

# HIV/AIDS Testing of Offenders Idaho

*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>• All persons, including juveniles, who are charged with a sex offense and/or a crime in which bodily fluid has likely been transmitted to another, or other charges as recommended by public health authorities, shall be tested for HIV.</li> <li>• All persons who are confined or imprisoned in any state prison facility, regardless of the crime, shall be tested for HIV.</li> <li>• All persons who are confined in any county or city jail, regardless of the crime, may be tested if in the judgment of public health authorities or the jailer the person has been exposed to HIV.</li> </ul>
Is testing required, and/or available upon victim request?	<ul style="list-style-type: none"> <li>• Testing is mandatory for those charged with a sex offense and/or a crime in which bodily fluid has likely been transmitted, or other charges recommended by public health authorities.</li> <li>• Testing is mandatory for those in a state prison facility upon admission. Testing will also occur during the time in which the person is confined if, in the judgment of public health authorities or the jailer, that person has been exposed to HIV. Testing is also performed upon the individual's request prior to release.</li> <li>• Testing is optional if in a county or city jail and in the judgment of public health authorities or the jailer, the offender has been exposed to HIV.</li> </ul>
When does testing occur?	<ul style="list-style-type: none"> <li>• Testing occurs when the individual is charged, confined or imprisoned.</li> <li>• In a state prison facility, testing occurs again upon the offender's request before release.</li> <li>• In a county or city jail, testing occurs if the individual has, in the judgment of public health authorities or the jailer, been exposed to HIV.</li> <li>• At the request of the victim of a sex offense in which bodily fluid has likely been transmitted, or the parent, guardian or legal custodian of a minor victim, such test shall be administered not later than 48 hours after the date on which the information or indictment is presented.</li> </ul>
What is the testing process?	<ul style="list-style-type: none"> <li>• All persons confined in a state prison facility will be tested upon confinement and again upon the offender's request before release.</li> <li>• For those imprisoned in a county or city jail, the jailer or public health authorities will determine whether to test the offender if, in their judgment, the offender has been exposed to HIV.</li> </ul>
Who can see test results?	<ul style="list-style-type: none"> <li>• The information is disclosed to the court.</li> <li>• The court then releases the results to the victim, or for a minor victim, the victim's parent, guardian or legal custodian.</li> <li>• All positive HIV test results are required to be reported to the Department of Health or relevant Health District within 3 working days.</li> </ul>

<p>Are there related services for victims?</p>	<ul style="list-style-type: none"> <li>• If the offender tests positive for HIV, the state provides the victim with counseling, HIV testing and referral for health care and support services at no cost to the victim. The provision of referrals does not obligate the district health department to provide or pay for a victim's health care or support services.</li> <li>• The victim is made aware of these services by the court at the time the results are released.</li> <li>• If a victim tests positive, a confidential report must be made within 3 working days to the Department of Health or relevant Health District.</li> </ul>
<p>Anything else I should know?</p>	<p>Absent consent from a partner or medical advice that a person is non-infectious, it is a felony for a person (i) to expose another in any manner with the intent to infect such other person with HIV, or (ii) knowing that he/she has been afflicted of HIV infection, to transfer or attempt to transfer any body fluid, tissue, or organs to another. If found guilty, such punishment shall be either or both of (A) imprisonment in the state prison for a period not to exceed fifteen years, and (B) a fine not in excess of \$5,000</p>
<p>Statutory citation(s):</p>	<p>Idaho Code §§ 39-601, 39-604; Idaho Admin. Code r. 16.02.10.360</p>