

HIV/AIDS Testing of Offenders

Louisiana

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Question	Answer
Which charges and/or criminal convictions trigger a sex offender being tested for HIV/AIDS?	<ul style="list-style-type: none"> • A person who has been charged with or convicted of first degree rape, second degree rape, third degree rape, sexual battery, misdemeanor sexual battery, second degree sexual battery or oral sexual battery. • Applies to both adult and juvenile defendants.
Is testing required, and/or available upon victim request?	<ul style="list-style-type: none"> • For convicted offenders, testing is required to determine whether the person is infected with a sexually transmitted disease, AIDS, HIV, HIV-1 antibodies or any other probable causative agent of AIDS. • For charged persons, testing is required if the victim requests it.
When does testing occur?	<ul style="list-style-type: none"> • Testing occurs upon conviction. • For charged persons, if the victim requests testing, the test must occur within 48 hours of the person's indictment.
What is the testing process?	<ul style="list-style-type: none"> • The court orders the offender to submit to the test, which must be performed by a qualified physician or other qualified person. • A follow-up test will be ordered if the victim requests and the court determines it is medically appropriate.
Who can see test results?	<ul style="list-style-type: none"> • For convicted persons, (i) positive test results must be reported to the Department of Public Safety and Corrections and (ii) notice of the test results are disclosed to the victim or the parent or custodian of the victim of the alleged offense, regardless of the results. • For charged persons, the court may in its discretion provide the test results to the victim of the offense and shall provide them to health authorities in accordance with law. • For indicted persons, the test results will be disclosed to the victim and the defendant. If the victim consents, the test results will be disclosed to anyone authorized by the victim.
Are there related services for victims?	<ul style="list-style-type: none"> • If the offender tests positive for AIDS, HIV, HIV-1 antibodies, or any other probable causative agent of AIDS, the victim shall be provided with HIV testing upon request. • If the victim tests positive for AIDS, HIV, HIV-1 antibodies, or any other probable causative agent of AIDS, the victim shall, upon request, be provided with counseling regarding HIV disease and referral to appropriate health care and support services.

Anything else I should know?	<ul style="list-style-type: none">• The state cannot use the fact that an HIV test was performed or use the results of such test in any criminal proceeding arising out of the alleged offense.• If a victim tests positive, a confidential report must be made within five business days (except in the case of infection in pregnancy or perinatal exposure which shall be made within one business day) to the Louisiana HIV/AIDS Program.
Statutory citation(s):	La. Rev. Stat. §§ 14:42-43.3, 14:43.5, 15:535, 15:541; La. Code Crim. Proc. art. 499; La. Admin. Code tit. 51, pt. II §105.