

Amendment No. CA23

First Conference Committee Amendment to (BDR 40-1063)
Senate Bill No. 266 Second Reprint

Proposed by: First Conference Committee

Amends: Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes

EXPLANATION: Matter in (1) ***blue bold italics*** is new language in the original bill; (2) ***green bold italic underlining*** is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) ~~orange double underlining~~ is deleted language in the original bill that is proposed to be retained in this amendment; and (6) ***green bold*** is newly added transitory language.

SLP/TMC



Date: 6/3/2007

S.B. No. 266—Requires the performance of tests for the human immunodeficiency virus for pregnant women and newborn children. (BDR 40-1063)



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; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 6 of this bill requires a provider of health care to ensure that a woman receives, as part of the routine prenatal care recommended for all pregnant women during the first trimester of pregnancy, a test for the human immunodeficiency virus unless the woman chooses not to be tested. **Section 6** requires a provider of health care to ensure that a pregnant woman receives a test for human immunodeficiency virus during her third trimester if she receives health care in a jurisdiction with a high prevalence of human immunodeficiency virus or acquired immunodeficiency syndrome among women of child-bearing age or in a high-risk clinical setting or if she reports that she has one or more of the risk factors identified by the Centers for Disease Control and Prevention, unless the woman chooses not to be tested. **Section 6** also requires a provider of health care to ensure that a pregnant woman receives a rapid test for the human immunodeficiency virus during childbirth if she has not been tested for the human immunodeficiency virus earlier during her pregnancy or the results of an earlier test are not available, unless the woman chooses not to be tested. If a rapid test is administered and the result of the rapid test is positive, the provider of health care must offer to initiate 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 or legal guardian of the child objects that performance of the test is contrary to the religious beliefs of the parent or legal guardian.

Section 10 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 the parent or legal guardian of the newborn child receives a pamphlet containing information about the human immunodeficiency virus, the test offered pursuant to this bill, the right to refuse the test and other relevant information.

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~~ 10, inclusive, of this act.

Sec. 2. *As used in sections 2 to ~~9~~ 10, 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. 1. 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~~ 10, inclusive, of this act must be approved by the United States Food and Drug Administration.

2. Each test administered to a woman or performed on a child pursuant to the provisions of sections 2 to ~~9~~ 10, inclusive, of this act must be administered or performed in accordance with:

(a) The provisions of chapter 652 of NRS and any regulations adopted pursuant thereto; and

(b) The Clinical Laboratory Improvement Amendments of 1988, Public Law No. 100-578, 42 U.S.C. § 263a, if applicable.

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

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

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

(b) Is at high risk for infection with the human immunodeficiency virus,
unless the woman chooses not to have such a test.

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

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

7 (b) If the rapid test is administered and the result of the rapid test is positive
8 for the presence of antibodies to the human immunodeficiency virus, offer to
9 initiate antiretroviral prophylaxis to reduce the risk of perinatal transmission of
10 the human immunodeficiency virus as soon as practicable after receiving the
11 result of the rapid test and without waiting for the results of any other test
12 administered to confirm the result of the rapid test.

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

15 (a) Receives health care in:

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

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

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

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

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

33 (3) Engaging in sexual activity with another person who is infected with
34 the human immunodeficiency virus or who has one or more of the risk factors for
35 infection with the human immunodeficiency virus identified by the Centers for
36 Disease Control and Prevention.

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

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

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

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

42 Sec. 7. A provider of health care who attends or assists at the delivery of a
43 child shall, if the mother has not been tested for the human immunodeficiency
44 virus earlier during her pregnancy or the results of an earlier test are not
45 available, ensure that a rapid test for the human immunodeficiency virus is
46 performed on the child unless a parent or legal guardian of the child objects to
47 the performance of the test because it is contrary to the religious beliefs of the
48 parent or legal guardian.

49 Sec. 8. (Deleted by amendment.)

50 Sec. 9. (Deleted by amendment.)

51 Sec. 10. A provider of health care shall ensure that, before a woman or
52 newborn child receives any test that is used to carry out the provisions of sections

2 to 10, inclusive, of this act, the woman or the parent or legal guardian of the newborn child receives a pamphlet of information concerning:

1. The human immunodeficiency virus and acquired immunodeficiency syndrome;

2. The test that will be administered pursuant to sections 2 to 10, inclusive, of this act and the benefits and consequences of the test;

3. Transmission of the human immunodeficiency virus and how to prevent its transmission;

4. If the pamphlet is for a woman being tested pursuant to section 6 of this act, the right of a woman to refuse a test;

5. If the pamphlet is for the parent or legal guardian of a newborn child being tested pursuant to section 7 of this act, the right of the parent or legal guardian to object to a test of a newborn child because it is contrary to the religious beliefs of the parent or legal guardian; and

6. Any other information recommended by the Department or the Centers for Disease Control and Prevention of the United States Department of Health and Human Services that the provider of health care determines useful.