

/* NEBRASKA has enacted statutes dealing with discrimination, offender testing, STD control, exposure of EMS personnel, test confidentiality, and criminally exposing a person to the virus.

*/

CIVIL RIGHTS

(j) HUMAN IMMUNODEFICIENCY VIRUS

20-167. Discrimination; legislative intent; state agencies; duties. It is the intent of the Legislature that no person should be discriminated against on the basis of having taken a human immunodeficiency virus antibody or antigen test.

Each agency of state government shall examine policies and practices within its jurisdiction that may intentionally or unintentionally result in discrimination against a person who has taken a human immunodeficiency virus antibody or antigen test or who has been diagnosed as having acquired immunodeficiency syndrome or acquired immunodeficiency syndrome related complex to ascertain the extent and types of discrimination that may exist. Each agency shall identify proposed changes in statutes or agency rules and regulations to remedy discrimination. Each agency shall report its findings to the Legislature on or before December 1, 1988.

20-168. Employment, dwelling, school district, place of public accommodation; discrimination prohibited; civil action; authorized. (1) An employer shall not (a) refuse to hire an individual, (b) discharge an individual, or (c) otherwise discriminate against an individual with respect to compensation or terms, conditions, or privileges of employment on the basis that the individual is suffering or is suspected of suffering from human immunodeficiency virus infection or acquired immunodeficiency syndrome.

(2) A seller or lessor shall not refuse to sell or lease a dwelling as defined in section 20-310 to an individual on the basis that the individual, a member of the individual's family, or a person who will be residing with the individual is suffering or is suspected of suffering from human immunodeficiency virus infection or acquired immunodeficiency syndrome.

(3) A school district shall not deny admission to a student on the basis that the student is suffering or is suspected of suffering from human immunodeficiency virus infection or acquired immunodeficiency syndrome.

(4) A place of public accommodation as defined in section 26-133 shall not deny equal access to such public accommodation on the basis that the individual is suffering or is suspected of suffering from human immunodeficiency virus infection or acquired

immunodeficiency syndrome.

(5) Any individual who has been discriminated against in violation of this section may file a civil action to enforce this section in the district court of the county where the discrimination is alleged to have occurred. The remedy granted by this subsection shall be in addition to any other remedy provided by law and shall not be interpreted as denying any other remedy provided by law.

20-169. Individual; threat to health or safety; unable to perform duties; effect. Actions otherwise prohibited by subsections (1) and (3) of section 20-168 shall not constitute a violation of the requirements of such section if the individual suffering from or suspected of suffering from human immunodeficiency virus infection or acquired immunodeficiency syndrome poses a direct threat to the health or safety of himself, herself, or other individuals or is unable to perform the duties of the job he or she is applying for or is employed to perform.

CRIMINAL PROCEDURE

(f) HUMAN IMMUNODEFICIENCY VIRUS ANTIBODY OR ANTIGEN TEST 29-2290. Test; when required; Department of Correctional Services; report to victim. Notwithstanding any other provision of law, when a person has been convicted of sexual assault pursuant to sections 28-317 to 28-320 or sexual assault of a child pursuant to section 28-320.01, the presiding judge shall, at the request of the victim as part of the sentence of the convicted person, order the convicted person to submit to a human immunodeficiency virus antibody or antigen test. Such test shall be conducted under the jurisdiction of the Department of Correctional Services. The results of the test shall be reported to the victim of the sexual assault or to the parents or guardian of the victim if the victim is a minor or is mentally incompetent.

The department shall adopt and promulgate rules and regulations to carry out this section.

DISEASES

(a) CONTAGIOUS, INFECTIOUS, AND MALIGNANT DISEASES 71-501. Contagious diseases; county board of health; chairman; salary; powers and duties. The county boards of the several counties shall make and enforce regulations to prevent the introduction and spread of contagious, infectious and malignant diseases in their respective counties. To that end a board of health shall be created, consisting of three members: The

sheriff, who shall be chairman and quarantine officer; a physician who resides permanently in the county, but if the county has no resident physician, then one conveniently situated, who shall be medical adviser, and who shall be chosen by the board of county commissioners or supervisors; and the county clerk or superintendent, to be appointed by the county board of commissioners or supervisors who shall be secretary. The county board may pay the chairman of the board of health a salary for such services not to exceed fifty dollars per month, as fixed by the county board. The board shall make rules and regulations to safeguard the health of the people, prevent nuisances and insanitary conditions, and enforce the same throughout all the territory comprising such county, except incorporated cities and villages, and provide penalties for the violation thereof. Should the board of health fail to enact rules and regulations as herein provided, it shall enforce the rules and regulations promulgated by the Department of Health.

71-501.01. Acquired immunodeficiency syndrome; legislative findings. The Legislature recognizes that acquired immunodeficiency syndrome, AIDS, is an incurable life-threatening illness which is epidemic in the United States. Persons who suffer from acquired immunodeficiency syndrome and its related diseases and conditions must receive appropriate and humane care. All members of the general public must have accurate and complete information concerning the characteristics of the disease and the avoidance of infection. The public must be motivated to protect themselves and others against the spread of the disease. The successful containment of the epidemic calls for strong commitment and support from all segments of our society. It is the intent of the Legislature to authorize a program of services to protect the public health.

71-501.02. Acquired immunodeficiency syndrome program; department; Powers. The Department of Health may establish and administer a statewide acquired immunodeficiency syndrome program for the purposes of providing education, prevention, detection, and counseling services to protect the public health. In order to implement the program, the department may:

- (1) Apply for, receive, and administer federal and other public and private funds and contract for services, equipment, and property as necessary to use such funds for the Purposes specified in section 71-501.01 and this section;
- (2) Provide education and training regarding acquired immunodeficiency syndrome and its related diseases and conditions to the general public and to health care providers. The department

may charge fees based on administrative costs for such services. Any fees collected shall be deposited in the state treasury and shall be credited to the Department of Health Cash Fund;

(3) Provide resource referrals for medical care and social services to persons affected by acquired immunodeficiency syndrome and its related diseases and conditions;

(4) Contract for voluntary, confidential screening, testing, and counseling services. Such services shall be provided to the public without charge;

(5) Cooperate with the Centers for Disease Control of the Public Health Service of the United States Department of Health and Human Services or its successor for the purposes of research into and investigation of acquired immunodeficiency syndrome and its related diseases and conditions; and

(6) Adopt and promulgate rules and regulations which prescribe standards for determining the eligibility of an individual to receive federal or state funds for medical or institutional care if such funds are disbursed by the department, for determining the eligibility of researchers to have access to epidemiologic data of the department, for laboratories for acquired immunodeficiency syndrome tests and test methods and techniques, and for the operation of counseling and testing sites.

71-502. Communicable diseases; rules and regulations; control; Powers of Department of Health. The Department of Health shall have supervision and control of all matters relating to necessary communicable disease control and shall adopt and promulgate such proper and reasonable general rules and regulations as will best serve to promote communicable disease control throughout the state and prevent the introduction or spread of disease. In addition to such general and standing rules and regulations, (1) in cases of emergency in which the health of the people of the entire state or any locality in the state is menaced by or exposed to any contagious, infectious, or epidemic disease or illness or poisoning, (2) when a local board of health having jurisdiction of a particular locality fails or refuses to act with sufficient promptitude and efficiency' in any such emergency, or (3) in localities in which no local board of health has been established, as provided by law, the department shall adopt, promulgate, and enforce special communicable disease control rules and regulations such as the occasion and proper protection of the public health may require. All necessary expenses incurred in the enforcement of such rules and regulations shall be paid by the city, village, or county for and within which the same have been incurred. All officers and other persons shall obey and enforce such communicable disease control

rules and regulations as may be adopted and promulgated by the department.

71-502.01. Sexually transmitted diseases; enumerated. Sexually transmitted diseases are declared to be contagious, infectious, communicable, and dangerous to the public health. - Sexually transmitted diseases shall include, but not be limited to, syphilis, gonorrhea, chancroid, and such other sexually transmitted diseases as the Department of Health may from time to time specify.

71-502.02. Sexually transmitted diseases; rules and regulations. The Department of Health shall adopt and promulgate such rules and regulations as shall, in its judgment, be necessary to control and suppress sexually transmitted diseases.

71-502.04. Laboratory; test results; notification required; confidential. Any person who is in charge of a clinical laboratory in which a laboratory examination of any specimen derived from the human body yields microscopical, cultural, immunological, serological, or other evidence of disease, illness, or poisoning as the Department of Health may from time to time specify shall promptly notify the official local health department or the Department of Health of such findings. For purposes of this section, disease, illness, or poisoning shall not be interpreted to include human immunodeficiency virus antibody or antigen testing results, except that such person shall report statistical summaries of total human immunodeficiency virus tests conducted and the results of such tests. The department shall adopt and promulgate rules and regulations setting the methods, manner, and procedure for such reporting.

Each notification shall give the date and result of the test performed, the name and, when available, the age of the person from whom the specimen was obtained, and the name and address of the physician for whom such examination or test was performed. A legible copy of the laboratory report shall be deemed satisfactory notification.

All laboratory notifications required by this section shall be confidential and shall not be open to public inspection, except that the Director of Health, the director of the official local health department, or some person appointed by either director may discuss the notification with the attending physician.

71-503.01. Reports required; confidential; limitations on use; immunity. Whenever any statute of the state, any ordinance

or resolution of a municipal corporation or political subdivision enacted pursuant to statute, or any rule or regulation of an administrative agency adopted and promulgated pursuant to statute requires medical practitioners or other persons to report cases of communicable diseases, including sexually transmitted diseases and other reportable diseases, illnesses, or poisonings or to give notification of positive laboratory findings to the Department of Health or any county or city board of health, local health department established pursuant to sections 71-1626 to 71-1636, city health department, local health agency, or state or local public official exercising the duties and responsibilities of any board of health or health department, such reports or notifications shall be confidential except as provided in this section, shall not be subject to subpoena, and shall be inadmissible in evidence in any legal proceeding of any kind or character.

In order to further the protection of public health, such reports and notifications may be disclosed by the Department of Health, the official local health department, and the person making such reports or notifications to the Centers for Disease Control of the Public Health Service of the United States Department of Health and Human Services or its successor in such a manner as to ensure that the identity of any individual cannot be ascertained. To further protect the public health, the Department of Health, the official local health department, and the person making the report or notification may disclose to the official state and local health departments of other states, territories, and the District of Columbia such reports and notifications, including sufficient identification and information so as to ensure that such investigations as deemed necessary are made.

The appropriate board, health department, agency, or official may: (1) Publish analyses of such reports and information for scientific and public health purposes in such a manner as to ensure that the identity of any individual concerned cannot be ascertained; (2) discuss the report or notification with the attending physician; and (3) make such investigation as deemed necessary.

Any medical practitioner, official health department, or other person making such reports or notifications shall be immune from suit for slander or libel or breach of privileged communication, based on any statements contained in such reports and notifications.

71-505. Department of Health; public health; duties; fees. (1) It shall be the duty of the Department of Health, in addition to other' duties provided by law, to secure and maintain in all

parts of the state an official record and notification of reportable diseases, illnesses, or poisonings, to provide popular literature upon the different branches of public health and distribute the same free throughout the state in a manner best calculated to promote that interest, to prepare and exhibit in the different communities of the state public health demonstrations accompanied by lectures and audiovisual aids, to provide preventive services to protect the public, and in all other effective ways to prevent the origin and spread of disease and promote the public health.

(2) The Department of Health may provide technical services to and on behalf of health care providers and may charge fees for such service's in an amount sufficient to recover the administrative costs of such services. Such fees shall be paid into the state treasury and credited to the department of Health Cash Fund.

71-506. Violations; penalty; enforcement. Any person violating any of the provisions of sections 71-501 to 71-505 or sections 71-'507 to 71-513 shall be guilty of a Class V misdemeanor for each offense. The Attorney General or the county attorney may, in accordance with the laws of the state governing injunctions and other process, maintain an action in the name of the state against any person or any private or public entity for violating such sections and the rules and regulations adopted and promulgated under such sections.

71-507. Terms, defined. For purposes of sections 71-507 to 71-513:

- (1) Department shall mean the Department of Health;
- (2) Designated physician shall mean the physician representing the emergency medical services provider as identified by name, address, and telephone number on the significant exposure report form;
- (3) Emergency medical services provider shall mean a person certified to provide emergency medical services pursuant to sections 71-5101 to 71-5164, a person certified to provide emergency medical care pursuant to the Emergency Medical Technician-Paramedic Act, a first responder certified to provide prehospital care pursuant to the First Responders Emergency Rescue Act, a sheriff, a deputy sheriff, a police officer, a state highway patrol officer, and a firefighter;
- (4) Health care facility shall have the meaning found in subdivisions (2), (10), (11), and (22) of section 71-2017.01;
- (5) Infectious disease or condition shall mean hepatitis B, meningococcal meningitis, active pulmonary tuberculosis, human

immunodeficiency virus, and such other diseases as the department may from time to time specify;

(6) Patient shall mean an individual who is sick, injured, wounded or otherwise helpless or incapacitated;

(7) Patient's attending physician shall mean the physician having the primary responsibility for the patient as indicated on the records of the health care facility;

(8) Provider agency shall mean any law enforcement agency, fire department, ambulance service, or other entity which is in the business of providing emergency response services;

(9) Significant exposure shall mean a situation in which the body fluids, such as blood, saliva, urine, or feces, of a patient have entered the body of an emergency medical services provider through a body opening such as the mouth or nose, a mucous membrane, or a break in skin from cuts or abrasions, from a contaminated needlestick or scalpel, from intimate respiratory contact, or through any other situation when the patient's body fluids may have entered the emergency medical services provider's body; and

(10) Significant exposure report form shall mean the form used by the emergency medical services provider to document information necessary for notification of significant exposure to an infectious disease or condition.

71-508. Exposure to infectious disease or condition; form; department; duties. The department shall prescribe a form for use by the emergency medical services provider to notify the health care facility and the designated physician that the provider has had a significant exposure to an infectious disease or condition. The form shall include identifying information for the emergency medical services provider, the provider agency, the designated physician, the patient, the patient's attending physician, and the receiving health care facility, a description of the exposure, a description of the protective measures and equipment used by the provider to minimize exposure hazard, and such other information as is necessary to protect the public health and safety and to implement sections 71-507 to 71-513.

71-509. Emergency services provider; significant exposure; completion of form; reports required; tests; notification; costs.

(1) When-ever an emergency services provider has a significant exposure in the process of caring for a patient, he or she may complete a significant exposure report form. A copy of the completed form shall be given by the emergency medical services provider to the health care facility and to the designated physician.

(2) Upon receipt of the significant exposure form, if a patient has been diagnosed during the normal course of treatment as having an infectious disease, the health care facility shall notify the designated physician pursuant to subsection (4) of this section. If the patient has not been diagnosed as having an infectious disease or condition and upon the request of the designated physician, the health care facility where the patient is hospitalized shall request the patient's attending physician to order the necessary diagnostic testing of the patient to determine the presence of an infectious disease or condition. Upon such request, the patient's attending physician shall order the necessary diagnostic testing. Each health care facility shall develop a policy or protocol to administer such testing and assure confidentiality of such testing.

(3) Results of tests conducted under this section and section 71-510 shall be reported by the health care facility that conducted the test to the designated physician and to the patient's attending physician.

(4) Notification of the patient's diagnosis of infectious disease or condition, including the results of any tests, shall be made orally to the designated physician within forty-eight hours of confirmed diagnosis. A written report shall be forwarded to the designated physician within seventy-two hours of confirmed diagnosis.

(5) Upon receipt of notification under subsection (4) of this section, the designated physician shall notify the emergency medical services provider of the exposure to infectious disease or condition and the results of any tests conducted under this section and section 71-510.

(6) The notification to the emergency medical services provider shall include the name of the infectious disease or condition diagnosed but shall not contain the patient's name or any other identifying information. Any person receiving such notification shall treat the information received as confidential and shall not disclose the information except as provided in sections 71-507 to 71-513.

(7) The Provider agency shall be responsible for the costs of diagnostic testing required under this section and section 71-510.

(8) The patient's attending physician shall inform the patient of test results for all tests conducted under such sections.

71-510. Emergency medical services Provider; significant exposure; Patient testing; conditions. (1) The patient shall be informed that he or she has the right to consent to the test for presence of an infectious disease or condition and that if the

patient refuses the test, such refusal will be communicated to the emergency medical services provider.

(2) If the patient is unconscious or incapable of signing an informed consent form, the consent may be obtained from the patient's next of kin or legal guardian,

(3) If an emergency medical services provider has a significant exposure which, in the opinion of the designated physician, could involve the transmission of hepatitis B or human immunodeficiency virus, the patient's attending physician shall initiate the necessary diagnostic blood tests of the patient. If the patient or patient's representative refuses to grant consent for such test and a sample of the patient's blood is available, the blood shall be tested for hepatitis B or human immunodeficiency virus. If the patient or patient's guardian refuses to grant consent and a sample of the patient's blood is not available, the patient's refusal shall be communicated to the designated physician who shall inform the emergency medical services provider. The emergency medical services provider may petition the district court for an order mandating that the test be performed,

(4) If a patient dies without the opportunity to consent to blood testing, testing for hepatitis B or human immunodeficiency virus shall be conducted.

71-511. Patient information or test; confidentiality. (1)

Information concerning any patient or test results obtained under sections 71-507 to 71-513 shall be maintained as confidential by the health care facility that received or tested the patient, the designated physician, the patient's attending physician, the emergency medical service provider, and the provider agency except as provided by such sections and sections 71-503.01 and 71-2017 and the rules and regulations adopted and promulgated, pursuant to such sections. Such information shall not be made public upon subpoena, search warrant, discovery proceedings, or otherwise except as provided by such sections.

(2) The information described in subsection (1) of this section, may be released with the written consent of the patient or, if the patient is deceased or incapable of giving informed consent, with the written consent of his or her next of kin, legal guardian, or personal representative of his or her estate.

71-512. Health care facilities; provider agencies; adopt, procedures. All health care facilities and provider agencies subject to sections 71-507 to 71-513 shall adopt written procedures regarding infectious diseases or conditions which address pre-exposure safeguards and post-exposure risk-reduction

methods.

71-513. Immunity from liability; when. Any health care facility, provider agency, or agent, employee, administrator, physician, or other representative of such health care facility or provider agency who in good faith provides or fails to provide notification, testing, or other action as required by sections 71-507 to 71-513 shall have immunity from any liability, either criminal or civil, that might result by reason of such action or inaction.