

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 799

Short Title: Aids Test/Sex Offenses.

(Public)

Sponsors: Senator Jordan.

Referred to: Judiciary I.

April 12, 1993

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT A PERSON, AFTER A FINDING OF PROBABLE CAUSE OR INDICTMENT FOR COMMITTING CERTAIN SEX OFFENSES AND A FINDING OF PROBABLE CAUSE OF TRANSMISSION OF THE AIDS VIRUS, SHALL BE TESTED FOR AIDS UPON THE REQUEST OF THE VICTIM.

The General Assembly of North Carolina enacts:

Section 1. Article 30 of Chapter 15A is amended by adding a new section to read:

"§ 15A-615. Testing of certain persons for AIDS.

(a) A person charged with an offense under Article 7A of Chapter 14 of the General Statutes that involves vaginal, anal, or oral intercourse, shall be tested for HIV infection if:

- (1) Probable cause has been found pursuant to the provisions of Article 30 of Chapter 15A of the General Statutes or an indictment has been issued;
- (2) The victim or the victim's parent, guardian, or guardian **ad litem** requests information concerning the HIV status of the defendant through the district attorney; and
- (3) The district attorney petitions the court and the court determines, based on the recommendation of the local health director, that there is probable cause to believe that the alleged sexual contact involved in the offense would pose a significant risk of transmission of HIV to the victim if the defendant were HIV infected.

1 **(b)** If in custody, the person shall be tested by the Department of Correction and
2 if not in custody, the person shall be tested by the local health department. The
3 Department of Correction shall inform the local health director of all test results.

4 **(c)** The local health director shall inform the victim of the results of the test,
5 counsel the victim appropriately, and instruct the victim regarding the necessity for
6 protecting confidentiality. The agency conducting the test shall inform the defendant of
7 the results of the test and shall counsel the defendant appropriately.

8 **(d)** The results of the test performed pursuant to this section shall not be
9 admissible as evidence in a criminal or civil proceeding."

10 Sec. 2. This act becomes effective October 1, 1993, and applies to offenses
11 occurring on or after that date.