

510.320 Human immunodeficiency virus testing for defendants accused of certain sexual offenses -- Results -- Counseling when test positive -- Cost -- Effect of appeal.

- (1) For purposes of this section, "human immunodeficiency virus test" means a test of an individual for presence of human immunodeficiency virus, or for antibodies or antigens that result from human immunodeficiency virus infection, or for any other substance specifically indicating human immunodeficiency virus infection.
- (2) A defendant charged with an offense pursuant to this chapter which has sexual intercourse or deviate sexual intercourse as an element, or has sexual contact as an element when the circumstances of the case demonstrate a possibility of transmission of human immunodeficiency virus, shall upon initial court appearance on the charge, be informed by the judge of the availability of human immunodeficiency virus testing. The judge shall also notify the victim of the offense, or parent or guardian of the victim, that the defendant has been so notified.
- (3) When a defendant has been convicted of any offense in subsection (2) of this section, other provisions of law to the contrary notwithstanding, the sentencing court, regardless of any prior human immunodeficiency virus test, shall order the defendant to undergo a human immunodeficiency virus test, under the direction of the Cabinet for Health and Family Services.
- (4)
 - (a) The result of any human immunodeficiency virus test conducted pursuant to this section shall not be a public record for purposes of KRS Chapter 61.
 - (b) The result of any human immunodeficiency virus test conducted pursuant to this section shall only be made available by the Cabinet for Health and Family Services to the victim, or the parent or guardian of a victim who is a minor, an individual with an intellectual disability, or mentally incapacitated, the defendant, the court issuing the order for testing, and to any other agency as directed pursuant to KRS Chapter 214.
 - (c) The Cabinet for Health and Family Services shall immediately provide to the victim the results of any human immunodeficiency virus test conducted under this section.
 - (d) In addition, the Cabinet for Health and Family Services shall provide to the Department of Corrections the result of any human immunodeficiency virus test conducted pursuant to this section which indicates that the defendant is infected with the human immunodeficiency virus. The Department of Corrections shall use this information solely for the purpose of providing medical treatment to the defendant while incarcerated in a state penitentiary or correctional institution or county jail.
- (5) If the human immunodeficiency virus test indicates the presence of human immunodeficiency virus infection, the Cabinet for Health and Family Services shall provide counseling to the victim and the defendant regarding human immunodeficiency virus disease, and referral for appropriate health-care and support services.
- (6) The cost of testing under this section shall be paid by the defendant tested, unless

the court has determined the defendant to be indigent.

- (7) Filing of a notice of appeal shall not automatically stay an order that the defendant submit to a human immunodeficiency virus test.

Effective: July 12, 2012

History: Amended 2012 Ky. Acts ch. 146, sec. 130, effective July 12, 2012. -- Amended 2005 Ky. Acts ch. 99, sec. 656, effective June 20, 2005. -- Amended 2000 Ky. Acts ch. 400, sec. 5, effective July 14, 2000. -- Amended 1998 Ky. Acts ch. 426, sec. 608, effective July 15, 1998. -- Created 1992 Ky. Acts ch. 389, sec. 1, effective July 14, 1992.