

**Representative Edward H. Redd** proposes the following substitute bill:

**POST-EXPOSURE BLOOD TESTING AMENDMENTS**

2016 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Edward H. Redd**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill allows an emergency service provider to request a blood sample if significantly exposed to a person's bodily fluids in the course of performing the provider's duties.

**Highlighted Provisions:**

This bill:

- ▶ allows an emergency service provider to request an order of restriction from the local health department authorizing a blood sample from an individual if, during the course of performing the provider's duties, the provider is significantly exposed to the individual's bodily fluids.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**78B-8-402**, as last amended by Laws of Utah 2013, Chapter 114

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26 *Be it enacted by the Legislature of the state of Utah:*

27 Section 1. Section **78B-8-402** is amended to read:

28 **78B-8-402. Petition -- Disease testing -- Notice -- Payment for testing.**

29 (1) An emergency services provider or first aid volunteer who is significantly exposed  
30 during the course of performing the emergency services provider's duties or during the course  
31 of performing emergency assistance or first aid may:

32 (a) request that the person to whom the emergency services provider or first aid  
33 volunteer was significantly exposed voluntarily submit to testing; [or]

34 (b) request an order of restriction from the local health department with jurisdiction  
35 over the location where the exposure occurred, and testing of the person to whom the  
36 emergency services provider or first aid volunteer was significantly exposed in accordance with  
37 Section [26-6b-3](#); or

38 (c) petition the district court for an order requiring that the person to whom the  
39 emergency services provider or first aid volunteer was significantly exposed submit to testing  
40 to determine the presence of a disease, as defined in Section [78B-8-401](#), and that the results of  
41 that test be disclosed to the petitioner by the Department of Health.

42 (2) (a) The petitioner shall file a petition with the district court seeking an order to  
43 submit to testing and to disclose the results in accordance with the provisions of this section.

44 (b) The petition shall be sealed upon filing and made accessible only to the petitioner,  
45 the subject of the petition, and their attorneys, upon court order.

46 (3) (a) The petition described in Subsection (2) shall be accompanied by an affidavit in  
47 which the petitioner certifies that the petitioner has been significantly exposed to the individual  
48 who is the subject of the petition and describes that exposure.

49 (b) The petitioner shall submit to testing to determine the presence of a disease, when  
50 the petition is filed or within three days after the petition is filed.

51 (4) The petitioner shall cause the petition required under this section to be served on  
52 the person who the petitioner is requesting to be tested in a manner that will best preserve the  
53 confidentiality of that person.

54 (5) (a) The court shall set a time for a hearing on the matter within 10 days after the  
55 petition is filed and shall give the petitioner and the individual who is the subject of the petition  
56 notice of the hearing at least 72 hours prior to the hearing.

57 (b) The individual who is the subject of the petition shall also be notified that the  
58 individual may have an attorney present at the hearing and that the individual's attorney may  
59 examine and cross-examine witnesses.

60 (c) The hearing shall be conducted in camera.

61 (6) The district court may enter an order requiring that an individual submit to testing,  
62 including blood testing, for a disease if the court finds probable cause to believe:

63 (a) the petitioner was significantly exposed; and

64 (b) the exposure occurred during the course of the emergency services provider's  
65 duties, or the provision of emergency assistance or first aid by a first aid volunteer.

66 (7) The court may order that the blood specimen be obtained by the use of reasonable  
67 force if the individual who is the subject of the petition is a prisoner.

68 (8) The court may order that additional, follow-up testing be conducted and that the  
69 individual submit to that testing, as it determines to be necessary and appropriate.

70 (9) The court is not required to order an individual to submit to a test under this section  
71 if it finds that there is a substantial reason, relating to the life or health of the individual, not to  
72 enter the order.

73 (10) (a) Upon order of the district court that a person submit to testing for a disease,  
74 that person shall report to the designated local health department to have the person's blood  
75 drawn within 10 days from the issuance of the order, and thereafter as designated by the court,  
76 or be held in contempt of court.

77 (b) The court shall send the order to the Department of Health and to the local health  
78 department ordered to draw the blood.

79 (c) Notwithstanding the provisions of Section 26-6-27, the Department of Health and a  
80 local health department may disclose the test results pursuant to a court order as provided in  
81 this section.

82 (d) Under this section, anonymous testing as provided under Section 26-6-3.5 shall not  
83 satisfy the requirements of the court order.

84 (11) The local health department or the Department of Health shall inform the subject  
85 of the petition and the petitioner of the results of the test and advise both parties that the test  
86 results are confidential. That information shall be maintained as confidential by all parties to  
87 the action.

88           (12) The court, its personnel, the process server, the Department of Health, local health  
89 department, and petitioner shall maintain confidentiality of the name and any other identifying  
90 information regarding the individual tested and the results of the test as they relate to that  
91 individual, except as specifically authorized by this chapter.

92           (13) (a) Except as provided in Subsection (13)(b), the petitioner shall remit payment  
93 for the drawing of the blood specimen and the analysis of the specimen for the mandatory  
94 disease testing to the entity that draws the blood.

95           (b) If the petitioner is an emergency services provider, the agency that employs the  
96 emergency services provider shall remit payment for the drawing of the blood specimen and  
97 the analysis of the specimen for the mandatory disease testing to the entity that draws the  
98 blood.

99           (14) The entity that draws the blood shall cause the blood and the payment for the  
100 analysis of the specimen to be delivered to the Department of Health for analysis.

101           (15) If the individual is incarcerated, the incarcerating authority shall either draw the  
102 blood specimen or shall pay the expenses of having the individual's blood drawn.