

AMENDMENTS TO LB 928

Introduced by Johnson, 37.

1 1. Insert the following new sections:

2 Section 1. Section 71-531, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 71-531 ~~(1)~~ (1)(a) No person may be tested for the
5 presence of the human immunodeficiency virus infection unless he or
6 she has given written informed consent for the performance of such
7 test. ~~A parent of a minor child or a judicially appointed guardian~~
8 ~~may give such consent.~~

9 (b) If a person signs a general consent form for the
10 performance of medical tests or procedures, the signing of an
11 additional consent for the specific purpose of consenting to an
12 HIV-related test is not required during the time in which the
13 general consent form is in effect. Such general consent form shall
14 inform the person that a test for the presence of the human
15 immunodeficiency virus infection may be performed and that the
16 person may refuse the performance of such test.

17 (2) If a person is unable to provide consent, the
18 person's legal representative may provide consent. If the person's
19 legal representative cannot be located or is unavailable, a health
20 care provider may authorize the test when the test results are
21 necessary for diagnostic purposes to provide appropriate medical
22 care.

23 ~~(2)~~ (3) ~~The written informed consent shall provide+ for~~

1 the performance of an HIV-related test under subdivision (1)(a) of
2 this section shall include:

3 (a) An explanation of the test, including the test's
4 purposes, potential uses, and limitations, and the meaning of both
5 positive and negative results;

6 (b) An explanation of the nature of the human
7 immunodeficiency virus and acquired immunodeficiency syndrome,
8 including the relationship between the test results and the
9 diseases which are part of the syndrome;

10 (c) An explanation of the procedures to be followed,
11 including the fact that the test is entirely voluntary; and

12 (d) Information concerning behavioral patterns known to
13 expose a person to the possibility of contracting the human
14 immunodeficiency virus and the methods for minimizing the risk of
15 exposure.

16 ~~(3)~~ (4) A person seeking a human immunodeficiency virus
17 test shall have the right to remain anonymous. A health care
18 provider shall confidentially refer such person to a site which
19 provides anonymous testing.

20 ~~(4)~~ (5) This section shall not apply to:

21 (a) The performance by a health care provider or a health
22 facility of a human immunodeficiency virus test when the health
23 care provider or health facility procures, processes, distributes,
24 or uses a human body part for a purpose specified under the Uniform
25 Anatomical Gift Act and such test is necessary to assure medical
26 acceptability of such gift for the purposes intended;

27 (b) The performance by a health care provider or a health

1 facility of a human immunodeficiency virus test when such test is
2 performed with the consent and written authorization of the person
3 being tested and such test is for insurance underwriting purposes,
4 written information about the human immunodeficiency virus is
5 provided, including, but not limited to, the identification and
6 reduction of risks, the person is informed of the result of such
7 test, and when the result is positive, the person is referred for
8 posttest counseling;

9 (c) The performance of a human immunodeficiency
10 virus test by licensed medical personnel of the Department of
11 Correctional Services when the subject of the test is committed
12 to such department. Posttest counseling shall be required for
13 the subject if the test is positive. A person committed to
14 the Department of Correctional Services shall be informed by
15 the department (i) if he or she is being tested for the human
16 immunodeficiency virus, (ii) that education shall be provided to
17 him or her about the human immunodeficiency virus, including, but
18 not limited to, the identification and reduction of risks, and
19 (iii) of the test result and the meaning of such result;

20 (d) Human immunodeficiency virus home collection kits
21 licensed by the federal Food and Drug Administration; or

22 (e) The performance of a human immunodeficiency virus
23 test performed pursuant to section 29-2290 or sections 71-507 to
24 71-513 or 71-514.01 to 71-514.05.

25 Sec. 2. Section 71-1910, Revised Statutes Supplement,
26 2007, is amended to read:

27 71-1910 For purposes of the Child Care Licensing Act,

1 unless the context otherwise requires:

2 (1) Department means the Department of Health and Human
3 Services; and

4 (2) (a) Program means the provision of services in lieu
5 of parental supervision for children under thirteen years of age
6 for compensation, either directly or indirectly, on the average of
7 less than twelve hours per day, but more than two hours per week,
8 and includes any employer-sponsored child care, family child care
9 home, child care center, school-age child care program, school-age
10 services pursuant to section 79-1104, or preschool or nursery
11 school.

12 (b) Program does not include casual care at irregular
13 intervals, a recreation camp as defined in section 71-3101, a
14 recreation facility, center, or program operated by a political
15 or governmental subdivision pursuant to the authority provided
16 in section 13-304, classes or services provided by a religious
17 organization other than child care or a preschool or nursery
18 school, a preschool program conducted in a school approved pursuant
19 to section 79-318, services provided only to school-age children
20 during the summer and other extended breaks in the school year, or
21 foster care as defined in section 71-1901.

22 Sec. 3. Sections 2, 4, and 6 of this act become operative
23 three calendar months after the adjournment of this legislative
24 session. The other sections of this act become operative on their
25 effective date.

26 Sec. 4. Original section 71-1910, Revised Statutes
27 Supplement, 2007, is repealed.

1 Sec. 5. Original section 71-531, Reissue Revised Statutes
2 of Nebraska, is repealed.

3 Sec. 7. Since an emergency exists, this act takes effect
4 when passed and approved according to law.

5 2. Renumber the remaining section accordingly.