

- SUBJECT:** Mandatory AIDS/HIV/STD testing within 48 hours at victim's request
- COMMITTEE:** Criminal Jurisprudence — favorable, without amendment
- VOTE:** 9 ayes — Gallego, Fletcher, Kent, Miklos, Moody, Pierson, Riddle, Vaught, Vo
- 0 nays
- 2 absent — Christian, Hodge
- WITNESSES:** For — Torie Camp, Texas Association Against Sexual Assault; (*Registered, but did not testify:* Steven Bristow, Parkland Health and Hospital System; Katrina Daniels, Bexar County District Attorney Susan Reed; Sherry Murphy, Family Crisis Center; Aaron Setliff, Texas Council on Family Violence; Richard Sookiasian, University Health System)
- Against — None
- BACKGROUND:** Code of Criminal Procedure, art. 21.31 allows a court to order a person indicted for or who waives indictment for certain sexual offenses to be tested for sexually transmitted diseases (STD) and HIV, AIDS, and AIDS-related infections on motion of the court or by request of the victim of the alleged offense.
- The federal Violence Against Women and Department of Justice Reauthorization Act of 2005 (VAWA) provides states with grants to encourage arrests and enforcement of protective orders. To secure this grant, states must require that defendants in sexual assault cases be tested for HIV/AIDS within 48 hours of indictment, upon the victim's request. Non-compliance results in a 5 percent deduction from grants given by VAWA.
- DIGEST:** HB 1985 would require a court to order testing for STD, HIV, AIDS, and AIDS-related infections of a defendant on request of the victim of certain sexual offenses and require that the testing be conducted within 48 hours of the indictment or waiver of indictment of the defendant.

If a victim requested testing and the defendant could not be located, the 48-hour time period would not begin until the defendant was located and present in the jurisdiction.

If a defendant tested positive for HIV or AIDS, the court would be required to order the defendant to undergo any necessary additional testing within a reasonable time after the results were released.

The bill would apply only to offenses committed on or after the bill's effective date of September 1, 2009.

**SUPPORTERS
SAY:**

By requiring, rather than permitting, a court to order testing for HIV or AIDS upon a victim's request and setting a 48-hour deadline for the testing, HB 1985 would bring some peace of mind to victims. Contracting HIV or AIDS is a cause of great worry for victims of sexual assault, because there is no cure and the virus is potentially deadly. This worry exacerbates the trauma of the assault. This bill would address the victim's concern quickly and help to alleviate some of the anxiety. If the defendant was convicted, the court could order re-testing to ensure the accuracy of the results.

HB 1985 also would make Texas compliant with VAWA and prevent the 5 percent deduction from grants that Texas receives. These funds total approximately \$201,189 and are critical to Texas communities.

Current law allows a court to order testing upon a victim's request. HB 1985 would not be a new imposition upon the defendant but would increase the role of the victim in the process.

**OPPONENTS
SAY:**

Forcing defendants to be tested and revealing the results to the victim would violate the privacy of the accused. Also, untimely testing by testing too early could be inaccurate and would provide no real benefit to the victim. Testing within six months of possible infection could lead to a false negative. In any case, the victim still would have to be tested and re-tested again in six months to be certain of the status of any infection.