

**House Bill 1985**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

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

(a) A person who is indicted for or who waives indictment for an offense under Section 21.02, 21.11(a)(1), 22.011, or 22.021, Penal Code, shall, at the direction of the court, **undergo**

**a medical procedure or test designed to show or help show whether the person has a sexually transmitted disease or has acquired immune deficiency syndrome (AIDS) or human immunodeficiency virus (HIV) infection, antibodies to HIV, or infection with any other probable causative agent of AIDS.**

The court may direct the person to undergo the procedure or test on its own motion ~~[or on the request of the victim of the alleged offense]~~.

If the person refuses to submit voluntarily to the **procedure or** test, the court shall require the person to submit to the **procedure or** test. On request of the victim of the alleged offense, the court shall order the defendant to undergo the **procedure or** test not later than 48 hours after an indictment for the offense is presented against the defendant or the defendant waives indictment.

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

(a) A person who is indicted for or who waives indictment for an offense under Section 21.02, 21.11(a)(1), 22.011, or 22.021, Penal Code, shall, at the direction of the court **on the court's own motion or on the request of the victim of the alleged offense**, undergo a **standard diagnostic test approved by the United States Food and Drug Administration for human immunodeficiency virus (HIV) infection and other sexually transmitted diseases** ~~[medical procedure or test designed to show or help show whether the person has a sexually transmitted disease or has acquired immune deficiency syndrome (AIDS) or human immunodeficiency virus (HIV) infection, antibodies to HIV, or infection with any other probable causative agent of AIDS]~~.

**The court may direct the person to undergo the procedure or test on its own motion** ~~or on the request of the victim of the alleged offense]~~.

If the person refuses to submit voluntarily to the **procedure or** test, the court shall require the person to submit to the **procedure or** test. On request of the victim of the alleged offense, the court shall order the defendant to undergo the test not later than 48 hours after an indictment for the offense is presented against the defendant or the defendant waives indictment. Except as

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

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

(b-1) If the results of a **medical procedure or** test conducted under Subsection (a) or (b) are positive for

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

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

(b) The court shall order a person who is charged with an offense under Section 22.11, Penal Code, to undergo in the manner provided by Subsection (a) a **diagnostic [medical procedure or]** test designed to show or help show whether the person has HIV, hepatitis A, hepatitis B, tuberculosis, or any other disease designated as a reportable disease under Section 81.048, Health and Safety Code. The person charged with the offense shall pay the costs of testing under this subsection.

(b-1) If the results of a **diagnostic** test conducted under Subsection (a) or (b) are positive for HIV, the court shall

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HIV or AIDS, the court shall order the defendant to undergo any necessary additional testing within a reasonable time after the results are released.

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

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

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order the defendant to undergo any necessary additional testing within a reasonable time after the test results are released.

(c) The state may not use the fact that a [medical procedure or] test was performed on a person under Subsection (a) or use the results of a [procedure or] test conducted under Subsection (a) in any criminal proceeding arising out of the alleged offense.

Same as House version.

Same as House version.

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