

HOUSE RESEARCH

Bill Summary

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Authors: Smith and others

Subject: Corrections Employees; Nonconsensual Collection of Inmate Blood Sample

Analyst: Joe Cox, 651-296-5044

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Overview

Under current law, a blood sample may be taken from a prison or jail inmate to test for bloodborne pathogens if a corrections employee was subjected to a significant exposure. Under that law, if the inmate does not consent to the blood draw, a corrections agency may petition for a court order to do a blood draw. This bill adds an expedited process, eliminating the need for a court hearing, to obtain a blood draw if certain requirements are met.

Section

1 Procedures Without Consent; Expedited process. Paragraph (a). Provides that the head of a correctional facility may order an inmate to provide a blood sample for testing if the subdivision's requirements are met.

Para. (b). Before a blood sample can be ordered, an affidavit must be executed attesting:

- ▶ the correctional facility attempted to obtain the sample voluntarily;
- ▶ a doctor determines that a significant exposure has occurred;
- ▶ the corrections employee has provided a blood sample; and
- ▶ a doctor determines that a blood sample from the inmate is needed to determine the proper course of treatment for the corrections employee.

Section

Para. (c). The head of the correctional facility may order the blood sample if:

- ▶ there is probable cause to believe there was a significant exposure;
- ▶ there are safeguards against unauthorized/unnecessary disclosure including that the test results may not be used in unrelated criminal or civil proceedings;
- ▶ the test is needed to determine the proper scope of medical treatment; and
- ▶ the interests of the state and employee in obtaining the test results outweigh the interests of the inmate.

Para. (d). Requires correctional facilities to cooperate with employees to provide necessary affidavits.