**Consent to Provide**

**Blood Sample For Testing**

**For Blood-Borne Pathogens**

**Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Location of Search:** Request for a blood sample to test for Blood Borne Pathogens

 I understand the requesting officer has no search warrant authorizing him or her to secure a sample of my blood and that I have a constitutional right to refuse permission / consent to have a sample of my blood taken for testing for any blood-borne pathogens.

 I also understand that statute, SDCL 23A-35B-3, has been provided to me and I understand that if I choose not to provide a blood sample to test for Blood Borne Pathogens, that the State’s Attorney, may request a hearing. In this situation, the court shall hold a hearing at which both the law enforcement officer and the defendant may be present. If the court finds probable cause to believe that the defendant committed the offense and that there was an exchange of blood, semen, or other bodily fluids from the defendant to the law enforcement officer, the court may order a search warrant for the purpose of taking a blood sample from the defendant or the juvenile for testing for blood-borne pathogen infection. However, at the time of being presented this opportunity to provide a sample by consent, no such hearing or order has taken place, therefore;

 I freely and voluntarily give my consent to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ to collect a

 (Officer’s Name)

sample of my blood for testing for blood borne pathogens.

**\_\_\_\_\_\_\_\_\_\_ I hereby give my consent**

**(Note: The Lab Requires a Red Top Blood tube for this test.)**

**\_\_\_\_\_\_\_\_\_\_ I hereby withhold my consent**

**Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

 **Defendant’s Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

 **Defendant’s Printed Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

 **Officer’s Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

 **Officer’s Printed Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

 **23A-35B-3. Victim's request for testing of defendant or juvenile--Hearing--Search warrant for blood sample--Time for testing.** A victim or a law enforcement officer may request in writing to the state's attorney that the defendant or the juvenile be tested for blood-borne pathogen infection by the Department of Health and that a search warrant be obtained for the purpose of taking a blood sample from the defendant or the juvenile for testing for such infection. The written request shall state that the victim or law enforcement officer believes there was an exchange of blood, semen, or other bodily fluids from the defendant or the juvenile to the victim or law enforcement officer and shall state the factual basis for believing there was such an exchange. The court shall hold a hearing at which both the victim or law enforcement officer and the defendant or the juvenile may be present. If the court finds probable cause to believe that the defendant or the juvenile committed the offense and that there was an exchange of blood, semen, or other bodily fluids from the defendant or the juvenile to the victim or from the defendant or the juvenile to the law enforcement officer, the court may order a search warrant for the purpose of taking a blood sample from the defendant or the juvenile for testing for blood-borne pathogen infection. If the court orders a search warrant, the Department of Health shall initiate the test for blood-borne pathogen infection within forty-eight hours after the department receives the blood sample.