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## Public Safety Committee

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### SSB 5066

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

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

#### Brief Summary of Substitute Bill

- Defines forensic phlebotomist.
- Requires the Department of Health to work with various other entities to establish licensing/credentialing requirements for forensic phlebotomists.
- Provides that it is not professional misconduct for a doctor, nurse, etc., to collect a blood sample without a person's consent when such professionals are directed by a law enforcement officer to do so for the purpose of a blood test under the provisions of a search warrant or exigent circumstances.
- Refusing to draw blood by a health care professional, other than a forensic phlebotomist, does not constitute refusal to obey a law enforcement officer or obstruction of a law enforcement investigation and does not subject the person to criminal or civil liability.

**Hearing Date:** 3/25/15

**Staff:** Yvonne Walker (786-7841).

#### **Background:**

Generally, forensic toxicology is known as the application of toxicology for the purpose of solving civil and criminal cases. Toxicology is the study of substances such as drugs, toxins, and poisons that are harmful to human beings.

A phlebotomist is a person trained to draw blood from a person for clinical or medical testing, transfusions, donations, or research. A toxicologist then has the responsibility of detecting and

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identifying the presence of drugs and poisons in fluids, tissues, and organs. This is done using chemical and biomedical instrumentations capable of detecting small amounts of alcohol, drugs, or toxic material, positively identifying them, and accurately measuring how much is present.

Forensic drug testing is commonly used for workplace drug testing, testing of certain athletes for sports, and for law enforcement investigations such in driving under the influence cases.

Under the Health Professions Disciplinary Act, the Washington State Department of Health (DOH) regulates health professionals in 83 health professions and 7,000 health organizations and programs. The DOH investigates and prosecutes complaints against health care providers and facilities. The Secretary of the DOH and various boards and commissions discipline health care providers that violate the law. The boards work with the DOH to develop processes for receiving, investigating, and determining appropriate discipline for violations. Action can only be taken against providers that are required to be licensed, certified, or registered with the DOH.

### **Summary of Bill:**

A forensic phlebotomist is defined as a police officer, law enforcement officer, or an employee of a correctional facility or detention facility, who has completed a venipuncture training program and who is collecting a blood sample for forensic testing pursuant to a search warrant, a waiver of the warrant requirement, or in exigent circumstances.

The Secretary of the DOH, in consultation with other health profession boards and commissions, the Washington Criminal Justice Training Commission (CJTC), and the Washington State Patrol, must establish by rule, administrative procedures and requirements for the issue and reissue of a credential for forensic phlebotomists. The administrative procedures and requirements do not include establishing, monitoring, and enforcing qualifications for licensure, scope or standards of practice, continuing competency mechanisms, and discipline when such authority is authorized in statute to a health profession board or commission or to the CJTC. The Secretary of the DOH may modify the duration of any licensing, certification, or registration period; however, no license, certification, and registration may be issued or approved for a period exceeding four years.

It is not professional misconduct for a physician, registered nurse, licensed practical nurse, nursing assistant, physician assistant, first responder, emergency medical technician, health care assistant, or any technician trained in withdrawing blood, to collect a blood sample without a person's consent when these professionals are directed by a law enforcement officer to do so for the purpose of a blood test under the provisions of a search warrant or exigent circumstances. The identified professionals are not subject to civil or criminal liability for withdrawing blood from any person when directed by a law enforcement officer to do so for the purpose of a blood test under the provisions of a search warrant or exigent circumstances or a waiver of the search warrant requirement.

A refusal to draw blood by a health care professional, other than a forensic phlebotomist, does not constitute refusal to obey a law enforcement officer or obstruction of a law enforcement investigation and does not subject the person to criminal or civil liability. This does not relieve these professionals from professional discipline or liability arising from the use of improper procedures or from failing to exercise the required standard of care.

**Appropriation:** None.

**Fiscal Note:** Available.

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