

LEGISLATIVE BILL 431

Approved by the Governor April 17, 1992

Introduced by Wesely, 26; Schellpeper, 18; Smith, 33;
Bohlke, 33

AN ACT relating to public health and welfare; to amend sections 71-1913.01, 71-1913.03, and 79-444.01, Reissue Revised Statutes of Nebraska, 1943; to adopt the Childhood Vaccine Act; to change immunization requirements for children enrolled in early childhood programs; to change duties; to harmonize provisions; to provide operative dates; to provide severability; to repeal the original sections; and to declare an emergency.

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

Section 1. Sections 1 to 5 of this act shall be known and may be cited as the Childhood Vaccine Act.

Sec. 2. The Legislature hereby finds and declares that:

(1) Childhood communicable diseases constitute a serious threat to the public health of the people of this state and the prevention of childhood communicable diseases is a goal of the people;

(2) The effectiveness of childhood vaccines in preventing certain communicable diseases and thereby saving lives and preventing debilitating conditions has been well documented. Vaccines are among the most cost-effective components of preventive health care; for every dollar spent on childhood immunization, ten dollars are saved in later medical costs;

(3) Prevention of childhood diseases should include comprehensive, continuous health care, including regular medical examinations, treatment by a practitioner familiar with the child, and age-appropriate administration of immunizations;

(4) The United States Department of Health and Human Services, Public Health Service, has as its Healthy People 2000 objective to have at least ninety percent of all children completely immunized by age two. The United States immunization survey indicates that only seventy-seven percent of children two years of age had received the basic immunization series. Recent outbreaks of measles among preschoolers who are not immunized also have shown that inadequate immunization

levels still occur;

(5) Nebraska has as its Year 2000 objective that seventy-five percent of its counties are covered by public immunization clinics, that ninety percent of its two-year-olds are minimally immunized, and that ninety-eight percent of its school-aged children are immunized;

(6) The Surgeon General's 1990 objective to decrease the incidence of cases of mumps and pertussis to less than one thousand has not been achieved, and the incidence of pertussis increased between 1979 and 1987;

(7) Immunization rates in other developed countries are higher than immunization rates in the United States;

(8) Diphtheria, tetanus, and pertussis immunization rates in European countries average forty-one percent higher than in the United States;

(9) Polio immunization rates are twenty-three percent higher in European countries than in the United States;

(10) Measles immunization rates are twenty-three percent higher in England, Denmark, and Norway than in the United States;

(11) Childhood communicable diseases should be prevented through protection of Nebraska's children by immunization against measles, mumps, rubella, diphtheria, tetanus, pertussis, polio, haemophilus influenzae type B, and such other diseases as may be indicated based on then current medical and scientific knowledge;

(12) The average cost of fully vaccinating a child in the private sector has increased dramatically in the past decade. The full battery of childhood vaccines recommended by the Centers for Disease Control in 1982 increased five times in cost between 1982 and 1989. These increases have made it unaffordable for many children to receive their immunizations at their private practitioner's office; and

(13) There is a national effort to continue current immunization programs and to provide additional funds to implement the Healthy People 2000 objective that ninety percent of children are appropriately immunized by two years of age.

Sec. 3. (1) It is the intent of the Legislature that the citizens of the State of Nebraska benefit by participation in national efforts to take innovative action to provide immunization of our children by removal of barriers which impede vaccine delivery and by improving access to immunization

services.

(2) It is also the purpose of the Childhood Vaccine Act to provide authorization for childhood immunization demonstration or pilot projects that document childhood immunization trends, encourage cooperation between and use of both private practitioners and public providers in offering health care to children, and otherwise assess a total approach to immunization against childhood diseases.

Sec. 4. The Department of Health may participate in the national efforts described in sections 2 and 3 of this act and may develop a statewide immunization action plan which is comprehensive in scope and reflects contributions from a broad base of providers and consumers. In order to implement the statewide immunization action plan, the department may:

(1) Actively seek the participation and commitment of the public, health care professionals and facilities, the educational community, and community organizations in a comprehensive program to ensure that the state's children are appropriately immunized;

(2) Apply for and receive public and private awards to purchase vaccines and to administer a statewide comprehensive program;

(3) Provide immunization information and education to the public, parents, health care providers, and educators to establish and maintain a high level of awareness and demand for immunization by parents;

(4) Assist parents, health care providers, and communities in developing systems, including demonstration and pilot projects, which emphasize well-child care and the use of private practitioners and which improve the availability of immunization and improve management of immunization delivery so as to ensure the adequacy of the vaccine delivery system;

(5) Evaluate the effectiveness of these statewide efforts, conduct ongoing measurement of children's immunization status, identify children at special risk for deficiencies in immunization, and report on the activities of the statewide immunization program annually to the Legislature and the citizens of Nebraska; and

(6) Recognize persons who volunteer their efforts towards achieving the goal of providing immunization of the children of Nebraska and in meeting the Healthy People 2000 objective of series-complete immunization coverage for ninety percent or more of United States children by their second birthday.

Sec. 5. The Childhood Vaccine Act is not

intended to create an entitlement to any activities described in the act, and the Department of Health may perform the activities described in the act to the extent funds are available.

Sec. 6. That section 71-1913.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1913.01. (1) Each early childhood program shall require the parent or guardian of each child enrolled in such program to present within thirty days of enrollment and periodically thereafter (a) proof that the child is protected by age-appropriate immunization against measles, mumps, rubella, poliomyelitis, diphtheria, pertussis, tetanus, and haemophilus influenzae type B ~~or (b)~~ and such other diseases as the Department of Health may from time to time specify based on then-current medical and scientific knowledge, (b) certification by a physician, certified nurse practitioner, or physician assistant that immunization is not appropriate for a stated medical reason, or (c) a written statement that he or she the parent or guardian does not wish to have such child so immunized and the reasons therefor. The early childhood program shall exclude a child from attendance until such proof, certification, or written statement is provided. At the time the parent or guardian is notified that such information is required, he or she shall be notified in writing of his or her right to submit a certification or written statement refusing immunization for his or her child pursuant to subdivision (b) or (c) of this subsection.

(2) Each early childhood program shall keep a written record of immunization, the certification, or the written statement of the parent or guardian, that he or she does not wish to have the child immunized. Such record, certification, or statement shall be kept by the early childhood program as part of the child's file and shall be available to the Department of Social Services and shall be filed with the Department of Health for review and inspection. Each early childhood program shall report to the Department of Health by November 1 of each year the status of immunization for children enrolled as of September 30 of that year.

Sec. 7. That section 71-1913.03, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1913.03. The Department of Health shall adopt and promulgate rules and regulations relating to the required levels of protection, using as a guide the

recommendations of the American Academy of Pediatrics and the Advisory Committee on Immunization Practices of the Centers for Disease Control of the United States Department of Health and Human Services, Public Health Service, and the methods, manner, and frequency of reporting of each child's immunization status. The Department of Health shall furnish each early childhood program with copies of such rules and regulations and any other material which will assist in carrying out section 71-1913.01.

Sec. 8. That section 79-444.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-444.01. Each board of education and the governing authority of each school in this state shall require each student to be protected against measles, mumps, rubella, poliomyelitis, diphtheria, pertussis, and tetanus by immunization prior to November 1 of each school year for original enrollees or, in the case of a student transferring from another school, within sixty days after the enrollment date, unless a parent or guardian of such student presents a written statement that he or she does not wish to have such student so immunized. Such written statement shall be kept in the student's file. Any student who does not comply with this section shall not be permitted to continue in school until he or she shall so comply.

The Except as provided in the Childhood Vaccine Act, the cost of such immunization shall be borne by the parent or guardian of each student who is immunized; PROVIDED, that such cost shall be borne or by the Department of Health for those students whose parents or guardian are financially unable to meet such cost, for such service-

Sec. 9. Sections 6, 7, and 12 of this act shall become operative September 30, 1993. The other sections of this act shall become operative on their effective date.

Sec. 10. If any section in this act or any part of any section shall be declared invalid or unconstitutional, such declaration shall not affect the validity or constitutionality of the remaining portions thereof.

Sec. 11. That original section 79-444.01, Reissue Revised Statutes of Nebraska, 1943, is repealed.

Sec. 12. That original sections 71-1913.01 and 71-1913.03, Reissue Revised Statutes of Nebraska, 1943, are repealed.

Sec. 13. Since an emergency exists, this act

LB 431

LB 431

shall be in full force and take effect, from and after its passage and approval, according to law.