

§ 15A-615. Testing of certain persons for sexually transmitted infections.

(a) After a finding of probable cause pursuant to the provisions of Article 30 of Chapter 15A of the General Statutes or indictment for an offense that involves nonconsensual vaginal, anal, or oral intercourse; an offense that involves vaginal, anal, or oral intercourse with a child 12 years old or less; or an offense under G.S. 14-202.1 that involves vaginal, anal, or oral intercourse with a child less than 16 years old; the victim or the parent, guardian, or guardian ad litem of a minor victim may request that a defendant be tested for the following sexually transmitted infections:

- (1) Chlamydia;
- (2) Gonorrhea;
- (3) Hepatitis B;
- (3a) Herpes;
- (4) HIV; and
- (5) Syphilis.

In the case of herpes, the defendant, pursuant to the provisions of this section, shall be examined for oral and genital herpetic lesions and, if a suggestive but nondiagnostic lesion is present, a culture for herpes shall be performed.

(b) Upon a request under subsection (a) of this section, the district attorney shall petition the court on behalf of the victim for an order requiring the defendant to be tested. Upon finding that there is probable cause to believe that the alleged sexual contact involved in the offense would pose a significant risk of transmission of a sexually transmitted infection listed in subsection (a) of this section, the court shall order the defendant to submit to testing for these infections. A defendant ordered to be tested under this section shall be tested not later than 48 hours after the date of the court order. A test for HIV ordered pursuant to this section shall use the HIV-RNA Detection Test for determining HIV infection.

(c) If the defendant is in the custody of the Division of Prisons of the Department of Adult Correction, the defendant shall be tested by the Division of Prisons of the Department of Adult Correction. If the defendant is not in the custody of the Division of Prisons of the Department of Adult Correction, the defendant shall be tested by the local health department. The Division of Prisons of the Department of Adult Correction shall inform the local health director of all test results. The local health director shall ensure that the victim is informed of the results of the tests and counseled appropriately. The agency conducting the tests shall inform the defendant of the results of the tests and ensure that the defendant is counseled appropriately. The results of the tests shall not be admissible as evidence in any criminal proceeding. (1993, c. 489, s. 1; 1994, Ex. Sess., c. 8, s. 1; 2006-226, s. 10; 2006-264, s. 33(a); 2007-403, s. 1; 2011-145, s. 19.1(h); 2017-186, s. 2(aaa); 2021-180, s. 19C.9(p).)