

UNOFFICIAL ENGROSSMENT

SENATE
STATE OF MINNESOTA
EIGHTY-NINTH SESSION

H.F. No. 2777

(SENATE AUTHORS: HILSTROM and Newberger)

DATE	D-PG	OFFICIAL STATUS
04/27/2016	6490	Received from House
	6490	Introduction and first reading
		Referred to for comparison with SF3350, now on General Orders
04/28/2016	6537	Comm report: Subst. for SF on General Orders SF3350
	6538	Second reading
05/03/2016	6673a	Special Order: Amended
	6673	Third reading Passed
05/04/2016	6684	House not concur, conference committee of 3 requested
		House conferees Hilstrom; Newberger; Johnson, B.
		Senate accedes, CC of 3 be appointed
05/05/2016	6839	Senate conferees Hoffman; Champion; Abeler
05/18/2016	7201	House adopted HCC report and repassed bill
	7202c	Conference committee report
		Senate adopted CC report and repassed bill
	7202	Third reading
		Presentment date 05/19/16

A bill for an act

relating to public safety; health; courts; authorizing ex parte hearings to determine when an emergency medical service person has a significant exposure to a source individual's bodily fluids; authorizing peace officers to take a noncompliant source individual into temporary custody to collect a blood sample; amending Minnesota Statutes 2014, section 144.7407, subdivision 2.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2014, section 144.7407, subdivision 2, is amended to read:

Subd. 2. **Procedures without consent.** (a) An emergency medical services agency, or, if there is no agency, an emergency medical services person, may bring a petition for a court order to require a source individual to provide a blood sample for testing for blood-borne pathogens. The petition shall be filed in the district court in the county where the source individual resides or is hospitalized. The petitioner shall serve the petition on the source individual at least three days before a hearing on the petition. The petition shall include one or more affidavits attesting that:

(1) the facility followed the procedures in sections 144.7401 to 144.7415 and attempted to obtain blood-borne pathogen test results according to those sections;

(2) it has been determined under section 144.7414, subdivision 2, that a significant exposure has occurred to the emergency medical services person; and

(3) a physician with specialty training in infectious diseases, including HIV, has documented that the emergency medical services person has provided a blood sample and consented to testing for blood-borne pathogens and blood-borne pathogen test results are needed for beginning, continuing, modifying, or discontinuing medical treatment for the emergency medical services person.

(b) Facilities shall cooperate with petitioners in providing any necessary affidavits to the extent that facility staff can attest under oath to the facts in the affidavits.

(c) The court may order the source individual to provide a blood sample for blood-borne pathogen testing if:

(1) there is probable cause to believe the emergency medical services person has experienced a significant exposure to the source individual;

(2) the court imposes appropriate safeguards against unauthorized disclosure that must specify the persons who have access to the test results and the purposes for which the test results may be used;

(3) a licensed physician for the emergency medical services person needs the test results for beginning, continuing, modifying, or discontinuing medical treatment for the emergency medical services person; and

(4) the court finds a compelling need for the test results. In assessing compelling need, the court shall weigh the need for the court-ordered blood collection and test results against the interests of the source individual, including, but not limited to, privacy, health, safety, or economic interests. The court shall also consider whether the involuntary blood collection and testing would serve the public interest.

(d) The court shall conduct the proceeding in camera unless the petitioner or the source individual requests a hearing in open court and the court determines that a public hearing is necessary to the public interest and the proper administration of justice.

(e) The court shall conduct an ex parte hearing if the source individual does not attend the noticed hearing and the petitioner complied with the notice requirements in paragraph (a).

~~(e)~~ (f) The source individual has the right to counsel in any proceeding brought under this subdivision.

(g) The court may order a source individual taken into custody by a peace officer for purposes of obtaining a blood sample if the source individual does not comply with an order issued by the court pursuant to paragraph (c). The source individual shall be held no longer than is necessary to secure a blood sample. A person may not be held for more than 24 hours without receiving a court hearing. If a person taken into custody under this paragraph refuses to submit a blood sample, the court shall hold a hearing on the matter within 24 hours and determine whether to order the person to submit a sample.