

SENATE BILL NO. 266—SENATOR HORSFORD

MARCH 13, 2007

JOINT SPONSOR: ASSEMBLYMAN PARKS

Referred to Committee on Human Resources and Education

SUMMARY—Requires the performance of tests for the human immunodeficiency virus for pregnant women and newborn children. (BDR 40-1063)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

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EXPLANATION – Matter in **bolded italics** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to public health; requiring certain prenatal tests for pregnant women under certain circumstances; requiring certain tests for the human immunodeficiency virus for pregnant women and newborn children under certain circumstances; granting a provider of health care immunity from civil and criminal liability and professional discipline under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 **Section 6** of this bill requires a provider of health care to ensure that a woman
2 receives, as part of the routine prenatal care recommended for all pregnant women
3 during the first trimester of pregnancy, a test for the human immunodeficiency
4 virus unless the woman chooses not to be tested. **Section 6** requires a provider of
5 health care to ensure that a pregnant woman receives a test for human
6 immunodeficiency virus during her third trimester if she receives health care in a
7 jurisdiction with a high prevalence of human immunodeficiency virus or acquired
8 immunodeficiency syndrome among women of child-bearing age or in a high-risk
9 clinical setting or if she reports that she has one or more of the risk factors
10 identified by the Centers for Disease Control and Prevention, unless the woman
11 chooses not to be tested. **Section 6** also requires a provider of health care to ensure
12 that a pregnant woman receives a rapid test for the human immunodeficiency virus
13 during childbirth if she has not been tested for the human immunodeficiency virus
14 earlier during her pregnancy or the results of an earlier test are not available, unless
15 the woman chooses not to be tested. If a rapid test is administered and the result of
16 the rapid test is positive, the provider of health care must offer to initiate



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antiretroviral prophylaxis as soon as practicable without waiting for the results of any other test administered to confirm the result of the rapid test.

Section 7 of this bill requires a provider of health care who attends or assists at the delivery of a child to ensure that a test for the human immunodeficiency virus is performed on the child if the mother has not been tested for the human immunodeficiency virus earlier during her pregnancy or the results of an earlier test are not available, unless a parent objects that performance of the test is contrary to the religious beliefs of the parent.

Section 8 of this bill requires a provider of health care to ensure that, before a woman or newborn child receives any test set forth in this bill, the woman or parent of the newborn child receives a pamphlet informing them of their right to refuse the test.

Section 9 of this bill provides that a provider of health care is not subject to civil or criminal liability or disciplinary action solely for his violation of a provision of this bill.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 442 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 9, inclusive, of this act.

Sec. 2. *As used in sections 2 to 9, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 and 4 of this act have the meanings ascribed to them in those sections.*

Sec. 3. *“Provider of health care” means:*

- 1. A provider of health care as defined in NRS 629.031;*
- 2. A midwife; and*
- 3. An obstetric center licensed pursuant to chapter 449 of NRS.*

Sec. 4. *“Rapid test for the human immunodeficiency virus” or “rapid test” means a test that:*

- 1. Is used to detect the presence of antibodies to the human immunodeficiency virus; and*
- 2. Provides a result in 30 minutes or less.*

Sec. 5. *Any test for the human immunodeficiency virus, including, without limitation, a rapid test, that is used to carry out the provisions of sections 2 to 9, inclusive, of this act must be approved by the United States Food and Drug Administration.*

Sec. 6. *1. A provider of health care who provides prenatal care to a woman during the first trimester of her pregnancy shall ensure that the woman receives, at her first visit or as soon thereafter as practicable, the routine prenatal screening tests recommended for all pregnant women by the Centers for Disease Control and Prevention, including, without limitation, a screening test for the human immunodeficiency virus, unless the woman*



1 chooses not to have a screening test for the human
2 immunodeficiency virus or any of the other prenatal screening
3 tests.

4 2. A provider of health care who provides prenatal care to a
5 woman during the third trimester of her pregnancy shall ensure
6 that the woman receives, between the 27th and the 36th week of
7 gestation or as soon thereafter as practicable, a test for the human
8 immunodeficiency virus if she:

9 (a) Has not been tested for the human immunodeficiency virus
10 earlier during her pregnancy or the results of an earlier test are
11 not available; or

12 (b) Is at high risk for infection with the human
13 immunodeficiency virus,

14 ↪ unless the woman chooses not to have such a test.

15 3. A provider of health care who attends or assists a woman
16 during childbirth shall:

17 (a) Ensure that the woman receives a rapid test for the human
18 immunodeficiency virus if she has not been tested for the human
19 immunodeficiency virus earlier during her pregnancy or the
20 results of an earlier test are not available, unless the woman
21 chooses not to have such a test; and

22 (b) If the rapid test is administered and the result of the rapid
23 test is positive for the presence of antibodies to the human
24 immunodeficiency virus, offer to initiate antiretroviral prophylaxis
25 to reduce the risk of perinatal transmission of the human
26 immunodeficiency virus as soon as practicable after receiving the
27 result of the rapid test and without waiting for the results of any
28 other test administered to confirm the result of the rapid test.

29 4. For the purposes of this section, a woman is at high risk
30 for infection with the human immunodeficiency virus if she:

31 (a) Receives health care in:

32 (1) A jurisdiction that the Centers for Disease Control and
33 Prevention has identified as having an elevated incidence of
34 human immunodeficiency virus or acquired immunodeficiency
35 syndrome among women between the ages of 15 and 45 years; or

36 (2) A health care facility that, under the standards of the
37 Centers for Disease Control and Prevention, is considered a high-
38 risk clinical setting because prenatal screening has identified at
39 least one pregnant woman who is infected with the human
40 immunodeficiency virus for each 1,000 pregnant women screened
41 at the facility; or

42 (b) Reports having one or more of the risk factors for infection
43 with the human immunodeficiency virus identified by the Centers
44 for Disease Control and Prevention, including, without limitation:



1 (1) Engaging in sexual activities with more than one person
2 during the pregnancy without using effective measures to protect
3 against the transmission of the human immunodeficiency virus.

4 (2) Engaging in sexual activity with another person in
5 exchange for money or other compensation.

6 (3) Engaging in sexual activity with another person who is
7 infected with the human immunodeficiency virus or who has one
8 or more of the risk factors for infection with the human
9 immunodeficiency virus identified by the Centers for Disease
10 Control and Prevention.

11 (4) Receiving treatment for a sexually transmitted disease.

12 (5) Using a controlled substance or a dangerous drug.

13 (6) Receiving a blood transfusion between 1978 and 1985,
14 inclusive.

15 5. As used in this section, "dangerous drug" has the meaning
16 ascribed to it in NRS 454.201.

17 Sec. 7. A provider of health care who attends or assists at the
18 delivery of a child shall, if the mother has not been tested for the
19 human immunodeficiency virus earlier during her pregnancy or
20 the results of an earlier test are not available, ensure that a rapid
21 test for the human immunodeficiency virus is performed on the
22 child unless a parent of the child objects to the performance of the
23 test because it is contrary to the religious beliefs of the parent.

24 Sec. 8. A provider of health care shall ensure that, before a
25 woman or newborn child receives any test that is used to carry out
26 the provisions of sections 2 to 9, inclusive, of this act:

27 1. The woman receives a pamphlet that informs her of her
28 right not to have the test.

29 2. The parent of the newborn child receives a pamphlet that
30 informs the parent of the parent's right to object to the
31 performance of the test because it is contrary to the religious
32 beliefs of the parent.

33 Sec. 9. A provider of health care is not subject to civil or
34 criminal liability or disciplinary action solely for his violation of a
35 provision of sections 2 to 9, inclusive, of this act.

