

**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 tested to determine whether the alleged offender is an HIV positive individual.
  - (b) If the alleged victim under Subsection (1)(a) has requested that the alleged offender be tested, the alleged offender shall submit to being tested not later than 48 hours after an information or indictment is filed or an order requiring a test is signed.
  - (c) If the alleged victim under Subsection (1)(a) requests that the alleged offender be tested more than 48 hours after an information or indictment is filed, the offender shall submit to being tested not later than 24 hours after the request is made.
  - (d) As soon as practicable, the results of the test conducted pursuant to this section shall be provided to:
    - (i) the alleged victim who requested the test;
    - (ii) the parent or guardian of the alleged victim, if the alleged victim is a minor;
    - (iii) the legal guardian of the alleged victim if the victim is a vulnerable adult as defined in Section 62A-3-301;
    - (iv) the alleged offender; and
    - (v) the parent or legal guardian of the alleged offender, if the offender is a minor.
  - (e) If follow-up testing is medically indicated, the results of follow-up testing of the defendant shall be sent as soon as practicable to:
    - (i) the alleged victim;
    - (ii) the parent or guardian of the alleged victim if the alleged victim is younger than 18 years of age;
    - (iii) the legal guardian of the alleged victim, if the victim is a vulnerable adult as defined in Section 62A-3-301;
    - (iv) the alleged offender; and
    - (v) the parent or legal guardian of the alleged offender, if the offender is a minor.
- (2) If the mandatory test has not been conducted, and the alleged offender or alleged minor offender is already confined in a county jail, state prison, or a secure youth corrections facility, the alleged offender shall be tested while in confinement.
- (3) The secure youth corrections facility or county jail shall cause the blood specimen of the alleged offender under Subsection (1) confined in that facility to be taken and shall forward the specimen to the Department of Health.
- (4) The Department of Corrections shall cause the blood specimen of the alleged offender defined in Subsection (1) confined in any state prison to be taken and shall forward the specimen to the Department of Health as provided in Section 64-13-36.
- (5) The alleged offender who is tested is responsible upon conviction for the costs of testing, unless the alleged offender is indigent. The costs will then be paid by the Department of Health from the General Fund.

Amended by Chapter 177, 2011 General Session