
Public Safety Committee

SSB 5186

Brief Description: Concerning the collection of blood samples for forensic testing.

Sponsors: Senate Committee on Law & Justice (originally sponsored by Senators Padden and Pearson).

Brief Summary of Substitute Bill

- Expands the list of persons authorized to perform blood draws for impaired driving investigations to include credentialed health care providers with a scope of practice that includes venous blood draws and forensic phlebotomists.
- Provides that, when a blood sample for an impaired driving investigation is collected outside of Washington, the sample may be taken by any person who is authorized by the out-of-state jurisdiction to perform venous blood draws.

Hearing Date: 3/20/17

Staff: Omeara Harrington (786-7136).

Background:

A phlebotomist is a person trained to draw blood from a person for clinical or medical testing, transfusions, donations, or research. Blood is commonly collected through venipuncture, which is the process of obtaining intravenous access to collect a blood sample. A forensic or law enforcement blood draw is a blood draw performed at the direction of a law enforcement officer in order to test the person for the presence of alcohol, marijuana, or any drug, pursuant to a search warrant or a valid exception to the warrant requirement, or under any other authority of law.

In impaired driving investigations, analysis of a person's blood or breath must be performed according to methods approved by the state toxicologist. When a blood test is administered for the purpose of determining its alcoholic or drug content, the blood withdrawal may only be performed by statutorily authorized professionals including physicians, nurses, physician

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assistants, and medical assistant-certified or medical-assistant phlebotomists, among others. Proof of a person's qualification to draw blood may be established through the Department of Health's (DOH's) online provider credential search.

It is not professional misconduct for an authorized professional to collect a blood sample without a person's consent when directed by a law enforcement officer to do so pursuant to the provisions of a search warrant or exigent circumstances. Authorized professionals are also not subject to civil or criminal liability for withdrawing blood under these circumstances; however, such immunity does not extend to civil liability arising from use of improper procedures or failure to use the required standard of care.

Summary of Bill:

In addition to other authorized professionals, any credentialed person with venous blood draws within his or her scope of practice, and any forensic phlebotomist, may perform blood draws for purposes of an impaired driving investigation. When the test is administered outside of the State of Washington, the withdrawal may be performed by any person who is authorized by the out-of-state jurisdiction to perform venous blood draws.

A forensic phlebotomist is a police officer, law enforcement officer, or an employee of a correctional facility or detention facility, who meets the training and proficiency standards of his or her employer and who is collecting a venous blood sample for forensic testing pursuant to a search warrant, a waiver of the warrant requirement, or in exigent circumstances.

A forensic phlebotomist may only perform a venous blood draw for an impaired driving investigation under specified conditions. If the sample is taken at the scene, it must be performed in an ambulance or aid service vehicle licensed by the DOH, and the collection of the blood sample must not interfere with the provision of essential medical care. Additionally, the blood sample must be collected using sterile equipment, the skin area of puncture must be thoroughly cleansed and disinfected, and the person whose blood is being collected must be seated, reclined, or lying down while the sample is taken.

Credentialed persons with a scope of practice that includes venous blood draws are not subject to professional misconduct, and neither such credentialed persons nor forensic phlebotomists are subject to legal liability, for collecting a blood sample without a person's consent at the direction of law enforcement pursuant to a warrant or exigent circumstances.

Appropriation: None.

Fiscal Note: Requested on March 15, 2017.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.