

LEGISLATIVE BILL 194

Approved by the Governor February 28, 1997

Introduced by Dierks, 40

AN ACT relating to the human immunodeficiency virus; to amend section 71-531, Reissue Revised Statutes of Nebraska; to exempt home collection kits from informed consent requirements; and to repeal the original section.

Be it enacted by the people of the State of Nebraska,

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

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

(2) The written informed consent shall provide:

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

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

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

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

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

(4) This section shall not apply to:

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

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

(c) The performance of a human immunodeficiency virus test by licensed medical personnel of the Department of Correctional Services when the subject of the test is committed to such department. Posttest counseling shall be required for the subject if the test is positive. A person committed to the Department of Correctional Services shall be informed by the department

(i) if he or she is being tested for the human immunodeficiency virus, (ii) that education shall be provided to him or her about the human immunodeficiency virus, including, but not limited to, the identification and reduction of risks, and (iii) of the test result and the meaning of such result; or

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

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

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