

HIV TESTING AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Marsha Judkins

Senate Sponsor: Luz Escamilla

LONG TITLE

General Description:

This bill addresses the testing of alleged sexual offenders for HIV.

Highlighted Provisions:

This bill:

- specifies the entities that may process the test of an alleged sexual offender for HIV;

and

- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-5-502, as last amended by Laws of Utah 2011, Chapter 177

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **76-5-502** is amended to read:

76-5-502. Request for testing -- Mandatory testing -- Liability for costs.

(1) (a) An alleged victim of the sexual offense, the parent or guardian of an alleged victim who is a minor, or the guardian of an alleged victim who is a vulnerable adult as defined in Section **62A-3-301** may request that the alleged sexual offender against whom the indictment, information, or petition is filed or regarding whom the arrest has been made be

30 tested to determine whether the alleged offender is an HIV positive individual.

31 (b) If the alleged victim under Subsection (1)(a) has requested that the alleged offender
32 be tested, the alleged offender shall submit to being tested not later than 48 hours after an
33 information or indictment is filed or an order requiring a test is signed.

34 (c) If the alleged victim under Subsection (1)(a) requests that the alleged offender be
35 tested more than 48 hours after an information or indictment is filed, the offender shall submit
36 to being tested not later than 24 hours after the request is made.

37 (d) As soon as practicable, the results of the test conducted pursuant to this section
38 shall be provided to:

- 39 (i) the alleged victim who requested the test;
- 40 (ii) the parent or guardian of the alleged victim, if the alleged victim is a minor;
- 41 (iii) the legal guardian of the alleged victim if the victim is a vulnerable adult as
42 defined in Section [62A-3-301](#);
- 43 (iv) the alleged offender; and
- 44 (v) the parent or legal guardian of the alleged offender, if the offender is a minor.

45 (e) If follow-up testing is medically indicated, the results of follow-up testing of the
46 [~~defendant~~] alleged offender shall be sent as soon as practicable to:

- 47 (i) the alleged victim;
- 48 (ii) the parent or guardian of the alleged victim if the alleged victim is younger than 18
49 years of age;
- 50 (iii) the legal guardian of the alleged victim, if the victim is a vulnerable adult as
51 defined in Section [62A-3-301](#);
- 52 (iv) the alleged offender; and
- 53 (v) the parent or legal guardian of the alleged offender, if the offender is a minor.

54 (2) If the mandatory test has not been conducted, and the alleged offender or alleged
55 minor offender is already confined in a county jail, state prison, or a secure youth corrections
56 facility, the alleged offender shall be tested while in confinement.

57 (3) (a) The secure youth corrections facility or county jail shall cause the blood

58 specimen of the alleged offender under Subsection (1) confined in that facility to be taken and
59 shall forward the specimen to ~~[the Department of Health.];~~

60 (i) the Department of Health; or

61 (ii) an alternate testing facility, as determined by the secure youth corrections facility or
62 county jail, if testing under Subsection (3)(a)(i) is unavailable.

63 (b) The entity that receives the specimen under Subsection (3)(a) shall provide the
64 result to the prosecutor as soon as practicable for release to the parties as described in
65 Subsection (1)(d) or (e).

66 (4) The Department of Corrections shall cause the blood specimen of the alleged
67 offender defined in Subsection (1) confined in any state prison to be taken and shall forward
68 the specimen to the Department of Health as provided in Section 64-13-36.

69 (5) The alleged offender who is tested is responsible upon conviction for the costs of
70 testing, unless the alleged offender is indigent. The costs will then be paid by the Department
71 of Health from the General Fund.