

# HIV/AIDS Testing of Offenders

## New Jersey

*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>• Individuals convicted of, indicted for, or formally charged with sexual assault or aggravated sexual assault.</li> <li>• Juveniles charged with delinquency or adjudicated delinquent for an act which if committed by an adult would constitute aggravated sexual assault or sexual assault.</li> </ul>
Is testing required, and/or available upon victim request?	<ul style="list-style-type: none"> <li>• Testing is required for juveniles charged with delinquency or adjudicated delinquent for an act which if committed by an adult would constitute aggravated sexual assault or sexual assault.</li> <li>• Testing is available upon request of the victim and upon application of the prosecutor immediately following the request, for a person convicted of, indicted for, or formally charged with aggravated sexual assault or sexual assault.</li> </ul>
When does testing occur?	<ul style="list-style-type: none"> <li>• Upon request of the victim and upon application of the prosecutor immediately following the request, the court shall order a person convicted, indicted, formally charged, charged with delinquency, or adjudicated delinquent to be tested.</li> <li>• The court order shall require testing to be performed as soon as practicable.</li> <li>• If the victim makes the request prior to or at the time of indictment, or accusation if the defendant has waived the right to an indictment, the court order shall require the testing be performed within 48 hours.</li> </ul>
What is the testing process?	<ul style="list-style-type: none"> <li>• The court order shall require testing to be performed as soon as practicable by the Commissioner of the Department of Corrections.</li> <li>• The person or juvenile shall be ordered by the court to submit to such repeat or confirmatory tests as may be medically necessary.</li> </ul>
Who can see test results?	<ul style="list-style-type: none"> <li>• The court order shall require that the results be reported to the offender and the appropriate Office of Victim-Witness Advocacy.</li> <li>• The Office of Victim-Advocacy shall notify the victim or make appropriate arrangements for the victim to be notified of the test result.</li> <li>• The record of a person who has or is suspected of having AIDS or HIV infection may be disclosed by an order of a court of competent jurisdiction which is granted pursuant to an application showing good cause therefor.</li> </ul>

<p>Are there related services for victims?</p>	<ul style="list-style-type: none"> <li>• The Office of Victim-Witness Advocacy shall provide the victim with appropriate counseling, referral for counseling and, if appropriate, referral for health care.</li> <li>• The Office of Victim-Witness Advocacy shall assist the victim in applying to the Victims of Crime Compensation Office for compensation for the costs of testing, counseling, and care.</li> </ul>
<p>Anything else I should know?</p>	<ul style="list-style-type: none"> <li>• The Office of Victim-Witness Advocacy or the county prosecutor's office must notify sexual assault and aggravated sexual assault victims of the victim's right to obtain a court order requiring the offender to submit to HIV/AIDS testing in the event the offender is indicted, formally charged, convicted, or adjudicated delinquent.</li> <li>• The Office of Victim-Witness Advocacy or the county prosecutor's office must notify sexual assault and aggravated sexual assault victims of the victim's right to testing for HIV/AIDS, and assist the victim, or refer the victim for assistance, in obtaining a test and appropriate counseling and medical care.</li> <li>• Upon request by victims and witnesses involved in the prosecution of a case, the Office of Victim-Witness Advocacy must advise and counsel, or refer for advice or counseling, victims of sexual assault, or other criminal acts involving a risk of transmission of disease, concerning available medical testing and assist such victims, or refer such victims for assistance, in obtaining appropriate testing, counseling and medical care and in making application to the Victims of Crime Compensation Office for compensation for the costs of such testing, counseling, and care.</li> <li>• A court may order an offender at the time of sentencing to reimburse the state for the costs of the tests.</li> <li>• Results of testing at the request of a victim may not be used against an accused sex offender in a criminal proceeding (<i>State ex rel. J.G., N.S. &amp; J.T.</i>, 701 A.2d 1260 (N.J. 1997)).</li> </ul>
<p>Statutory citation(s):</p>	<p>N.J. Stat. Ann. §§ 2A:4A-43.1; 2A:4A-43.4; 2C:43-2.2; 2C:43-2.3; 26:5C-9; 52:4B-44.</p>