculation would seriously endanger the life or health of*
29 *the child; or*

30 (2) *a written statement signed by one parent or guardian that such*
31 *test or inoculation would violate sincerely held religious beliefs of the*
32 *parent, guardian or child. The student shall be granted an exemption*
33 *requested in accordance with this paragraph based on sincerely held*
34 *religious beliefs without inquiring into the sincerity of the request.*

35 (d) On or before May 15 of each school year, the school board of
36 every school affected by this act shall notify the parents or guardians of all
37 known ~~pupils~~ *students* who are enrolled or who will be enrolling in the
38 school of the provisions this act and any policy regarding the
39 implementation of the provisions of this act adopted by the school board.

40 ~~(d)~~(e) If a ~~pupil~~ *student* transfers from one school to another, the
41 school from which the ~~pupil~~ *student* transfers shall forward with the ~~pupil's~~
42 *student's* transcript the certification or statement showing evidence of
43 compliance with the requirements of this act to the school to which the

1 ~~pupil~~ student transfers.

2 (f) No student who has presented a certification pursuant to
3 subsection (a) or other documentation pursuant to subsection (b) or (c)
4 shall be:

5 (1) Denied enrollment or participation in any school activity as a
6 result of such student's vaccination status; or

7 (2) segregated or separated from other students as a result of such
8 student's vaccination status.

9 (g) As used in this section, "religious beliefs" includes, but is not
10 limited to, theistic and non-theistic moral and ethical beliefs as to what is
11 right and wrong that are sincerely held with the strength of traditional
12 religious views.

13 Sec. 16.—K.S.A. 2021 Supp. 79-1614 is hereby amended to read as
14 follows: 79-1614. (a) ~~(1)~~ The owner of any building listed and assessed for
15 property taxation purposes as real property that maintains a business on the
16 property that was shut down or restricted ~~because of any action taken by~~
17 ~~the state, county, city or other political subdivision of the state pursuant to~~
18 ~~an executive order issued by the governor pursuant to K.S.A. 48-925, and~~
19 ~~amendments thereto, or any action taken by a county, city or other political~~
20 ~~subdivision of the state related to a state of disaster emergency declared~~
21 ~~pursuant to K.S.A. 48-924, and amendments thereto, or a state of local~~
22 ~~disaster emergency declared pursuant to K.S.A. 48-932, and amendments~~
23 ~~thereto, or any action taken by a county, city or other political subdivision~~
24 ~~of the state related to contagious or infectious disease pursuant to chapter~~
25 ~~65 of the Kansas Statutes Annotated, and amendments thereto, may make~~
26 application to the board of county commissioners of the county in which
27 such property is located for the reimbursement of the property taxes levied
28 upon such property during the shutdown or restriction.

29 ~~(2)~~ The county treasurer shall reimburse from the county general fund
30 any owner who makes an application or operator that joins in an
31 application that is determined to be valid for the period of time that the
32 shutdown or restriction remained in effect. For ordered shutdowns, the
33 reimbursement shall be calculated as a $\frac{1}{365}$ amount of the total ad valorem
34 real property taxes levied by the state, county and all other taxing
35 subdivisions due for the property for the year multiplied by the number of
36 calendar days the ordered shutdown was in effect. For ordered restrictions,
37 the reimbursement shall be calculated as a $\frac{1}{365}$ amount of the total ad
38 valorem real property taxes levied by the state, county and all other taxing
39 subdivisions due for the property for the year multiplied by the percentage
40 of the ordered restrictions and further multiplied by the number of calendar
41 days the ordered restriction was in effect.

42 (b) If the owner is the operator of the business on the property that
43 was shut down or restricted, the owner shall be entitled to 100% of such

1 reimbursement amount. If the owner is not the operator of such business
2 that was shut down or restricted from conducting operations:

3 (1) ~~The owner shall disclose and attest to the identity of the operator~~
4 ~~of such business on the application form;~~

5 (2) ~~the owner shall be entitled to 50% of such reimbursement amount;~~

6 (3) ~~the operator of such business shall be entitled to 50% of such~~
7 ~~reimbursement amount if such operator joins in the owner's application;~~
8 ~~and~~

9 (4) ~~such operator that joins in the owner's application may elect to~~
10 ~~assign such operator's share of the reimbursement amount to the owner to~~
11 ~~be credited against any delinquent rent due to the owner.~~

12 (e) ~~If the state, a city or other political subdivision of the state was the~~
13 ~~governmental entity that shut down or restricted the business resulting in a~~
14 ~~reimbursement to an owner or operator pursuant to this section, such~~
15 ~~governmental entity that shut down or restricted the business shall~~
16 ~~reimburse the county for the cost of such reimbursement.~~

17 (d) ~~For purposes of this section, "restriction" or "restricted" means~~
18 ~~any occupancy limitation, limitation on periods of operation or the~~
19 ~~exertion by any governmental entity of other significant control on~~
20 ~~business resources or functionality.~~

21 (e) ~~The provisions of this section shall be applicable on and after~~
22 ~~January 1, 2022.~~

23 Sec. ~~17. 16. {17.}~~ K.S.A. 65-119, 65-122 and 72-6262 and K.S.A.
24 2021 Supp. 48-925, 48-925c, 48-925d, 48-932, 48-961, 65-101, 65-201
25 and ~~79-1614 65-202~~ are hereby repealed.

26 Sec. ~~18. 17. {18.}~~ This act shall take effect and be in force from and
27 after its publication in the Kansas register.