

AMENDMENTS TO LB 195

(Amendments to Standing Committee amendments, AM952)

Introduced by Cook, 13.

1 1. Insert the following new sections:

2 Sec. 79. Section 71-3601, Revised Statutes Cumulative
3 Supplement, 2008, is amended to read:

4 71-3601 For purposes of the Tuberculosis Detection and
5 Prevention Act:

6 (1) Communicable tuberculosis means tuberculosis
7 manifested by a laboratory report of sputum or other body fluid
8 or excretion found to contain tubercle bacilli or by chest X-ray
9 findings interpreted as active tuberculosis by competent medical
10 authority;

11 (2) Department means the Department of Health and Human
12 Services;

13 (3) Directed health measure means any measure, whether
14 prophylactic or remedial, intended and directed to prevent, treat,
15 or limit the spread of tuberculosis;

16 ~~(3)~~ (4) Facility means a structure in which suitable
17 isolation for tuberculosis can be given and which is approved
18 by the department for the detention of recalcitrant ~~tuberculosis~~
19 tuberculous persons;

20 ~~(4)~~ (5) Local health officer means (a) the health
21 director of a local public health department as defined in section
22 71-1626 or (b) the medical advisor to the board of health of a

1 county, city, or village;

2 ~~(5)~~ (6) Recalcitrant tuberculous person means a person
3 affected with tuberculosis in an active stage who by his or her
4 conduct or mode of living endangers the health and well-being of
5 other persons, by exposing them to tuberculosis, and who refuses to
6 accept adequate treatment; and

7 ~~(6)~~ (7) State health officer means the chief medical
8 officer as described in section 81-3115.

9 Sec. 80. Section 71-3602, Revised Statutes Cumulative
10 Supplement, 2008, is amended to read:

11 71-3602 (1) When a person with communicable tuberculosis
12 violates the rules, regulations, or orders adopted and promulgated
13 by the department and is thereby conducting himself or herself
14 in such a way as to expose others to danger of infection, after
15 having been ordered by the state health officer or a local health
16 officer to comply, there are reasonable grounds to believe that
17 a person has communicable tuberculosis and the person refuses to
18 submit to the examination necessary to determine the existence of
19 communicable tuberculosis, the state health officer or local health
20 officer may order such person to submit to such examination. If
21 such person refuses to comply with such order, the state health
22 officer or a local health officer shall institute proceedings
23 for commitment, returnable to the county court of the county in
24 which the person resides or, if the person is a nonresident or
25 has no permanent residence, in the county in which the person
26 is found. Strictness of pleading is not required, and a general
27 allegation that the public health requires commitment of the person

1 is sufficient.

2 (2) When a person with communicable tuberculosis conducts
3 himself or herself in such a way as to expose another person
4 to the danger of infection, the state health officer or local
5 health officer may order such person to submit to directed health
6 measures necessary for the treatment of the person and to prevent
7 the transmission of the disease. If such person refuses to comply
8 with such order, the state health officer or a local health
9 officer shall institute proceedings for commitment, returnable to
10 the county court of the county in which the person resides or, if
11 the person is a nonresident or has no permanent residence, in the
12 county in which the person is found. Strictness of pleading is not
13 required, and a general allegation that the public health requires
14 commitment of the person is sufficient.

15 Sec. 81. Section 71-3604, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 71-3604 (1) Upon the hearing set in the order, the person
18 named in the order shall have a right to be represented by counsel,
19 to confront and cross-examine witnesses against him or her, and to
20 have compulsory process for the securing of witnesses and evidence
21 in his or her own behalf.

22 (2) Upon a consideration of the petition and evidence:
23 if

24 (a) If the court finds that there are reasonable grounds
25 to believe that the person named in the petition has communicable
26 tuberculosis and has refused to submit to an examination to
27 determine the existence of communicable tuberculosis, the court

1 shall order such person to submit to such examination. If after
2 such examination is completed it is determined that the person has
3 communicable tuberculosis, the court shall order directed health
4 measures necessary for the treatment of the person and to prevent
5 the transmission of the disease; or

6 **(b)** If the court finds that the person named in the
7 petition has communicable tuberculosis and conducts himself or
8 herself in such a way as to be a danger to the public health, an
9 order shall be issued committing the person named to a facility
10 and directing the sheriff to take him or her into custody and
11 deliver him or her to the facility or to submit to directed health
12 measures necessary for the treatment of the person and to prevent
13 the transmission of the disease.

14 **(3)** If the court does not so find, the petition shall
15 be dismissed. The cost of transporting such person to the facility
16 shall be paid from county general funds.

17 Sec. 82. Section 71-3614, Revised Statutes Cumulative
18 Supplement, 2008, is amended to read:

19 71-3614 (1) When any person who has communicable ~~e~~
20 ~~contagious~~ tuberculosis and who has relatives, friends, or a
21 private or public agency or organization willing to undertake the
22 obligation to support him or her or to aid in supporting him or her
23 in any other state or country, the department may furnish him or
24 her with the cost of transportation to such other state or country
25 if it finds that the interest of the State of Nebraska and the
26 welfare of such person will be promoted thereby. The expense of
27 such transportation shall be paid by the department out of funds

1 appropriated to it for the purpose of carrying out the Tuberculosis
2 Detection and Prevention Act.

3 (2) No funds appropriated to the department for the
4 purpose of carrying out the act shall be used for meeting the
5 cost of the care, maintenance, or treatment of any person who has
6 communicable ~~or contagious~~ tuberculosis in a health care facility
7 on either an inpatient or an outpatient basis, or otherwise, for
8 directed health measures, or for transportation to another state
9 or country, to the extent that such cost is covered by an insurer
10 or other third-party payor or any other entity under obligation to
11 such person by contract, policy, certificate, or any other means
12 whatsoever. The department in no case shall expend any such funds
13 to the extent that any such person is able to bear the cost of
14 such care, maintenance, treatment, or transportation. To protect
15 the health and safety of the public, the department may pay, in
16 part or in whole, the cost of drugs and medical care used to
17 treat any person for or to prevent the spread of communicable
18 tuberculosis and for evaluation and diagnosis of persons who
19 have been identified as contacts of a person with communicable
20 tuberculosis. The department shall determine the ability of a
21 person to pay by consideration of the following factors: (a) The
22 person's age, (b) the number of his or her dependents and their
23 ages and physical condition, (c) the person's length of care,
24 maintenance, or treatment, (d) his or her liabilities, ~~and~~ (e) the
25 extent that such cost is covered by an insurer or other third-party
26 payor, and (f) his or her assets. Pursuant to the Administrative
27 Procedure Act, the department shall adopt and promulgate rules

1 and regulations for making the determinations required by this
2 subsection.

3 Rules, regulations, and orders in effect under this
4 section prior to July 16, 2004, shall continue to be effective
5 until revised, amended, repealed, or nullified pursuant to law.

6 2. On page 124, line 18, after the sixth comma insert
7 "71-3604,"; and in line 24 after the first comma insert "71-3601,
8 71-3602, 71-3614,".

9 3. Renumber the remaining sections and correct internal
10 references accordingly.