

Backgrounder

Document d'information



Ministry of Community Safety
and Correctional Services

Ministère de la Sécurité communautaire
et des Services correctionnels

MANDATORY BLOOD TESTING ACT, 2006

The Mandatory Blood Testing Act, 2006, came into force on August 10, 2007.

The act reduces the time needed to obtain a mandatory blood test to less than three weeks. Previously, the process could take more than two months.

The new law ensures that police officers, firefighters, correctional services staff and others get faster access to information that can help them decide on the best way to reduce the risk of illness should they be exposed to a serious disease.

In the course of their work, emergency first aid providers can be exposed to bloodborne diseases, such as HIV/AIDS, hepatitis B or C. Victims of crime, Good Samaritans and others could be similarly exposed.

Eligible applicants

Anyone may apply to a Medical Officer of Health to have a blood sample of another person analysed if he or she has come into contact with a bodily substance of that person in any of the following circumstances:

- As a result of being a victim of crime;
- While providing emergency health care services or emergency first aid to the person; or,
- In the course of his or her duties, if the person belongs to an identified group of individuals, including:
 - Persons who are employed in a correctional institution, place of open custody or place of secure custody
 - Police officers, civilian employees of a police service, First Nations constables and auxiliary members of a police service
 - Firefighters (including volunteer firefighters)
 - Paramedics and emergency medical attendants
 - Members of the College of Nurses of Ontario
 - Paramedic students engaged in field training
 - Members of the College of Physicians and Surgeons of Ontario
 - Medical students engaged in training

Application process

Applications must be submitted to the Medical Officer of Health in the health unit where the respondent lives.

(Please note applicants can find the phone numbers of health units and the areas they cover on the application form.)

All relevant forms, (including the applicant report, respondent report and physician report) can be accessed via the Ministry of Community Safety and Correctional Services website at ontario.ca/bloodtesting. The Laboratory Requisition (form #008-004) is only available in hardcopy from your nearest Public Health Unit or Regional Public Health Laboratory. The contact information for the Public Health Units and Regional Laboratories is available from the Ministry of Health and Long Term Care at http://www.health.gov.on.ca/english/public/contact/contact_mn.html

Role of the Medical Officer of Health

The Medical Officer of Health screens applications to make sure they meet the requirements of the act.

- The Medical Officer of Health will notify the applicant in writing within two days of making a decision not to proceed with the application if the application does not meet the requirements of the act.
- If the requirements are met, the Medical Officer of Health will attempt to contact the respondent and request that the respondent provide a voluntary blood sample for analysis.
- If the respondent does not provide a blood sample voluntarily within two days of the Medical Officer of Health receiving the application, the application will be referred to the Consent and Capacity Board, which will hold a hearing to decide whether to issue a mandatory order.*

** Note: The Medical Officer of Health can continue to seek voluntary compliance even after the application is referred to the Consent and Capacity Board. If the respondent provides a sample voluntarily after the application is referred to the Consent and Capacity Board, the Medical Officer of Health shall notify the Board and withdraw the referral of the application.*

Role of the Consent and Capacity Board

The Consent and Capacity Board is an independent body that conducts hearings under the Mental Health Act, the Health Care Consent Act, the Personal Health Information Protection Act and the Substitute Decisions Act. The members of the Board include psychiatrists, lawyers and members of the general public.

The Consent and Capacity Board must begin and complete a hearing within seven days after receiving a referral of an application and must make its decision within one day of the hearing ending.

The Board will provide the applicant, the respondent and the Medical Officer of Health with a copy of the Board's decision and a copy of any order made by the Board within one day after the day the hearing concludes.

- A decision of the Board is final. There is no right of appeal. However, both the applicant and the respondent have the right to apply for a judicial review of the decision by the Superior Court of Justice.
- The respondent has seven days from the date the order is made to comply.
- If the respondent voluntarily complies, he/she has a blood sample taken by a physician. The respondent may also provide other evidence of whether he or she is infected with one

of the listed communicable diseases. This evidence may include a Laboratory Report or a report or letter signed by a physician.

- If the respondent does not comply with an order made by the Board, the applicant may apply to a judge of the Superior Court of Justice for an order requiring the respondent to comply with the order of the Board.

The following processes are applicable to blood samples provided both voluntarily or by order of the Consent and Capacity Board

Identification of respondent

At the time of the blood test, the respondent must present valid photo identification. If the person does not have photo identification they will be required to provide two pieces of identification with both their name and signature.

If proper identification is not produced, the blood sample will not be taken.

Notification protocol for blood sample results:

The Central Public Health Laboratory will send the results of the blood test to the applicant's and respondent's physicians. At the same time, notice is sent to the applicant and respondent that the results of the blood test have been sent to their respective physicians.

Penalty for non-compliance

Anyone who fails to obey an order of the Consent and Capacity Board, or contravenes or fails to comply with any requirement under the Mandatory Blood Testing Act, 2006, or of a regulation under the act, is guilty of an offence and liable on conviction to a fine of not more than \$5000 for every day or part of a day on which the offence occurs or continues.