

By: Martinez Fischer

H.B. No. 1985

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the requirement that certain defendants in a criminal
3 case undergo testing for AIDS, HIV infection, or related
4 conditions.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Article 21.31, Code of Criminal Procedure, is
7 amended by amending Subsection (a) and adding Subsections (a-1) and
8 (b-1) to read as follows:

9 (a) A person who is indicted for or who waives indictment
10 for an offense under Section 21.02, 21.11(a)(1), 22.011, or 22.021,
11 Penal Code, shall, at the direction of the court, undergo a medical
12 procedure or test designed to show or help show whether the person
13 has a sexually transmitted disease or has acquired immune
14 deficiency syndrome (AIDS) or human immunodeficiency virus (HIV)
15 infection, antibodies to HIV, or infection with any other probable
16 causative agent of AIDS. The court may direct the person to undergo
17 the procedure or test on its own motion [~~or on the request of the~~
18 ~~victim of the alleged offense~~]. If the person refuses to submit
19 voluntarily to the procedure or test, the court shall require the
20 person to submit to the procedure or test. On request of the victim
21 of the alleged offense, the court shall order the defendant to
22 undergo the procedure or test not later than 48 hours after an
23 indictment for the offense is presented against the defendant or
24 the defendant waives indictment. Except as provided by Subsection

1 (b-1), the ~~[The]~~ court may require a defendant previously required
2 under this article to undergo a medical procedure or test on
3 indictment for an offense to undergo a subsequent medical procedure
4 or test only after ~~[following]~~ conviction of the offense. A ~~[The]~~
5 person performing a ~~[the]~~ procedure or test under this subsection
6 shall make the test results available to the local health
7 authority, and the local health authority shall be required to make
8 the notification of the test results ~~[result]~~ to the victim of the
9 alleged offense and to the defendant.

10 (a-1) If the victim requests the testing of the defendant
11 and a law enforcement agency is unable to locate the defendant
12 during the 48-hour period allowed for that testing under Subsection
13 (a), the running of the 48-hour period is tolled until the law
14 enforcement agency locates the defendant and the defendant is
15 present in the jurisdiction.

16 (b-1) If the results of a medical procedure or test
17 conducted under Subsection (a) or (b) are positive for HIV or AIDS,
18 the court shall order the defendant to undergo any necessary
19 additional testing within a reasonable time after the results are
20 released.

21 SECTION 2. The change in law made by this Act applies only
22 to an offense committed on or after the effective date of this Act.
23 An offense committed before the effective date of this Act is
24 covered by the law in effect when the offense was committed, and the
25 former law is continued in effect for that purpose. For purposes of
26 this section, an offense was committed before the effective date of
27 this Act if any element of the offense occurred before that date.

1 SECTION 3. This Act takes effect September 1, 2009.