

Uniform Law Conference of Canada

Bill C-217-
Blood Samples Act

Yellowknife, NWT
August 18-22

Issues:

[1] Is there a need for legislation providing for the taking of blood samples?

Background

Purpose of Bill C-217

[2] Bill C-217 provides for the taking of blood samples to detect the presence of certain viruses, where there has been intentional or accidental transmission of bodily fluids between an individual and emergency services personnel.

[3] The Bill provides that a person who is a health professional, a firefighter, a peace officer or a "good Samaritan" may seek, and a justice may issue, a warrant authorizing a qualified medical practitioner to take samples of blood from a person in order to determine whether the person carries the hepatitis B or C virus or the HIV virus, when the applicant came into contact with the bodily substances of that person.

[4] Refusing to provide a sample would be an offence punishable with 6 months of imprisonment. The provisions applying to a peace officer would be included in the *Criminal Code*. The provisions applying to other emergency response personnel would be included in a new *Blood Samples Act*.

Legislative History

[5] Bill C-217 was referred to the Standing Committee on Justice and Human Rights. After conducting hearings, the Committee concluded that the bill was outside federal jurisdiction and raised Charter concerns.

[6] On March 1, 2002, the Committee reported to the House that the Bill should not be proceeded with. In an additional report, the Committee asked the Department of Justice to place the issues addressed in Bill C-217 on the agenda of the next Federal/Provincial/Territorial Meeting of Ministers responsible for Justice and on the agenda of the Uniform Law Conference. It also asked Health Canada to gather statistics on the extent of the problem addressed by the bill.

[7] The issue was discussed at the Coordinating Committee of Senior Officials meeting on May 9-10, 2002. A status report was given and it was agreed that the issue should be placed on the agenda of the next Ministers' meeting.

Considerations:

[8] On December 14, 2001, the Ontario Legislature passed legislation to the same effect as Bill C-217.

[9] Under s. 22.1 of the *Health Protection and Promotion Act, R.S.O. 1990, c. H.7*, medical health officers are now permitted to order that blood samples be taken where an applicant has come into contact with the bodily substances of another person (such as a result of having been a victim of crime or while providing emergency health care services or emergency first aid to the person) and there are reasonable and probable grounds to believe the applicant may have become infected with a virus that causes a prescribed communicable disease.

Conclusion:

[10] The ULCC is asked to consider whether there is a need for this kind of legislation in their respective jurisdictions and whether such legislation could be justified under the Charter.

[11] If so, should the ULCC undertake to draft a uniform Act providing for the taking of blood samples to detect the presence of certain viruses, where there has been intentional or accidental transmission of bodily fluids between an individual and emergency services personnel?