

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

**LEGISLATIVE BILL 462**

Introduced by Dierks, 40.

Read first time January 20, 2009

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) (a) No person may be tested for the presence  
4 of the human immunodeficiency virus infection unless he or she  
5 has given written informed consent for the performance of such  
6 test. A parent of a minor child or a judicially appointed guardian  
7 may give such consent. The written informed consent shall provide  
8 an explanation of human immunodeficiency virus infection and the  
9 meaning of both positive and negative test results.

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

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

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

25           ~~(a) An explanation of the test, including the test's~~

1 purposes, potential uses, and limitations, and the meaning of both  
2 positive and negative results;

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

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

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

13 (3) A person seeking a human immunodeficiency virus test  
14 shall have the right to remain anonymous. A health care provider  
15 shall confidentially refer such person to a site which provides  
16 anonymous testing.

17 (4) This section shall not apply to:

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

24 (b) The performance by a health care provider or a health  
25 facility of a human immunodeficiency virus test when such test is

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

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

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

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

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

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