

# HIV/AIDS Testing of Offenders

## Colorado

*Last Updated: April 2023*

Question	Answer
Which charges and/or criminal convictions trigger a sex offender being tested for HIV/AIDS?	<ul style="list-style-type: none"> <li>• Any sexual offense involving sexual penetration.</li> <li>• “Sexual penetration” means sexual intercourse, cunnilingus, fellatio, analingus, or anal intercourse. Emission need not be proved as an element of any sexual penetration. Any penetration, however slight, is sufficient to complete the crime</li> </ul>
Is testing required, and/or available upon victim request?	<ul style="list-style-type: none"> <li>• The court is required to order testing of any adult or juvenile who is indicted or convicted of, or, after a preliminary hearing, bound over for trial for, any sexual offense involving sexual penetration.</li> </ul>
When does testing occur?	<ul style="list-style-type: none"> <li>• Testing occurs subsequent to a preliminary hearing or after having waived the right to a preliminary hearing, or when a defendant is indicted for or is convicted of such offense.</li> </ul>
What is the testing process?	<ul style="list-style-type: none"> <li>• The court will order the testing.</li> </ul>
Who can see test results?	<ul style="list-style-type: none"> <li>• The results of such diagnostic test shall be reported to the court or the court’s designee, who shall then disclose the results to any victim of the sexual offense who requests such disclosure.</li> <li>• Review and disclosure of the test results is kept closed and confidential.</li> <li>• The results are also reported to the district attorney. If the person tests positive for HIV, the district attorney may contact the state department of public health and environment or any county, district or municipal public health agency to determine whether the person had been notified prior to the date of the offense whether he or she tested positive for HIV. If the person had been notified prior to the offense for which they are bound for trial, the district attorney may seek enhanced sentencing (at least the upper limit for the offense, up to the remainder of the person’s natural life).</li> </ul>
Are there related services for victims?	<ul style="list-style-type: none"> <li>• Immediate counseling on the potential health risks and available post-exposure treatment is to be provided to a victim who has been exposed to blood or other bodily fluids as a result of a sexual offense involving sexual penetration and there is an evidence-based reason to believe that the sexual offense may have resulted in exposure to a sexually transmitted infection.</li> </ul>
Anything else I should know?	<ul style="list-style-type: none"> <li>• If the defendant voluntarily submits for testing, such voluntary submission is admissible in mitigation of sentence if the person is convicted.</li> </ul>
Statutory citation(s):	C.R.S.A. § 18-3-401, 415, 415.5; 25-4-410.