

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 285

FINAL READING

Introduced by Linehan, 39; Pansing Brooks, 28.

Read first time January 11, 2017

Committee: Health and Human Services

1 A BILL FOR AN ACT relating to public health and welfare; to amend section
2 71-502.03, Reissue Revised Statutes of Nebraska, and section 71-531,
3 Revised Statutes Cumulative Supplement, 2016; to provide a duty to
4 test pregnant women, eliminate written informed consent and
5 exemption provisions, and change posttest counseling and treatment
6 provisions relating to testing for human immunodeficiency virus
7 infection; to harmonize provisions; and to repeal the original
8 sections.
9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 71-502.03, Reissue Revised Statutes of Nebraska,
2 is amended to read:

3 71-502.03 (1) Every physician, or other person authorized by law to
4 practice obstetrics, who is attending a pregnant woman in the state for
5 conditions relating to her pregnancy during the period of gestation or at
6 delivery shall take or cause to be taken a sample of the blood of such
7 woman at the time of the first examination and shall submit such sample
8 to an approved laboratory for a standard serological test for syphilis.
9 Every other person permitted by law to attend pregnant women in the
10 state, but not permitted by law to take blood samples, shall cause such a
11 sample of the blood of such pregnant women to be taken by a physician,
12 duly licensed to practice either medicine and surgery or obstetrics, or
13 other person authorized by law to take such sample of blood and have such
14 sample submitted to an approved laboratory for a standard serological
15 test for syphilis. The results of all such laboratory tests shall be
16 reported to the Department of Health and Human Services on standard forms
17 prescribed and furnished by the department. For the purpose of this
18 section, a standard serological test shall be a test for syphilis
19 approved by the department and shall be made at a laboratory approved to
20 make such tests by the department. Such laboratory tests, as are required
21 by this section, shall be made on request at the Department of Health and
22 Human Services Laboratory. A fee may be established by rule and
23 regulation by the department to defray no more than the actual cost of
24 such tests. Such fee shall be deposited in the state treasury and
25 credited to the Health and Human Services Cash Fund. In reporting every
26 birth and stillbirth, physicians and others required to make such reports
27 shall state on the portion of the certificate entitled For Medical and
28 Health Use Only whether a blood test for syphilis has been made upon a
29 specimen of blood taken from the woman who bore the child for which a
30 birth or stillbirth certificate is filed and the approximate date when
31 the specimen was taken. No birth certificate shall show the result of

1 such test. If no test was made, the reason shall be stated. The
2 department shall provide the necessary clerical, printing, and other
3 expenses in carrying out this section.

4 (2) Every physician or other person authorized by law to practice
5 obstetrics who is attending a pregnant woman in the state for conditions
6 relating to her pregnancy during the period of gestation shall administer
7 or cause to be administered a test of the pregnant woman's blood for the
8 presence of the human immunodeficiency virus infection unless the
9 pregnant woman has given written informed consent that she does not want
10 to be tested.

11 Sec. 2. Section 71-531, Revised Statutes Cumulative Supplement,
12 2016, is amended to read:

13 ~~71-531 (1)(a) No person may be tested for the presence of the human~~
14 ~~immunodeficiency virus infection unless he or she has given written~~
15 ~~informed consent for the performance of such test. The written informed~~
16 ~~consent shall provide an explanation of human immunodeficiency virus~~
17 ~~infection and the meaning of both positive and negative test results.~~

18 ~~(b) If a person signs a general consent form for the performance of~~
19 ~~medical tests or procedures which informs the person that a test for the~~
20 ~~presence of the human immunodeficiency virus infection may be performed~~
21 ~~and that the person may refuse to have such test performed, the signing~~
22 ~~of an additional consent for the specific purpose of consenting to a test~~
23 ~~related to human immunodeficiency virus is not required during the time~~
24 ~~in which the general consent form is in effect.~~

25 ~~(2) If a person is unable to provide consent, the person's legal~~
26 ~~representative may provide consent. If the person's legal representative~~
27 ~~cannot be located or is unavailable, a health care provider may authorize~~
28 ~~the test when the test results are necessary for diagnostic purposes to~~
29 ~~provide appropriate medical care.~~

30 (1) (3) A person seeking a human immunodeficiency virus test shall
31 have the right to remain anonymous. If an anonymous test is requested, a

1 A health care provider shall confidentially refer such person to a site
2 which provides anonymous testing.

3 ~~(4) This section shall not apply to:~~

4 ~~(a) The performance by a health care provider or a health facility~~
5 ~~of a human immunodeficiency virus test when the health care provider or~~
6 ~~health facility procures, processes, distributes, or uses a human body~~
7 ~~part for a purpose specified under the Revised Uniform Anatomical Gift~~
8 ~~Act and such test is necessary to assure medical acceptability of such~~
9 ~~gift for the purposes intended;~~

10 ~~(2) When (b) The performance by a health care provider or a health~~
11 ~~facility performs of a human immunodeficiency virus test when such test~~
12 ~~is performed with the consent and written authorization of the person~~
13 ~~being tested and such test is for insurance underwriting purposes,~~
14 ~~written information about the human immunodeficiency virus is provided,~~
15 ~~including, but not limited to, the identification and reduction of risks,~~
16 ~~the person is informed of the result of such test, and when the result is~~
17 ~~positive, the person being tested shall be is referred for posttest~~
18 ~~treatment. counseling;~~

19 ~~(3) When (c) The performance of a human immunodeficiency virus test~~
20 ~~is performed by licensed medical personnel of the Department of~~
21 ~~Correctional Services on an individual when the subject of the test is~~
22 ~~committed to such department, the . Posttest counseling shall be required~~
23 ~~for the subject if the test is positive. A person committed to the~~
24 ~~department Department of Correctional Services shall be informed by the~~
25 ~~department (a) (i) if he or she is being tested for the human~~
26 ~~immunodeficiency virus, (b) (ii) that education shall be provided to him~~
27 ~~or her about the human immunodeficiency virus, including, but not limited~~
28 ~~to, the identification and reduction of risks, and (c) (iii) of the test~~
29 ~~result and the meaning of such result. Posttest counseling shall be~~
30 ~~required for the subject of the test if such test is positive. ÷~~

31 ~~(d) Human immunodeficiency virus home collection kits licensed by~~

1 ~~the federal Food and Drug Administration; or~~

2 ~~(e) The performance of a human immunodeficiency virus test performed~~
3 ~~pursuant to section 29-2290 or sections 71-507 to 71-513 or 71-514.01 to~~
4 ~~71-514.05.~~

5 Sec. 3. Original section 71-502.03, Reissue Revised Statutes of
6 Nebraska, and section 71-531, Revised Statutes Cumulative Supplement,
7 2016, are repealed.