

Introduced by

Senator Watne

1 A BILL for an Act to amend and reenact subsection 6 of section 23-07.5-02 of the North Dakota  
2 Century Code, relating to testing for the human immunodeficiency virus.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. AMENDMENT.** Subsection 6 of section 23-07.5-02 of the 1995  
5 Supplement to the North Dakota Century Code is amended and reenacted as follows:

- 6 6. Any testing done pursuant to subsection 3, 4, or 5 may be conducted in the most  
7 expedient manner possible. An individual who has had a significant exposure,  
8 upon receiving certification of the significant exposure as required by subdivision b  
9 of subsection 3 or subdivision b of subsection 4, may petition an appropriate  
10 district court for issuance of an order directing the patient or provider with whom  
11 the individual had a significant exposure to have blood drawn to be tested for the  
12 presence of the human immunodeficiency virus if a previously drawn blood sample  
13 is not available for testing. Upon receiving the petition, the court shall issue an  
14 order confining the person to be tested until the hearing or an order establishing  
15 reasonable security for that person's attendance at the hearing. This order may be  
16 modified or extended if testing is ordered. The court shall hold a hearing on the  
17 petition within five days of the date the court receives the petition. The record of  
18 any court hearing conducted under this subsection is confidential. The court may  
19 issue an order requiring testing under this subsection only if:
- 20 a. The patient or provider has been requested to consent to testing and has  
21 refused to be tested and a sample of the patient's or provider's blood is not  
22 available to be used to test for the human immunodeficiency virus;
- 23 b. The court finds ~~clear and imminent danger to the public health or the health of~~  
24 probable cause to believe that the person petitioning for the testing and the

- 1                    ~~person has demonstrated a compelling need for the test which cannot be~~  
2                    ~~accommodated by other means~~ has had a significant exposure with the  
3                    person to be tested;
- 4                    c.    The petition substitutes a pseudonym for the true name of the person to be  
5                    tested;
- 6                    d.    The court provides the person to be tested with notice and reasonable  
7                    opportunity to participate in the proceeding if the person is not already a party  
8                    to the proceeding;
- 9                    e.    The proceedings are conducted in camera unless the subject of the test  
10                   agrees to a hearing in open court; and
- 11                   f.    The court imposes appropriate safeguards against unauthorized disclosure  
12                   which must specify the persons who have access to the information, the  
13                   purposes for which the information may be used, and appropriate prohibition  
14                   on future disclosure.