HIV/AIDS Testing of Offenders
Indiana

Last Updated:2026

Question	Answer

Which charges and/or criminal convictions trigger a sex offender being tested for HIV/AIDS?	• Defendants, both adults and juveniles, charged with a potentially disease transmitting offense, defendants charged with an offense involving the transmission of bodily fluid, and persons convicted of an offense relating to a criminal sexual act where the offense created an epidemiologically demonstrated risk of transmission of HIV.
	  • A "potentially disease transmitting offense" includes battery or domestic battery involving placing a bodily fluid or waste on another person or an offense relating to a criminal sexual act, if sexual intercourse or other sexual conduct occurred. The term includes an attempt to commit an offense, if sexual intercourse or other sexual conduct occurred, and a delinquent act that would be a crime if committed by an adult.
	  • An "offense involving the transmission of bodily fluid" is any offense (including a delinquent act that would be a crime if committed by an adult) in which a bodily fluid is transmitted from the defendant to the victim in connection with the commission of the offense.
	• If an indictment or information alleges that the defendant compelled another person to engage in sexual activity by force or threat of force.

Is testing required, and/or available upon victim request?	• For persons charged with a potentially disease transmitting offense or an offense involving the transmission of bodily fluid, the victim, or the parent, guardian or custodian of a victim who is less than 18 years old or is an endangered adult, may request testing but it is in the court's discretion following a finding of probable cause that the defendant committed the offense. • If the indictment charges that the defendant compelled another person to engage in sexual activity by force or threat of force, testing is required upon the victim's request. • For those convicted of an offense relating to a criminal sexual act and the offense created an epidemiologically demonstrated risk of transmission of HIV, testing is required.
When does testing occur?	• For defendants charged with a potentially disease transmitting offense or with an offense involving the transmission of bodily fluid, upon the court's order following a successful probable cause hearing. • Not later than 48 hours after the victim's request where the defendant is charged with compelling another person to engage in sexual activity by force or threat of force. • Following conviction for those convicted of an offense relating to a criminal sexual act where the offense created an epidemiologically demonstrated risk of transmission of HIV.

What is the testing process?	• For persons charged with a potentially disease transmitting offense or an offense involving the transmission of bodily fluid, if the victim, or the parent, guardian or custodian of a victim who is less than 18 years old or is an endangered adult, requests testing, the prosecutor petitions the court to allow testing. The court must hold a hearing within 48 hours of receiving the petition, which the victim, defendant and defendant's counsel are entitled to attend. If the court finds probable cause that the defendant committed the offense, the court may require testing. • If an indictment or information alleges that the defendant compelled another person to engage in sexual activity by force or threat of force, testing is required and must take place within 48 hours of the victim's request. • For those convicted of an offense relating to a criminal sexual act where the offense created an epidemiologically demonstrated risk of transmission of HIV, a screening test is required and if the screening test is positive, the person must undergo a confirmatory test. • If the confirmatory test is positive, the court reports the results to the state department of health and a probation officer conducts a presentence investigation to obtain the medical record of the convicted person and determine whether the person had received risk counseling that included information on behavior that transmits HIV.
Who can see test results?	• The information, including results of follow-up testing, is disclosed to the defendant and the victim or his or her parent, guardian or custodian if a minor or endangered adult. • For persons charged with a potentially disease transmitting offense or an offense involving the transmission of a bodily fluid, the results of the screening test may only be made available to the defendant and defendant's counsel, the prosecuting attorney, the department of correction or the penal facility, juvenile detention facility, or secure private facility where the defendant is housed, or the alleged victim or parent, guardian or custodian if victim is a minor or endangered adult and the alleged victim's counsel. • The victim may disclose the results to an individual or organization to protect the health and safety of or to seek compensation for the victim, the victim's sexual partner or the victim's family.
Are there related services for victims?	• State department of health will provide counseling to persons notified of the test results and referrals for appropriate health care to victims.
Anything else I should know?	• The results of testing cannot be used against a defendant in a criminal proceeding or against a juvenile in a juvenile delinquency proceeding.
Statutory citation(s):	Ind. Code §§ 16-41-8-1, 16-41-8-5, 16-41-8-6, 35-38-1-10.5, 35-38-1-10.6, 31-37-19-12.