

HIV/AIDS Testing of Offenders

Pennsylvania

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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"> • Individuals charged with rape, statutory sexual assault, involuntary deviate sexual intercourse, sexual assault, institutional sexual assault, aggravated indecent assault, indecent assault, incest, or offenses against children involving sexual contact.
Is testing required, and/or available upon victim request?	<ul style="list-style-type: none"> • Upon request of the victim and with notice to the defendant, the attorney for the Commonwealth will make an application to the court for HIV-related testing, which application will be granted upon a finding of probable cause to believe there is a probable transmission of bodily fluids between a defendant and victim.
When does testing occur?	<ul style="list-style-type: none"> • No later than 48 hours after filing of the bill of information (in the First Judicial District) or criminal information (in judicial districts other than the First Judicial District). • Alternatively, the victim may request that HIV-related testing be performed on the defendant at any point after this time period expires until 6 weeks after the date of conviction. In that event, the attorney for the Commonwealth shall make application to the court, at the request of the victim, with notice to the defendant, for HIV-related testing of the defendant.
What is the testing process?	<ul style="list-style-type: none"> • The attorney for the Commonwealth will, upon request of the victim and with notice to the defendant, make an application for HIV-related testing of the defendant. • Notice will be given to the victim and to the defendant regarding the results of the HIV-related testing of the defendant as soon as is practicable. • Follow-up HIV-related testing for the defendant will be provided as medically appropriate. Notice of the results of any follow-up HIV-related testing will be provided to the victim and the defendant as soon as is practicable.
Who can see test results?	<ul style="list-style-type: none"> • Victim; • Defendant; • Attorney for the Commonwealth; • Health care providers treating the victim or the defendant; • Attorney for the defendant • The court; and • Any other individual designated by the court.

<p>Are there related services for victims?</p>	<ul style="list-style-type: none"> • Counseling regarding HIV and AIDS for the victim and for the defendant will be provided. • No positive test result will be revealed to the subject without affording the subject the immediate opportunity for individual, face-to-face counseling about (1) the significance of the test results; (2) measures for the prevention of the transmission of HIV; (3) the benefits of locating and counseling any individual by whom the subject may have been exposed to HIV and the availability of any services with respect to locating and counseling such individual; (4) the availability of any appropriate health care services, including mental health care and appropriate social and support services; and (5) the benefits of locating and counseling any individual who the infected subject may have exposed to HIV and the availability of any services with respect to locating and counseling such individual.
<p>Anything else I should know?</p>	<ul style="list-style-type: none"> • The court may order that the cost of the HIV-related testing and any follow-up testing of the defendant be borne by the Department of Health or the Department of Corrections or by the defendant if the defendant is an adult, as appropriate. However, upon conviction, the court will order that the cost of the defendant's HIV-related testing and the cost of any follow-up testing be assessed against the defendant if the defendant is an adult. • In no event will the victim pay for HIV-related testing. • The results of HIV-related testing of the defendant may not be used to establish the defendant's guilt.
<p>Statutory citation(s):</p>	<p>35 Pa. Stat. §§ 7605, 7620.301-304.</p>