

TITLE 42 - THE PUBLIC HEALTH AND WELFARE
CHAPTER 136 - VIOLENT CRIME CONTROL AND LAW ENFORCEMENT
SUBCHAPTER III - VIOLENCE AGAINST WOMEN
Part E - Violence Against Women Act Improvements

§ 14011. Payment of cost of testing for sexually transmitted diseases

- (a) Omitted**
- (b) Limited testing of defendants**
 - (1) Court order**

The victim of an offense of the type referred to in subsection (a)¹ of this section may obtain an order in the district court of the United States for the district in which charges are brought against the defendant charged with the offense, after notice to the defendant and an opportunity to be heard, requiring that the defendant be tested for the presence of the etiologic agent for acquired immune deficiency syndrome, and that the results of the test be communicated to the victim and the defendant. Any test result of the defendant given to the victim or the defendant must be accompanied by appropriate counseling.

- (2) Showing required**

To obtain an order under paragraph (1), the victim must demonstrate that—

- (A)** the defendant has been charged with the offense in a State or Federal court, and if the defendant has been arrested without a warrant, a probable cause determination has been made;
 - (B)** the test for the etiologic agent for acquired immune deficiency syndrome is requested by the victim after appropriate counseling; and
 - (C)** the test would provide information necessary for the health of the victim of the alleged offense and the court determines that the alleged conduct of the defendant created a risk of transmission, as determined by the Centers for Disease Control, of the etiologic agent for acquired immune deficiency syndrome to the victim.

- (3) Follow-up testing**

The court may order follow-up tests and counseling under paragraph (1) if the initial test was negative. Such follow-up tests and counseling shall be performed at the request of the victim on dates that occur six months and twelve months following the initial test.

- (4) Termination of testing requirements**

An order for follow-up testing under paragraph (3) shall be terminated if the person obtains an acquittal on, or dismissal of, all charges of the type referred to in subsection (a)¹ of this section.

- (5) Confidentiality of test**

The results of any test ordered under this subsection shall be disclosed only to the victim or, where the court deems appropriate, to the parent or legal guardian of the victim, and to the person tested. The victim may disclose the test results only to any medical professional, counselor, family member or sexual partner(s) the victim may have had since the attack. Any such individual to whom the test results are disclosed by the victim shall maintain the confidentiality of such information.

- (6) Disclosure of test results**

The court shall issue an order to prohibit the disclosure by the victim of the results of any test performed under this subsection to anyone other than those mentioned in paragraph (5). The contents of the court proceedings and test results pursuant to this section shall be sealed. The results of such test performed on the defendant under this section shall not be used as evidence in any criminal trial.

- (7) Contempt for disclosure**

NB: This unofficial compilation of the U.S. Code is current as of Jan. 4, 2012 (see <http://www.law.cornell.edu/uscode/uscprint.html>).

Any person who discloses the results of a test in violation of this subsection may be held in contempt of court.

(c) Penalties for intentional transmission of HIV

Not later than 6 months after September 13, 1994, the United States Sentencing Commission shall conduct a study and prepare and submit to the committees² on the Judiciary of the Senate and the House of Representatives a report concerning recommendations for the revision of sentencing guidelines that relate to offenses in which an HIV infected individual engages in sexual activity if the individual knows that he or she is infected with HIV and intends, through such sexual activity, to expose another to HIV.

Footnotes

¹ See Codification note below.

² So in original. Probably should be capitalized.

(Pub. L. 103–322, title IV, § 40503, Sept. 13, 1994, 108 Stat. 1946; Pub. L. 104–294, title VI, § 604(b)(1), Oct. 11, 1996, 110 Stat. 3506.)

Codification

Section is comprised of section 40503 of Pub. L. 103–322. Subsec. (a) of section 40503 of Pub. L. 103–322 amended section 10607 of this title. Subsec. (c) of section 40503 of Pub. L. 103–322 also enacted provisions listed in a table relating to sentencing guidelines set out under section 994 of Title 28, Judiciary and Judicial Procedure.

Amendments

1996—Subsec. (b)(3). Pub. L. 104–294 substituted “paragraph (1)” for “paragraph (b)(1)”.

Change of Name

Centers for Disease Control changed to Centers for Disease Control and Prevention by Pub. L. 102–531, title III, § 312, Oct. 27, 1992, 106 Stat. 3504.

Effective Date of 1996 Amendment

Amendment by Pub. L. 104–294 effective Sept. 13, 1994, see section 604(d) of Pub. L. 104–294, set out as a note under section 13 of Title 18, Crimes and Criminal Procedure.