

**Fifty-fifth Legislative Assembly, State of North Dakota, begun in the
Capitol in the City of Bismarck, on Monday, the sixth day of January,
one thousand nine hundred and ninety-seven**

SENATE BILL NO. 2202
(Senator Watne)

AN ACT to amend and reenact subsection 6 of section 23-07.5-02 of the North Dakota Century Code, relating to testing for the human immunodeficiency virus.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

6. Any testing done pursuant to subsection 3, 4, or 5 may be conducted in the most expedient manner possible. An individual who has had a significant exposure, upon receiving certification of the significant exposure as required by subdivision b of subsection 3 or subdivision b of subsection 4, may petition an appropriate district court for issuance of an order directing the patient or provider with whom the individual had a significant exposure to have blood drawn to be tested for the presence of the human immunodeficiency virus if a previously drawn blood sample is not available for testing. Upon receiving the petition, the court may issue an order confining the person to be tested until the hearing or an order establishing reasonable security for that person's attendance at the hearing. This order may be modified or extended if testing is ordered. The court shall hold a hearing on the petition within five days of the date the court receives the petition. The record of any court hearing conducted under this subsection is confidential. The court may issue an order requiring testing under this subsection only if:
 - a. The patient or provider has been requested to consent to testing and has refused to be tested and a sample of the patient's or provider's blood is not available to be used to test for the human immunodeficiency virus;
 - b. ~~The court finds clear and imminent danger to the public health or the health of~~ probable cause to believe that the person petitioning for the testing and the person ~~has demonstrated a compelling need for the test which cannot be accommodated by other means~~ has had a significant exposure with the person to be tested;
 - c. The petition substitutes a pseudonym for the true name of the person to be tested;
 - d. The court provides the person to be tested with notice and reasonable opportunity to participate in the proceeding if the person is not already a party to the proceeding;
 - e. The proceedings are conducted in camera unless the subject of the test agrees to a hearing in open court; and
 - f. The court imposes appropriate safeguards against unauthorized disclosure which must specify the persons who have access to the information, the purposes for which the information may be used, and appropriate prohibition on future disclosure.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Fifty-fifth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2202.

Senate Vote: Yeas 39 Nays 2 Absent 8

House Vote: Yeas 87 Nays 5 Absent 5

Secretary of the Senate

Received by the Governor at _____ M. on _____, 1997.

Approved at _____ M. on _____, 1997.

Governor

Filed in this office this _____ day of _____, 1997,

at _____ o'clock _____ M.

Secretary of State