

Information for Survivors of Sexual Assault

Defendant HIV Testing

If you have been sexually assaulted, if you may have been exposed to HIV (human immunodeficiency virus). As a sexual assault survivor, you have the right to ask that HIV testing be done on the person (the defendant) who is accused of assaulting you. This is called defendant HIV testing.

New York State's Defendant HIV Testing Law

Under the defendant HIV testing law, you can:

- Find out if you may have been exposed to HIV during the sexual assault by asking the court to make the defendant be tested for HIV.
- Request defendant HIV testing as soon as the defendant is charged (indicted) with rape or sexual assault.
- Get emergency anti-HIV medicines and find out how to get help paying for them.

Don't wait to make a call

You have survived a painful experience – you don't have to do it alone. Many organizations in New York City and New York State help sexual assault survivors get the treatment and support they need. Call one of the numbers below.

Hotlines, websites, and more information on sexual assault

New York Statewide Hotline Numbers

New York State Office of Victims Services (OVS)

1-800-247-8035 (Monday – Friday, 9 am – 5 pm)
www.ovs.ny.gov

New York State Department of Health Rape Crisis Program

To find a Rape Crisis program and a rape crisis counselor near you, call this number anytime. Your call is free and private.
1-800-522-5006 (Growing Up Healthy hotline)

New York State Coalition Against Domestic Violence (NYSCADV)

Domestic and Sexual Violence hotline, English and Spanish: 1-800-942-6906
711 for Deaf and Hard of Hearing
www.nyscadv.org

New York State Office for the Prevention of Domestic Violence
New York State Domestic and Sexual Assault Hotline (for any type of sexual assault)
1-800-942-6906
711 for Deaf and Hard of Hearing
www.opdv.ny.gov

New York State Police Crime Victims Specialist Program

Each upstate "troop region" has a crime victim specialist, who works closely with both police and local victim service agencies to best meet the needs of the victim. They are listed on the website: https://www.troopers.ny.gov/Contact_Us/Crime_Victims/

New York City Hotline Numbers

Safe Horizon (Rape, Sexual Assault and Incest Hotline), English and Spanish:
1-800-621-HOPE (4673)
www.safehorizon.org

New York City Police Department
Sex Crimes Report Line
1-212-267-RAPE (7273)

How do you request a defendant HIV test and how does it work?

- You cannot request HIV testing until someone has been arrested and charged with sexual assault.
- You must make your request for HIV testing within 48 hours after the defendant is charged.
- You must make your request in writing to the court.
- If the court orders the defendant to be tested for HIV, the testing will be done by a county or state public health official.
- You can request that the defendant have a follow-up HIV test. However, the first test should detect the presence of HIV. So, there may be no medical need for a follow-up test.

What do the defendant's HIV test results mean to you?

- If the defendant tests negative, he or she did not have HIV at the time of the sexual assault and did not pass the virus on to you.
- If the defendant tests positive, he or she may have been living with HIV at the time of the sexual assault and you may have been exposed to HIV. Being exposed to HIV does not mean you now have HIV.
- The only way to know if you have HIV is by having an HIV test. You may need to be tested more than once to be sure you do not have HIV.

What can you do with the defendant's HIV test results?

The defendant has a right to privacy regarding their HIV test, whether the results are positive or negative.

The defendant is not required to know the result of their HIV test.

A public health officer can only share the defendant's HIV test results with you, the survivor. By law, you can only share the defendant's HIV results with:

- Your doctor or your health care provider – in order to plan your medical care.
- Your lawyer or legal representative.
- Close family members or your legal guardian.
- Any of your sex partners or needle-sharing partners, if you believe you may have exposed them to HIV. But, you cannot tell them the defendant's name.

The court will not let you, or any of the people listed above, share information about the defendant's test results.

The defendant's HIV test results cannot be shared with the court or used as evidence against the defendant in a criminal or civil case related to the sexual assault.

Keep taking your emergency anti-HIV medicines

If you got medical treatment after your sexual assault and started taking emergency anti-HIV medicines, keep taking them until your doctor or medical care provider tells you to stop — even if the defendant tests negative for HIV.

How to get help paying your medical expenses

The New York State Office of Victims Services (OVS) is a state agency that helps crime victims pay for expenses that directly result from the crime. The OVS will reimburse the health care provider for the cost of your sexual assault medical exam if you choose not to use your own medical insurance.

If you have medical insurance coverage for the following services, you will have to pay for them. You can ask the OVS to pay for the following services if they are not covered by insurance:

- Emergency room bills that are not related to your sexual assault medical exam.
- Anti-HIV medications that are prescribed after the initial 7-day supply of emergency anti-HIV medicines.
- Counseling services.
- Transportation for court appearances.
- Lost wages if you cannot work because of your sexual assault.

See the last page for information on how to contact the OVS.