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ELIMINATE REVIEW PANEL FOR HIV TESTING

House Bill 4742 as introduced First Analysis (10-27-99)

Sponsor: Rep. Rick Johnson
Committee: Health Policy

THE APPARENT PROBLEM:

Public Act 57 of 1997 amended the Public Health Code to authorize certain police officers, fire fighters, motor carrier officers, state property security officers, local correctional officers or other county employees, court employees, and individuals making a lawful arrest (such as security guards) who were exposed in certain ways to the blood or body fluids of an arrestee, correctional facility inmate, parolee, or probationer to request that the arrestee, etc. be tested for HIV, HBV (hepatitis B) infection, or HCV (hepatitis C) infection, or all three infections. If the test subject refused to undergo a requested test, the requester's employer can petition a circuit court to order the test or tests. Before ordering testing, the circuit court is required under the code to appoint a review panel consisting of three physicians (from a list submitted by the Department of Community Health) to review the need for testing the proposed test subject for HIV, HBV, or HCV infection (or all three), one of whom can be selected by the proposed test subject. At least two of the physicians have to have training and experience in the diagnosis and treatment of serious communicable diseases and infections. The review panel then has to review the record of the proceeding, interview the proposed test subject (or document why he or she wasn't interviewed), and recommend either that the individual be tested for HIV infection, HBV infection, or HCV infection, or all three, or not be tested for any, and document the reasons for the recommendation.

Reportedly, the requirement of a recommendation from a review panel before a court can issue an order for involuntary testing is proving to be a hardship for those workers who have been exposed to the body fluids of another person. According to the bill's sponsor, some rural counties are finding it difficult to assemble a panel with the necessary qualifications in a timely manner. Thus, both the testing procedure and the start of prophylactic or other medical treatment for those with an exposure to HIV, HBV, or HCV are delayed. It has been suggested that the provision requiring a review panel be removed.

THE CONTENT OF THE BILL:

House Bill 4742 would amend the Public Health Code to eliminate the requirement that a circuit court appoint a review panel before ordering testing for HIV, HBV, or HBC infections.

MCL 333.5205

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, the bill would reduce local costs related to the review panels. (10-25-99)

ARGUMENTS:

For:

Public Act 57 of 1997 was intended to create parity between city and county employees who were exposed to the body fluids of arrestees, probationers, parolees, and so on, and medical first responders and state correctional facility employees in regards to requiring tests for certain infectious diseases. Under Public Act 57, certain county or municipal employees including police officers, local corrections employees, fire fighters, and employees of county jails or courts and security guards can request that another individual be tested for HIV infection, HBV infection, and HCV infection if the employee was exposed to the other person's bodily fluids. If the person refuses to be tested, the worker's employer can petition the circuit court to order the appropriate tests. As part of the hearing process, the court has to assemble a three-person review panel of physicians with expertise in infectious diseases.

Unfortunately, since the act's effective date, it has become apparent that assembling such a panel, especially in rural areas, is lengthening the hearing procedure and delaying both the order of the tests and the start of prophylactic or other medical treatment, counseling, and testing for the affected county or city

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employee. Meanwhile, similar legislation requiring the testing of people who expose medical first responders, health care workers, and correctional facilities workers to blood and bodily fluids does not require such a review panel. Because of the seriousness of HIV, HBV, and HCV infections, it is imperative that exposed personnel receive the appropriate counseling and medical treatment in a timely fashion. The bill would expedite the hearing process by eliminating the review panel.

POSITIONS:

The Department of Community Health supports the bill.
(10-21-99)

The Fraternal Order of Police indicated support for the bill. (10-21-99)

Analyst: S. Stutzky

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.