Regular Session, 2011

HOUSE BILL NO. 119

BY REPRESENTATIVE SEABAUGH

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

CRIMINAL/PROCEDURE: Provides relative to search warrants for bodily samples

AN ACT

To amend and reenact Code of Criminal Procedure Article 163.1(B) and to enact Code of Criminal Procedure Article 163.1(D), relative to search warrants for bodily samples; to provide for the execution of search warrants for certain bodily samples; to provide immunity from liability for persons executing a search warrant for bodily samples; to provide for definitions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Code of Criminal Procedure Article 163.1(B) is hereby amended and reenacted and Code of Criminal Procedure Article 163.1(D) is hereby enacted to read as follows:

Art. 163.1. Search of a person for bodily samples; warrants; execution

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B. The warrant may be executed any place the person is found <u>or at the location of the person authorized to draw bodily samples,</u> and shall be directed to any peace officer who shall obtain and distribute the bodily samples as directed in the warrant.

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<u>D.(1)(a) When a search warrant issued pursuant to the provisions of this Article is executed at the direction of a law enforcement officer, or upon written consent of the person from whom the bodily sample is to be drawn, if the sample</u>

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being drawn is a blood sample, the sample shall only be drawn by an authorized person.

(b) For purposes of this Paragraph, "authorized person" means a physician, physician assistant, registered nurse, emergency medical technician, nurse practitioner, or other qualified technician.

(2) The following persons or entities shall not be held civilly or criminally liable for the drawing of any bodily sample pursuant to the provisions of this Article:

(a) The person who draws the sample.

(b) The hospital where the sample is drawn, or where the person who draws the sample is employed or is otherwise associated.

(c) The person, firm, or corporation who employs or is otherwise associated with the person who draws the sample.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Seabaugh HB No. 119

Abstract: Provides that only "authorized persons" may execute search warrants for certain bodily samples and provides civil and criminal immunity for those persons drawing the bodily samples.

Present law provides that a judge may issue a search warrant authorizing the search of a person for bodily samples to obtain DNA or other bodily samples, and provides that such warrant may be executed any place the person is found.

Proposed law amends present law to provide that such search warrants may also be executed at the location of the person authorized to draw the bodily sample, and further provides that when the sample to be drawn is a blood sample, the sample shall only be drawn by an authorized person.

Proposed law defines "authorized person".

Proposed law provides immunity from civil or criminal liability for any person who draws any bodily sample pursuant to the provisions of proposed law, and also provides this immunity for any hospital or entity with which the person drawing the sample is employed or is otherwise associated.

(Amends C.Cr.P. Art. 163.1(B); Adds C.Cr.P. Art. 163.1(D))

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