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State of Minnesota

HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. 2777

03/08/2016

03/29/2016

04/26/2016

05/04/2016

05/17/2016

05/18/2016

05/19/2016

05/22/2016

Authored by Hilstrom and Newberger

The bill was read for the first time and referred to the Committee on Public Safety and Crime Prevention Policy and Finance

Adoption of Report: Placed on the General Register

Read Second Time

Calendar for the Day

Read Third Time

Passed by the House and transmitted to the Senate

Returned to the House as Amended by the Senate

Refused to concur and Conference Committee appointed

Conference Committee Report Adopted

Read Third Time as Amended by Conference and repassed by the House

Passed by the Senate and returned to the House

Presented to Governor

Governor Approval

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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.

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

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

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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:

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(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;

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(2) it has been determined under section 144.7414, subdivision 2, that a significant

exposure has occurred to the emergency medical services person; and

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(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.