

- (1) a licensed physician determines that a significant exposure has occurred;
- (2) the physician needs the inmate's bloodborne pathogens test results to begin, continue, modify, or stop treatment in accordance with the most recent U.S. public health guidelines, because of possible exposure to a bloodborne pathogen; and
- (3) the employee consents to provide a blood sample for testing.

3 Information required to be given to individuals. Requires the facility to inform the inmate that (1) inmate test results without identifying information will be reported to the employee if requested, (2) that test results are for medical purposes and cannot be used in criminal proceedings, and (3) that the employee will be informed of confidentiality requirements and penalties before any test results are disclosed.

Before giving an employee inmate test results, the facility must tell the employee the confidentiality requirements in law and that the employee may be subject to penalties for unauthorized release.

4 Disclosure of positive bloodborne pathogen test results. If the conditions of sections 2 and 3 are met, the facility must ask the inmate if the inmate ever had a positive test for a bloodborne pathogen. The facility must attempt to get existing test results before getting a blood sample or testing for bloodborne pathogens. Requires the facility to give the employee inmate test results without identifying information.

5 Consent procedures generally. Requires a facility seeking inmate consent to act consistent with other law generally applicable to consent. Provides that consent is not required if the facility makes reasonable efforts to get it but cannot get it within 24 hours of a significant exposure. If testing occurs without consent because an inmate is unconscious or unable to consent and a representative cannot be located, the facility will provide the information in section 2 to the inmate or representative whenever it is possible. If an inmate dies before giving consent, the facility does not need the inmate's representative's consent.

6 Testing of available blood.

Subd. 1. Procedures with consent. Provides for testing an inmate's blood sample with inmate consent if sections 2 and 3 are met.

Subd. 2. Procedures without consent. Applies if an inmate provides a blood sample but does not consent to testing. A test will be done if the following apply:

- (1) the employee and facility have documented exposure to blood or body fluids during employment duties;
- (2) a physician has determined a significant exposure has occurred and documented that test results are needed for the employee under current U.S. public health guidelines;
- (3) the employee provides a blood sample as soon as feasible;
- (4) the facility has requested the inmate's consent and the inmate has not consented;
- (5) the facility has provided the employee with the information required by section 3; and
- (6) the facility has told the employee the confidentiality requirements of section 10 and the penalties for unauthorized release in section 11.

Subd. 3. Follow up. Requires the facility to tell the inmate test results. Requires it to give results, without inmate identifying information, to the employee's health care provider.

7 Blood sample collection for testing.

Subd. 1. Procedures with consent. If a blood sample is not otherwise available, the facility must obtain inmate consent to collect one. If the inmate consents to give a sample, the facility must have it tested and give results to the employee's health care provider without identifying the inmate. The inmate must be told he or she can refuse, and that refusal may result in a court

order to require a blood sample. If the inmate refuses consent, the facility must so inform the employee.

Subd. 2. Procedures without consent. Authorizes a facility or employee to seek a court order to require an inmate to give a blood sample. Requires the facility to serve the petition on the inmate. Specifies what the petition must include.

Specifies that in order to require a blood sample the court must (1) find probable cause to believe the employee experienced a significant exposure, (2) impose safeguards against unauthorized disclosure or use of test results, (3) find that a physician needs the test in connection with treatment of the employee, and (4) find a compelling need for the test.

To determine compelling need the court must (1) weigh the need for compelled blood collection against the inmate's privacy interests and (2) consider whether involuntary blood collection and testing serve the public interest.

Provides for a closed hearing unless either party requests an open hearing or the court determines an open hearing is necessary to the public interest and administration of justice.

Allows the inmate to arrange for counsel in a proceeding under this subdivision.

- 8 No discrimination.** Prohibits the facility from withholding care or treatment from an inmate who refuses to consent to testing
- 9 Use of test results.** Provides for using blood tests under the bill for diagnostic purposes and to determine need for treatment. Prohibits using test results in a criminal proceeding.
- 10 Blood testing for other exposed persons.** Allows any person, other than another inmate, who has experienced significant exposure to an inmate to request the correctional facility to implement the blood testing procedures set forth in this bill. Provides that the other provisions in the bill also apply to any person, other than another inmate, who experiences this significant exposure.
- 11 Test information confidentiality.** Makes test results obtained under the bill private data (accessible only to the subject of the data and the entity that creates, collects, or maintains it), except that the results will be disclosed as provided by the bill.
- 12 Penalty for unauthorized release of information.** Makes unauthorized release of an inmate's identity under the bill a misdemeanor. Allows an inmate to pursue remedies under the data practices act or other law against an individual, government entity, or private entity for releasing private information about the inmate.
- 13 Protocol for exposure to bloodborne pathogens.** Requires facilities to follow federal guidelines for bloodborne pathogens. Requires adherence to the latest U.S. public health service protocols when an employee experiences a significant exposure.
- 14 Immunity.** Makes a facility, physician, and designated health care personnel immune from civil, criminal, or administrative action about the disclosure of inmate test results to an employee and the testing of an inmate blood sample, if a good faith effort has been made to comply with sections 1 to 13.