

CHAPTER 140

AN ACT concerning serological testing of certain defendants and amending P.L.1993, c.364

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 4 of P.L.1993, c.364 (C.2C:43-2.2) is amended to read as follows:

C.2C:43-2.2 Issuance of court order requiring serological tests.

4. a. In addition to any other disposition made pursuant to law, a court shall order a person convicted of, indicted for or formally charged with, or a juvenile charged with delinquency or adjudicated delinquent for an act which if committed by an adult would constitute, aggravated sexual assault or sexual assault as defined in subsection a. or c. of N.J.S.2C:14-2 to submit to an approved serological test for acquired immune deficiency syndrome (AIDS) or infection with the human immunodeficiency virus (HIV) or any other related virus identified as a probable causative agent of AIDS. The court shall issue such an order only upon the request of the victim and upon application of the prosecutor immediately following the request. The person or juvenile shall be ordered by the court to submit to such repeat or confirmatory tests as may be medically necessary.

As used in this section, "formal charge" includes a proceeding by accusation in the event that the defendant has waived the right to an indictment.

b. A court order issued pursuant to subsection a. of this section shall require testing to be performed as soon as practicable by the Commissioner of the Department of Corrections pursuant to authority granted to the commissioner by sections 6 and 10 of P.L.1976, c.98 (C.30:1B-6 and 30:1B-10), by a provider of health care, at a health facility licensed pursuant to section 12 of P.L.1971, c.136 (C.26:2H-12) or the Juvenile Justice Commission established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170). If the victim makes the request prior to or at the time of indictment, or accusation if the defendant has waived the right to an indictment, the court order shall require the testing be performed within 48 hours. The order shall also require that the results of the test be reported to the offender and to the appropriate Office of Victim-Witness Advocacy.

c. The Office of Victim-Witness Advocacy, established pursuant to section 5 of P.L.1985, c.404 (C.52:4B-43), shall reimburse the Department of Corrections, Department of Health or the Juvenile Justice Commission for the direct costs incurred by these departments for any tests ordered by a court pursuant to subsection a. of this section. Reimbursement shall be made following a request from the department.

d. In addition to any other disposition authorized, a court may order an offender at the time of sentencing to reimburse the State for the costs of the tests ordered by subsection a. of this section.

e. Upon receipt of the result of a test ordered pursuant to subsection a. of this section, the Office of Victim-Witness Advocacy shall provide the victim with appropriate counseling, referral for counseling and if appropriate, referral for health care. The office shall notify the victim or make appropriate arrangements for the victim to be notified of the test result.

f. The result of a test ordered pursuant to subsection a. of this section shall be confidential and employees of the Department of Corrections, the Juvenile Justice Commission, the Office of Victim-Witness Advocacy, a health care provider, health care facility or counseling service shall not disclose the result of a test performed pursuant to this section except as authorized herein or as otherwise authorized by law or court order. The provisions of this section shall not be deemed to prohibit disclosure of a test result to the person tested.

g. Persons who perform tests ordered pursuant to subsection a. of this section in accordance with accepted medical standards for the performance of such tests shall be immune from civil and criminal liability arising from their conduct.

h. This section shall not be construed to preclude or limit any other testing for acquired immune deficiency syndrome (AIDS) or infection with the human immunodeficiency virus (HIV) or any other related virus identified as a probable causative agent of AIDS which is otherwise permitted by statute, court rule or common law.

2. This act shall take effect immediately.

Approved August 14, 2013.