

LEGISLATURE OF NEBRASKA  
ONE HUNDREDTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 954**

Introduced by Dierks, 40.

Read first time January 14, 2008

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to public health and welfare; to amend  
2 section 71-531, Reissue Revised Statutes of Nebraska;  
3 to change provisions relating to human immunodeficiency  
4 virus testing; to repeal the original section; and to  
5 declare an emergency.  
6 Be it enacted by the people of the State of Nebraska,

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

3           71-531 (1) No person may be tested for the presence of  
4 the human immunodeficiency virus infection unless he or she has  
5 given written informed consent for the performance of such test.  
6 ~~A parent of a minor child or a judicially appointed guardian may~~  
7 ~~give such consent.~~ If a person signs a general consent form for  
8 the performance of medical tests or procedures, the signing of  
9 an additional consent for the specific purpose of consenting to  
10 an HIV-related test is not required during the time in which the  
11 general consent form is in effect.

12           (2) If a person is unable to provide consent, the  
13 person's legal representative may provide consent. If the person's  
14 legal representative cannot be located or is unavailable, a health  
15 care provider may authorize the test when the test results are  
16 necessary for diagnostic purposes to provide appropriate medical  
17 care.

18           ~~(2) The written informed consent shall provide:~~

19           ~~(a) An explanation of the test, including the test's~~  
20 ~~purposes, potential uses, and limitations, and the meaning of both~~  
21 ~~positive and negative results;~~

22           ~~(b) An explanation of the nature of the human~~  
23 ~~immunodeficiency virus and acquired immunodeficiency syndrome,~~  
24 ~~including the relationship between the test results and the~~  
25 ~~diseases which are part of the syndrome;~~

1           ~~(c) An explanation of the procedures to be followed,~~  
2           ~~including the fact that the test is entirely voluntary, and~~

3           ~~(d) Information concerning behavioral patterns known to~~  
4           ~~expose a person to the possibility of contracting the human~~  
5           ~~immunodeficiency virus and the methods for minimizing the risk of~~  
6           ~~exposure.~~

7           (3) A person seeking a human immunodeficiency virus test  
8           shall have the right to remain anonymous. A health care provider  
9           shall confidentially refer such person to a site which provides  
10          anonymous testing.

11          (4) This section shall not apply to:

12          (a) The performance by a health care provider or a health  
13          facility of a human immunodeficiency virus test when the health  
14          care provider or health facility procures, processes, distributes,  
15          or uses a human body part for a purpose specified under the Uniform  
16          Anatomical Gift Act and such test is necessary to assure medical  
17          acceptability of such gift for the purposes intended;

18          (b) The performance by a health care provider or a health  
19          facility of a human immunodeficiency virus test when such test is  
20          performed with the consent and written authorization of the person  
21          being tested and such test is for insurance underwriting purposes,  
22          written information about the human immunodeficiency virus is  
23          provided, including, but not limited to, the identification and  
24          reduction of risks, the person is informed of the result of such  
25          test, and when the result is positive, the person is referred for

1 posttest counseling;

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

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

15 (e) The performance of a human immunodeficiency virus  
16 test performed pursuant to section 29-2290 or sections 71-507 to  
17 71-513 or 71-514.01 to 71-514.05.

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

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