

Amendment No. 60

Senate Amendment to Senate Bill No. 4

(BDR 40-265)

Proposed by: Senate Committee on Health and Human Services**Amends:** Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date	
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____		Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____		Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____		Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold underlining* is newly added transitory language.

AAK/RBL



Date: 4/4/2013

S.B. No. 4—Revises provisions governing the testing of a person or decedent who may have exposed certain public employers, employees or volunteers to a contagious disease. (BDR 40-265)



SENATE BILL NO. 4—COMMITTEE ON
HEALTH AND HUMAN SERVICES

(ON BEHALF OF THE CITY OF RENO)

PREFILED DECEMBER 19, 2012

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions governing the testing of a person or decedent who may have exposed certain public employers, employees or volunteers to a contagious disease. (BDR 40-265)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to contagious diseases; revising provisions governing the testing of a person who may have exposed certain public employers, employees or volunteers to a contagious disease; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, if the duties of a law enforcement officer, correctional officer, emergency medical attendant, firefighter, county coroner or medical examiner or any of their employees, any other person who is employed by an agency of criminal justice or any other public employee may require him or her to come into contact with human blood or bodily fluids and if he or she may have been exposed to a contagious disease while performing those duties, the employee or his or her employer may petition a court to have the person or decedent who may have exposed the employee or his or her employer to a contagious disease tested for exposure to the human immunodeficiency virus, the hepatitis B surface antigen, hepatitis C and tuberculosis. Upon a finding by a court that there is probable cause to believe that a possible transfer of blood or other bodily fluids to the petitioner or the person on whose behalf the petition was filed occurred, the court is required to order testing of the blood of the person or decedent who possibly exposed to a contagious disease the petitioner or the person on whose behalf the petition was filed. (NRS 441A.195)

Section 1 of this bill allows any such employee or a volunteer for a public agency, who comes in contact with human blood or bodily fluids in the course of his or her official duties, or his or her employer or the public agency for which he or she volunteers, to seek a test of the person or decedent who possibly exposed the public employee or volunteer to a contagious disease. ~~Section 1 also provides that an employee or his or her employer, or a volunteer of the public agency for which he or she volunteers who seeks a court order for such a test may either petition a court or give an oral statement under oath to a court, in a manner similar to the procedure for obtaining a search warrant. The oral statement may be made in any court with jurisdiction over the location where the possible exposure to a contagious disease occurred and must be: (1) made under oath; (2) recorded in the presence of the judge or justice of the peace or in the immediate vicinity of the judge or justice of the peace by a certified court reporter or by electronic means; (3) transcribed by the certified court reporter, if~~

applicable: (4) certified by the judge or justice of the peace; and (5) filed with the clerk of the court. ~~Section 1 [also] allows a judge or a justice of the peace hearing the petition [for oral statement] upon a determination of probable cause and the ordering of a test, to [orally] authorize certain persons acting on behalf of the employer or public agency to sign the name of the judge or justice of the peace on a duplicate order. Such an order is to be deemed an order of the court but must be returned to the judge or justice of the peace for endorsement. Failure by the judge or justice of the peace to endorse the order does not in and of itself invalidate the order. Section 1 also: (1) requires any records concerning such a petition or proceeding on such a petition to be sealed and kept confidential; and (2) authorizes a court to establish rules to allow a judge or justice of the peace to conduct a hearing or issue an order by electronic or telephonic means. Sections 2 and 3 of this bill authorize justice courts and municipal courts to [take oral statements seeking such orders for testing and to] issue such orders.~~

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 441A.195 is hereby amended to read as follows:

441A.195 1. A law enforcement officer, correctional officer, emergency medical attendant, firefighter, county coroner or medical examiner or any of their employees ~~or~~ **or volunteers**, any other person who is employed by **or is a volunteer** for an agency of criminal justice or any other public employee ~~whose duties may require him or her to come~~ **or volunteer for a public agency who, in the course of his or her official duties, comes** into contact with human blood or bodily fluids, ~~who may have been exposed to a contagious disease while performing his or her official duties,~~ or the employer of such a person ~~or the public agency for which the person volunteers,~~ may **petition a court for an** ~~seek a court~~ order requiring the testing of a person or decedent for exposure to the human immunodeficiency virus, the hepatitis B surface antigen, hepatitis C and tuberculosis if the person or decedent may have exposed the officer, **emergency** medical attendant, firefighter, county coroner or medical examiner or their employee ~~or~~ **or volunteer**, other person employed by **or volunteering for** an agency of criminal justice or other public employee ~~whose duties may require him or her to come into contact with human blood or bodily fluids~~ **or volunteer for a public agency** to a contagious disease. ~~The officer, emergency medical attendant, firefighter, county coroner or medical examiner or their employee or volunteer, other person employed by or volunteering for an agency of criminal justice or other public employee or volunteer for a public agency or his or her employer, or the public agency for which the person volunteers, may petition a court for such an order or may make an oral statement pursuant to subsection 2 seeking such an order.~~

2. ~~In lieu of a person filing a petition pursuant to subsection 1, any court with jurisdiction over the location where the possible exposure to a contagious disease occurred may take an oral statement from a person or his or her employer or the public agency for which the person volunteers, seeking an order to have a person tested pursuant to subsection 1. The statement must be:~~

- ~~(a) Made under oath;~~
- ~~(b) Recorded in the presence of the judge or justice of the peace or in the immediate vicinity of the judge or justice of the peace by a certified court reporter or by electronic means;~~
- ~~(c) Transcribed by a certified court reporter if a certified court reporter recorded it;~~
- ~~(d) Certified by the judge or justice of the peace; and~~

~~(c) Filed with the clerk of the court.~~

~~3.]~~ When possible, before filing a petition pursuant to subsection 1, ~~for making an oral statement to a court pursuant to subsection 2.]~~ the person, ~~for~~ employer ~~or public agency for which the person volunteers, and who is~~ petitioning ~~for making an oral statement]~~ shall submit information concerning the possible exposure to a contagious disease to the designated health care officer for the employer ~~or public agency~~ or, if there is no designated health care officer, the person designated by the employer ~~or public agency~~ to document and verify possible exposure to contagious diseases, for verification that there was substantial exposure. Each designated health care officer or person designated by an employer ~~or public agency~~ to document and verify possible exposure to contagious diseases shall establish guidelines based on current scientific information to determine substantial exposure.

~~3. 4.]~~ A court shall promptly hear a petition filed pursuant to subsection 1 ~~for an oral statement made pursuant to subsection 2.]~~ and determine whether there is probable cause to believe that a possible transfer of blood or other bodily fluids occurred between the person who filed the petition ~~for made the oral statement]~~ or on whose behalf the petition was filed ~~for the oral statement was made]~~ and the person or decedent who possibly exposed him or her to a contagious disease. If the court determines that probable cause exists to believe that a possible transfer of blood or other bodily fluids occurred, the court shall:

(a) Order the person who possibly exposed the petitioner ~~or the person who made the oral statement, or]~~ the person on whose behalf the petition was filed ~~for the oral statement was made]~~ to a contagious disease to submit two specimens of blood to a local hospital or medical laboratory for testing for exposure to the human immunodeficiency virus, the hepatitis B surface antigen, hepatitis C and tuberculosis; or

(b) Order that two specimens of blood be drawn from the decedent who possibly exposed the petitioner ~~or the person who made the oral statement, or]~~ the person on whose behalf the petition was filed ~~for the oral statement was made]~~ to a contagious disease and be submitted to a local hospital or medical laboratory for testing for exposure to the human immunodeficiency virus, the hepatitis B surface antigen, hepatitis C and tuberculosis.

➤ The local hospital or medical laboratory shall perform the test in accordance with generally accepted medical practices and shall disclose the results of the test in the manner set forth in NRS 629.069.

~~4. 5.]~~ If a judge or a justice of the peace enters an order pursuant to this section, the judge or justice of the peace may ~~forally~~ authorize the designated health care officer or the person designated by the employer or public agency to document and verify possible exposure to a contagious disease to sign the name of the judge or justice of the peace on a duplicate order. Such a duplicate order shall be deemed to be an order of the court. As soon as practicable after the duplicate order is signed, the duplicate order must be returned to the judge or justice of the peace who authorized the signing of it and must indicate on its face the judge or justice of the peace to whom it is to be returned. The judge or justice of the peace, upon receiving the returned order, shall endorse the order with his or her name and enter the date on which the order was returned. Any failure of the judge or justice of the peace to make such an endorsement and entry does not in and of itself invalidate the order.

5. Except as otherwise provided in NRS 629.069, all records submitted to the court in connection with a petition filed pursuant to this section and any proceedings concerning the petition are confidential and the judge or justice of the peace shall order the records and any record of the proceedings to be sealed

and to be opened for inspection only upon an order of the court for good cause shown.

6. A court may establish rules to allow a judge or justice of the peace to conduct a hearing or issue an order pursuant to this section by electronic or telephonic means.

7. The employer of a person or the public agency for which the person volunteers, who files a petition or ~~makes an oral statement or~~ on whose behalf a petition is filed ~~for an oral statement is made~~ pursuant to this section or the insurer of the employer or public agency, shall pay the cost of performing the test pursuant to subsection 3. ~~4~~

~~15~~ ~~17~~ 8. As used in this section:

(a) "Agency of criminal justice" has the meaning ascribed to it in NRS 179A.030.

(b) "Emergency medical attendant" means a person licensed as an attendant or certified as an emergency medical technician, intermediate emergency medical technician or advanced emergency medical technician pursuant to chapter 450B of NRS.

Sec. 2. NRS 4.370 is hereby amended to read as follows:

4.370 1. Except as otherwise provided in subsection 2, justice courts have jurisdiction of the following civil actions and proceedings and no others except as otherwise provided by specific statute:

(a) In actions arising on contract for the recovery of money only, if the sum claimed, exclusive of interest, does not exceed \$10,000.

(b) In actions for damages for injury to the person, or for taking, detaining or injuring personal property, or for injury to real property where no issue is raised by the verified answer of the defendant involving the title to or boundaries of the real property, if the damage claimed does not exceed \$10,000.

(c) Except as otherwise provided in paragraph (1), in actions for a fine, penalty or forfeiture not exceeding \$10,000, given by statute or the ordinance of a county, city or town, where no issue is raised by the answer involving the legality of any tax, impost, assessment, toll or municipal fine.

(d) In actions upon bonds or undertakings conditioned for the payment of money, if the sum claimed does not exceed \$10,000, though the penalty may exceed that sum. Bail bonds and other undertakings posted in criminal matters may be forfeited regardless of amount.

(e) In actions to recover the possession of personal property, if the value of the property does not exceed \$10,000.

(f) To take and enter judgment on the confession of a defendant, when the amount confessed, exclusive of interest, does not exceed \$10,000.

(g) Of actions for the possession of lands and tenements where the relation of landlord and tenant exists, when damages claimed do not exceed \$10,000 or when no damages are claimed.

(h) Of actions when the possession of lands and tenements has been unlawfully or fraudulently obtained or withheld, when damages claimed do not exceed \$10,000 or when no damages are claimed.

(i) Of suits for the collection of taxes, where the amount of the tax sued for does not exceed \$10,000.

(j) Of actions for the enforcement of mechanics' liens, where the amount of the lien sought to be enforced, exclusive of interest, does not exceed \$10,000.

(k) Of actions for the enforcement of liens of owners of facilities for storage, where the amount of the lien sought to be enforced, exclusive of interest, does not exceed \$10,000.

(l) In actions for a fine imposed for a violation of NRS 484D.680.

(m) Except as otherwise provided in this paragraph, in any action for the issuance of a temporary or extended order for protection against domestic violence. A justice court does not have jurisdiction in an action for the issuance of a temporary or extended order for protection against domestic violence:

(1) In a county whose population is 100,000 or more and less than 700,000;

(2) In any township whose population is 100,000 or more located within a county whose population is 700,000 or more; or

(3) If a district court issues a written order to the justice court requiring that further proceedings relating to the action for the issuance of the order for protection be conducted before the district court.

(n) In an action for the issuance of a temporary or extended order for protection against harassment in the workplace pursuant to NRS 33.200 to 33.360, inclusive.

(o) In small claims actions under the provisions of chapter 73 of NRS.

(p) In actions to contest the validity of liens on mobile homes or manufactured homes.

(q) In any action pursuant to NRS 200.591 for the issuance of a protective order against a person alleged to be committing the crime of stalking, aggravated stalking or harassment.

(r) In any action pursuant to NRS 200.378 for the issuance of a protective order against a person alleged to have committed the crime of sexual assault.

(s) In actions transferred from the district court pursuant to NRS 3.221.

(t) In any action for the issuance of a temporary or extended order pursuant to NRS 33.400.

(u) In any action seeking an order pursuant to ~~subsection 2 of~~ NRS 441A.195.

2. The jurisdiction conferred by this section does not extend to civil actions, other than for forcible entry or detainer, in which the title of real property or mining claims or questions affecting the boundaries of land are involved.

3. Justice courts have jurisdiction of all misdemeanors and no other criminal offenses except as otherwise provided by specific statute. Upon approval of the district court, a justice court may transfer original jurisdiction of a misdemeanor to the district court for the purpose of assigning an offender to a program established pursuant to NRS 176A.250 or 176A.280.

4. Except as otherwise provided in subsections 5 and 6, in criminal cases the jurisdiction of justices of the peace extends to the limits of their respective counties.

5. In the case of any arrest made by a member of the Nevada Highway Patrol, the jurisdiction of the justices of the peace extends to the limits of their respective counties and to the limits of all counties which have common boundaries with their respective counties.

6. Each justice court has jurisdiction of any violation of a regulation governing vehicular traffic on an airport within the township in which the court is established.

Sec. 3. NRS 5.050 is hereby amended to read as follows:

5.050 1. Municipal courts have jurisdiction of civil actions or proceedings:

(a) For the violation of any ordinance of their respective cities.

(b) To prevent or abate a nuisance within the limits of their respective cities.

2. The municipal courts have jurisdiction of all misdemeanors committed in violation of the ordinances of their respective cities. Upon approval of the district court, a municipal court may transfer original jurisdiction of a misdemeanor to the district court for the purpose of assigning an offender to a program established pursuant to NRS 176A.250 or 176A.280.

3. The municipal courts have jurisdiction of:

(a) Any action for the collection of taxes or assessments levied for city purposes, when the principal sum thereof does not exceed \$2,500.

(b) Actions to foreclose liens in the name of the city for the nonpayment of those taxes or assessments when the principal sum claimed does not exceed \$2,500.

(c) Actions for the breach of any bond given by any officer or person to or for the use or benefit of the city, and of any action for damages to which the city is a party, and upon all forfeited recognizances given to or for the use or benefit of the city, and upon all bonds given on appeals from the municipal court in any of the cases named in this section, when the principal sum claimed does not exceed \$2,500.

(d) Actions for the recovery of personal property belonging to the city, when the value thereof does not exceed \$2,500.

(e) Actions by the city for the collection of any damages, debts or other obligations when the amount claimed, exclusive of costs or attorney's fees, or both if allowed, does not exceed \$2,500.

(f) Actions seeking an order pursuant to ~~subsection 2 of~~ NRS 441A.195.

4. Nothing contained in subsection 3 gives the municipal court jurisdiction to determine any such cause when it appears from the pleadings that the validity of any tax, assessment or levy, or title to real property, is necessarily an issue in the cause, in which case the court shall certify the cause to the district court in like manner and with the same effect as provided by law for certification of causes by justice courts.

Sec. 4. NRS 629.069 is hereby amended to read as follows:

629.069 1. A provider of health care shall disclose the results of all tests performed pursuant to NRS 441A.195 to:

(a) The person who was tested and, upon request, a member of the family of a decedent who was tested;

(b) The law enforcement officer, correctional officer, emergency medical attendant, firefighter, county coroner or medical examiner or their employee ~~or~~ *or volunteer*, other person who is employed by *or volunteers for* an agency of criminal justice or other public employee ~~{whose duties may require him or her to come into contact with human blood or bodily fluids}~~ *or volunteer of a public agency* who filed the petition ~~for made an oral statement,}~~ or on whose behalf the petition was filed ~~for an oral statement was made,}~~ pursuant to NRS 441A.195;

(c) The designated health care officer for the employer of the person *or the public agency for which the person volunteers, as* described in paragraph (b) or, if there is no designated health care officer, the person designated by the employer *or public agency* to document and verify possible exposure to contagious diseases;

(d) If the person who was tested is incarcerated or detained, the person in charge of the facility in which the person is incarcerated or detained and the chief medical officer of the facility in which the person is incarcerated or detained, if any; and

(e) A designated investigator or member of the State Board of Osteopathic Medicine during any period in which the Board is investigating the holder of a license pursuant to chapter 633 of NRS.

2. A provider of health care and an agent or employee of a provider of health care are immune from civil liability for a disclosure made in accordance with the provisions of this section.

Sec. 5. This act becomes effective upon passage and approval.