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Subject: Requiring a warrant to obtain blood or urine samples

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Overview

This bill amends existing statutes to reflect recent court decisions related to the warrant requirement for blood and urine testing of individuals suspected of driving under the influence and establishes a new section addressing license revocations based on a refusal to comply with a warrant for blood or urine testing, or failing a test performed pursuant to a warrant.

In 2015 and 2016, both the Minnesota and U.S. Supreme Courts decided several cases addressing the question of whether law enforcement officers must obtain warrants to conduct breath, blood, and urine tests of individuals suspected of driving under the influence of alcohol or a controlled substance. Both courts determined that:

- (1) no warrant is necessary to require drivers to take a breath test when there is probable cause to believe that the driver is under the influence; and
- (2) a warrant is required before requiring a blood or urine test.

In *State v. Thompson*, the Minnesota Supreme Court concluded that conducting a blood or urine test without a warrant violates the Fourth Amendment, and that no one can be prosecuted for refusing to submit to an unconstitutional warrantless blood or urine test.

Section

- 1** **Prior impaired driving-related loss of license.** Amends the definition of “prior impaired driving-related loss of license” to include a license revoked pursuant to a search warrant for a blood or urine test under new section 171.177.
- 2** **Refusal to submit to chemical test crime.** Moves the refusal to submit to a blood or urine test to a new clause, clarifying that a warrant is required for a blood or urine test.
- 3** **Breath test advisory.** Removes references to blood and urine tests, and to the presence of controlled or hazardous substances, from the advisory that must be given to individuals before they can be required, without a warrant, to take a test to determine if they were driving under the influence of alcohol.
- 4** **Requirement for urine or blood test.** Establishes that a blood or urine test may only be required pursuant to a search warrant and where there is probable cause to believe that: (1) there is impairment by a substance not subject to testing by a breath test; (2) a controlled substance listed in Schedule I or II is in the person’s body; or (3) the person is unconscious or incapacitated to the point that the person is unable to comprehend a breath test advisory or otherwise voluntarily submit to testing.
- 5** **Revocation; pursuant to search warrant.** Requires peace officers who execute warrants for the collection of blood or urine samples in a suspected DUI to certify to the commissioner of public safety when suspects refuse to submit to tests or provide samples that exceed the legal limits. Establishes license revocation standards and administrative and judicial review procedures for blood and urine tests that mirror the existing standards and procedures for test refusal and failure in sections 169A.52 and 169A.53, but include specific provisions related to the warrant requirement.
- 6** **Repealer.** Repeals section 169A.51, subdivision 3, which permits a peace officer to direct whether a chemical test for intoxication is of blood, breath, or urine.