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House Bill 4742 (as reported without amendment)
Sponsor: Representative Rick Johnson
House Committee: Health Policy
Senate Committee: Health Policy

Date Completed: 2-17-00

RATIONALE

Under the Public Health Code, a court may issue an order for the HIV (human immunodeficiency virus), HBV (hepatitis B virus), and/or HCV (hepatitis C virus) infection testing of a prisoner, arrestee, parolee, or probationer, if it is determined that a law enforcement officer, fire fighter, local corrections officer, county employee, court employee, or individual making a lawful arrest has sustained a percutaneous (skin), mucous membrane, or open wound exposure to the blood or body fluid of the prisoner, arrestee, parolee, or probationer, if the proposed test subject does not consent to testing. Before ordering the person to be tested, however, the court must consider the recommendation of a review panel.

The review panel consists of three physicians appointed by the court from a list of physicians submitted by the Department of Community Health. At least two of the physicians must have training and experience in the diagnosis and treatment of serious communicable diseases and infections; however, upon the motion of the individual who is the subject of the order, the court must appoint as one member of the review panel a physician who is selected by that individual. The review panel must review the record of the proceedings regarding the individual's refusal to submit to a test; interview the individual, or document the reasons why he or she was not interviewed; and recommend either that the individual be tested for HIV, HBV, or HCV infection, or all three, or that the individual not be tested for any of the infections, and document the reasons for the recommendation. Reportedly, the requirements prescribed for the formation of a qualified review panel, in some areas of the State, have been difficult to meet and resulted in delays. It has been suggested that these requirements be eliminated, thus allowing the court to determine on its own whether an individual should be tested for HIV, HBV, or HCV under the circumstances prescribed in the Code.

CONTENT

The bill would amend the Public Health Code to delete a requirement that the circuit court appoint, and consider the recommendations of, a review panel charged with determining if an individual should be ordered to be tested for HIV, HBV, or HCV infection; and remove provisions that prescribe the powers, duties, and appointment of the review panel.

MCL 333.5205

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Under the Code, certain county or municipal employees including police officers, local corrections employees, fire fighters, and employees of county jails or courts and security guards, may request that another individual (an arrestee, prisoner, parolee, or probationer) 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 employee may file a circuit court petition requesting the court to order the test; however, the court must appoint and consider the recommendation of a review panel, with expertise in infectious diseases, before ordering the test. These procedures differ from those prescribed for personnel exposed under different circumstances. Under the Code, police officers, fire fighters, and other licensed emergency care providers may request that an emergency patient, who is transported to a health facility, be tested for HIV or HBV if the personnel were exposed to the patient's blood or body fluids while treating or transporting the patient. Under these provisions, a health facility that receives a request for testing must conduct the test if specified criteria are met; there is no requirement

for review by a separate panel.

It has been pointed out that assembling review panels, especially in rural areas, can sometimes be difficult and result in delays in the required review procedures. Thus, needed tests, the start of medical treatment, and counseling for the employee who suffered the exposure may be delayed. Because of the seriousness of HIV, HBV, and HCV infections, it is necessary for exposed individuals to receive the appropriate treatment as soon as possible. By eliminating the review panel and allowing the court to decide right away if an arrested individual should be tested, the bill would expedite the process.

Legislative Analyst: G. Towne

FISCAL IMPACT

The bill would eliminate costs related to review panels. No Statewide data are available regarding review panel costs.

Fiscal Analyst: B. Bowerman

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.