

What happens with your HIV test results?

Who finds out?

Whether you test positive or negative for HIV, you have a right to privacy (“confidentiality”) with your test results. The court that orders your HIV tests must protect your confidentiality. The court must make sure your HIV test results are not shared with anyone who does not have a legal right to know the results.

Under the HIV defendant testing law, your HIV test results can only be shared with:

- **You (the defendant).** You don’t have to know your HIV test results if you don’t want to. But, remember, HIV can be treated. If you have HIV, the sooner you find a doctor and start medical treatment, the better your chances of staying healthy.
- **The victim.** The victim has the right to know whether or not you have HIV (your HIV “status”). He or she may share your HIV status with close family members, a guardian, lawyer, doctor, and health care providers. The victim can disclose your HIV test results to any of his or her sex partners or needle-sharing partners if the victim believes any of those partners may have been exposed to HIV. But, the victim cannot disclose your name.

The court will not let anyone who knows about your test results tell anyone else.

Your HIV test results cannot be used as “evidence” against you.

- Your HIV test results cannot be shared with the court.
- Your HIV test results cannot be used as evidence against you in any criminal or civil case related to the felony rape or sexual assault charges against you.

Learn more about HIV

If you tested positive for HIV, the U.S. Centers for Disease Control (CDC) website has a booklet called *HIV and Its Treatment: What You Should Know*. The website address is:

www.cdc.gov/hiv/resources/brochures/index.htm

Go to the New York State Department of Health AIDS Institute website to learn more about:

HIV Testing:

www.nyhealth.gov/diseases/aids/docs/0232eng.pdf

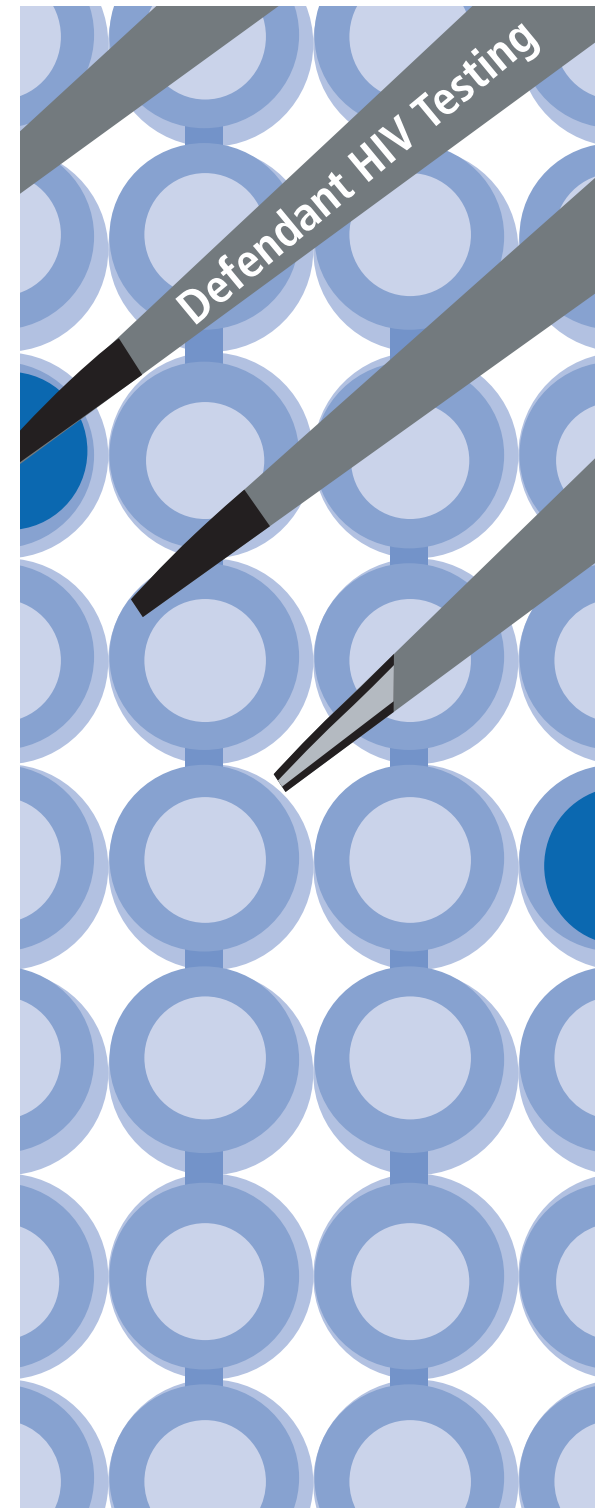
HIV Confidentiality Law:

www.nyhealth.gov/diseases/aids/docs/doh-9192.pdf

Partner Notification:

www.nyhealth.gov/diseases/aids/docs/9300.pdf

State of New York
Department of Health



Information for Defendants in Sexual Assault Cases

If you have been charged with rape or felony sexual assault, you may have to take tests for HIV (human immunodeficiency virus), the virus that causes AIDS. Under New York State law, the person (the victim) you are accused of raping or sexually assaulting can ask the court to make you take HIV tests. If the court agrees, you (the defendant) will have to take these tests. This is called Defendant HIV Testing.

How does Defendant HIV Testing work?

If the court orders you to undergo HIV testing, a county or state public health officer will conduct the test. Before the test, the public health officer will explain:

- What positive HIV test results mean.
- What negative HIV test results mean.
- Your health risks if you test positive for HIV.

Why is the “Window Period” so important?

If you were recently infected with HIV at the time of the sexual assault, you could test negative on a regular HIV antibody test for a month or more — the “window period” before you develop antibodies to HIV. That’s why you will take an HIV viral load test if the victim requests the test within 30 days of the assault — because that test can find any HIV in your body, even before antibodies develop. After that time, you will no longer be in the window period and will take an HIV antibody test.

Are there different kinds of HIV tests?

Two kinds of HIV tests can be done:

HIV antibody test. This test looks for “antibodies” — cells in your body that fight infection. But, there is a gap between the time you are infected with HIV and the time that antibodies can be found by an HIV antibody test. This is called the “window period.” Most people develop antibodies within a month of being infected with HIV. Almost everyone develops HIV antibodies within three months.

HIV viral load test. This test measures any HIV in your body. It can find HIV even before antibodies develop. So, an HIV viral load test is a more accurate test if you have been infected in the past month.

The kind of test you take depends on how much time has passed since the rape or sexual assault that you are accused of:

If it has been more than 7 days but less than 30 days since the rape or sexual assault...

You will be given both an HIV antibody test and an HIV viral load test.

If it has been 30 days to 6 months since the rape or sexual assault...

You will have to take an HIV antibody test.

If it has been 6 months or more since the rape or sexual assault...

You will not have to take any HIV test.

The court can also order a follow-up HIV test. However, the antibody test and viral load test should detect any HIV in your body at the time you are first tested. So, there may be no medical need for a follow-up test.

What happens if you test positive for HIV?

The public health officer who did the HIV tests will explain what your positive test results mean. Here are some main points they cover:

- **Get medical treatment.** HIV infection can be treated. It does not mean you have AIDS. The sooner you get medical treatment, the better your chances of staying healthy.
- **Tell your sex partners or needle-sharing partners.** Your partners need to know they may have been exposed to HIV so they can get tested — and get treated if they have HIV. Ask the public health officer who does your HIV tests for help telling your partners.
- **Don’t pass HIV to others.** Avoid having unprotected sex (sex without a condom) or sharing drug injection equipment.

What happens if you test negative for HIV?

If you took an HIV antibody test or an HIV viral load test and the results were negative, then you do not have HIV and you will not have to take a follow-up test.