

**House File 2350 - Introduced**

HOUSE FILE 2350

BY HORA

**A BILL FOR**

1 An Act relating to victims of sexual assault including sexual  
2 abuse evidence, notification of rights, HIV-related testing  
3 of a convicted or alleged assailant, and testing, reporting,  
4 and counseling of a victim, and making penalties applicable.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 709.10, subsections 6 and 7, Code 2024,  
2 are amended to read as follows:

3 6. The law enforcement agency shall store the kit in a  
4 clean, dry location for a minimum of ~~fifteen~~ twenty years, or  
5 in the case of a minor victim for ~~a minimum of fifteen years~~  
6 ~~after the minor reaches the age of majority~~ the lifetime of the  
7 minor victim, even if the reported victim of sexual abuse has  
8 not filed a criminal complaint.

9 7. Prior to the disposal of a kit by a law enforcement  
10 agency, the law enforcement agency shall notify the reported  
11 victim ~~of~~ in writing, not later than sixty days before the  
12 intended date of disposal of the kit, the reason for disposal  
13 of the kit, and the options that remain available for retention  
14 and analysis of the kit, if any. The law enforcement agency  
15 shall obtain written approval from the appropriate county  
16 attorney and retain that approval in the victim's case file  
17 prior to disposal. Any kit disposed of shall be documented  
18 by a law enforcement agency in the kit tracking system within  
19 forty-eight hours of disposal. Upon written request of the  
20 reported victim, the law enforcement agency shall provide  
21 further preservation of the kit or its probative contents.

22 Sec. 2. Section 709.22, subsection 1, paragraph c, Code  
23 2024, is amended to read as follows:

24 c. Providing a victim with immediate and adequate notice  
25 of the victim's rights. The notice shall consist of handing  
26 the victim a document that includes the telephone numbers of  
27 shelters, support groups, and crisis lines operating in the  
28 area and contains the following statement of rights written in  
29 English and Spanish; asking the victim to read the document;  
30 and asking whether the victim understands the following rights:

31 [1] You have the right to ask the court for help with any of  
32 the following on a temporary basis:

33 [a] Keeping your attacker away from you, your home, and your  
34 place of work.

35 [b] The right to stay at your home without interference from

1 your attacker.

2 [c] The right to seek a no-contact order under Iowa Code  
3 section 664A.3 or 915.22, if your attacker is arrested for  
4 sexual assault.

5 [2] You have the right to register as a victim with the  
6 county attorney under Iowa Code section 915.12.

7 [3] You have the right to file a complaint for threats,  
8 assaults, or other related crimes.

9 [4] You have the right to seek restitution against your  
10 attacker for harm to you or your property.

11 [5] You have the right to apply for victim compensation.

12 [6] You have the right to contact the county attorney or  
13 local law enforcement to determine the status of your case.

14 [7] If you are in need of medical treatment, you have  
15 the right to request that the officer present assist you in  
16 obtaining transportation to the nearest hospital or otherwise  
17 assist you.

18 [8] You have the right to a sexual assault examination  
19 performed at state expense and the right not to be prevented  
20 from receiving a sexual assault examination. If you choose to  
21 have a sexual assault examination:

22 [a] You have the right to have a sexual assault examination  
23 kit or its probative contents preserved, without charge,  
24 for twenty years, or in the case of a minor victim, for the  
25 lifetime of the minor victim. This is your right even if you do  
26 not file a criminal complaint, pursuant to Iowa Code section  
27 709.10, subsection 6.

28 [b] You have the right to be informed of the results of a  
29 sexual examination kit if such disclosure will not impede or  
30 compromise an ongoing investigation.

31 [c] You have the right to be informed of the status and  
32 location of a sexual assault evidence collection kit.

33 [d] At least sixty days prior to the intended disposal of  
34 your sexual assault examination kit, you have the right to be  
35 notified in writing by a law enforcement agency of the intended

1 disposal. This notice is required so that you can make a  
2 written request for further preservation of the kit or its  
3 probative contents.

4 [9] You have the right to request the presence of a  
5 victim counselor, as defined in Iowa Code section 915.20A,  
6 at any proceeding related to an assault including a medical  
7 examination.

8 [10] If you believe that police protection is needed for your  
9 physical safety, you have the right to request that the officer  
10 present remain at the scene until you and other affected  
11 parties can leave or until safety is otherwise ensured.

12 Sec. 3. Section 915.42, Code 2024, is amended to read as  
13 follows:

14 **915.42 Right to ~~HIV-testing~~ HIV testing of convicted or**  
15 **alleged assailant.**

16 1. Unless a petitioner chooses to be represented by private  
17 counsel, the county attorney shall represent the victim's  
18 interest in all proceedings under this subchapter.

19 ~~2. If a person is convicted of sexual assault or adjudicated~~  
20 ~~delinquent for an act of sexual assault, the county attorney,~~  
21 ~~if requested by the petitioner, shall petition the court for~~  
22 ~~an order requiring the convicted offender to submit to an~~  
23 ~~HIV-related test, provided that all of the following conditions~~  
24 ~~are met:~~ A person who is an alleged offender shall, at the  
25 direction of the court upon the court's own motion or upon  
26 the request of the victim of the alleged offense, undergo a  
27 standard diagnostic test approved by the United States food  
28 and drug administration for HIV infection and other sexually  
29 transmitted infections. If the person refuses to submit  
30 voluntarily to the test, the court shall order the person to  
31 submit to the test. On request of the victim of the alleged  
32 offense, the court shall order the defendant to undergo the  
33 test within forty-eight hours after a charge for the offense is  
34 presented against the defendant.

35 ~~a. The sexual assault for which the offender was convicted~~

1 ~~or adjudicated delinquent included sufficient contact~~  
2 ~~between the victim and the convicted offender to be deemed a~~  
3 ~~significant exposure pursuant to [section 915.40](#).~~

4 ~~b. The authorized representative of the petitioner, the~~  
5 ~~county attorney, or the court sought to obtain written informed~~  
6 ~~consent from the convicted offender to the testing.~~

7 ~~c. Written informed consent was not provided by the~~  
8 ~~convicted offender.~~

9 3. ~~If a person is an alleged offender, the county attorney,~~  
10 ~~if requested by the victim, shall make application to the~~  
11 ~~court for the issuance of a search warrant, in accordance with~~  
12 ~~[chapter 808](#), for the purpose of requiring the alleged offender~~  
13 ~~to submit to an HIV-related test, if all of the following~~  
14 ~~conditions are met: If the victim requests testing of the~~  
15 ~~defendant and a law enforcement agency is unable to locate~~  
16 ~~the defendant during the forty-eight-hour period provided in~~  
17 ~~subsection 2, the running of the forty-eight-hour period is~~  
18 ~~tolled until a law enforcement agency locates the defendant and~~  
19 ~~the defendant is present in the jurisdiction.~~

20 ~~a. The application states that the victim believes that~~  
21 ~~the sexual assault for which the alleged offender is charged~~  
22 ~~included sufficient contact between the victim and the alleged~~  
23 ~~offender to be deemed a significant exposure pursuant to~~  
24 ~~[section 915.40](#) and states the factual basis for the belief that~~  
25 ~~a significant exposure exists.~~

26 ~~b. The authorized representative of the victim, the county~~  
27 ~~attorney, or the court sought to obtain written informed~~  
28 ~~consent to the testing from the alleged offender.~~

29 ~~c. Written informed consent was not provided by the alleged~~  
30 ~~offender.~~

31 4. ~~Upon receipt of the petition or application filed under~~  
32 ~~[subsection 2 or 3](#), the court shall:~~

33 ~~a. Prior to the scheduling of a hearing, refer the victim~~  
34 ~~for counseling by a victim counselor or a person requested~~  
35 ~~by the victim to provide counseling regarding the nature,~~

1 ~~reliability, and significance of the HIV-related test and of~~  
2 ~~the serologic status of the convicted or alleged offender.~~

3 ~~b. Schedule a hearing to be held as soon as is practicable.~~

4 ~~c. Cause written notice to be served on the convicted or~~  
5 ~~alleged offender who is the subject of the proceeding, in~~  
6 ~~accordance with the rules of civil procedure relating to the~~  
7 ~~service of original notice, or if the convicted or alleged~~  
8 ~~offender is represented by legal counsel, provide written~~  
9 ~~notice to the convicted or alleged offender and the convicted~~  
10 ~~or alleged offender's legal counsel.~~

11 ~~d. Provide for the appointment of legal counsel for a~~  
12 ~~convicted or alleged offender if the convicted or alleged~~  
13 ~~offender desires but is financially unable to employ counsel.~~

14 ~~e. Furnish legal counsel with copies of the petition or~~  
15 ~~application, written informed consent, if obtained, and copies~~  
16 ~~of all other documents related to the petition or application,~~  
17 ~~including, but not limited to, the charges and orders.~~

18 ~~5. a. A hearing under [this section](#) shall be conducted in~~  
19 ~~an informal manner consistent with orderly procedure and in~~  
20 ~~accordance with the Iowa rules of evidence. The hearing shall~~  
21 ~~be limited in scope to the review of questions of fact only~~  
22 ~~as to the issue of whether the sexual assault for which the~~  
23 ~~offender was convicted or adjudicated delinquent or for which~~  
24 ~~the alleged offender was charged provided sufficient contact~~  
25 ~~between the victim and the convicted or alleged offender to be~~  
26 ~~deemed a significant exposure, and to questions of law.~~

27 ~~b. In determining whether the contact should be deemed a~~  
28 ~~significant exposure for a convicted offender, the court shall~~  
29 ~~base the determination on the testimony presented during the~~  
30 ~~proceedings on the sexual assault charge, the minutes of the~~  
31 ~~testimony or other evidence included in the court record, or if~~  
32 ~~a plea of guilty was entered, based upon the complaint or upon~~  
33 ~~testimony provided during the hearing. In determining whether~~  
34 ~~the contact should be deemed a significant exposure for an~~  
35 ~~alleged offender, the court shall base the determination on the~~

1 ~~application and the factual basis provided in the application~~  
2 ~~for the belief of the applicant that a significant exposure~~  
3 ~~exists.~~

4 ~~c. The victim may testify at the hearing but shall not~~  
5 ~~be compelled to testify. The court shall not consider the~~  
6 ~~refusal of a victim to testify at the hearing as material to~~  
7 ~~the court's decision regarding issuance of an order or search~~  
8 ~~warrant requiring testing.~~

9 ~~d. The hearing shall be in camera unless the convicted~~  
10 ~~or alleged offender and the petitioner or victim agree to a~~  
11 ~~hearing in open court and the court approves. The report of~~  
12 ~~the hearing proceedings shall be sealed and no report of the~~  
13 ~~proceedings shall be released to the public, except with the~~  
14 ~~permission of all parties and the approval of the court.~~

15 ~~e. Stenographic notes or electronic or mechanical recordings~~  
16 ~~shall be taken of all court hearings unless waived by the~~  
17 ~~parties.~~

18 ~~6. Following the hearing, the court shall require a~~  
19 ~~convicted or alleged offender to undergo an HIV-related test~~  
20 ~~only if the petitioner or victim proves all of the following by~~  
21 ~~a preponderance of the evidence:~~

22 ~~a. The sexual assault constituted a significant exposure.~~

23 ~~b. An authorized representative of the petitioner or victim,~~  
24 ~~the county attorney, or the court sought to obtain written~~  
25 ~~informed consent from the convicted or alleged offender.~~

26 ~~c. Written informed consent was not provided by the~~  
27 ~~convicted or alleged offender.~~

28 ~~7. A convicted offender who is required to undergo an~~  
29 ~~HIV-related test may appeal to the court for review of~~  
30 ~~questions of law only, but may appeal questions of fact if the~~  
31 ~~findings of fact are clearly erroneous.~~

32 ~~Sec. 4. Section 915.43, Code 2024, is amended to read as~~  
33 ~~follows:~~

34 **915.43 Testing, reporting, and counseling — penalties.**

35 ~~1. The physician or other practitioner who orders the test~~

1 ~~of a convicted or alleged offender for HIV~~ results of a test  
2 ordered under this subchapter shall ~~disclose the results of the~~  
3 ~~test be disclosed~~ to the convicted or alleged offender, and to  
4 the victim counselor or a person requested by the victim to  
5 ~~provide counseling regarding the HIV-related test and results~~  
6 ~~who shall disclose the results to the petitioner~~ as soon as  
7 practicable.

8 2. All testing under this chapter shall be accompanied by  
9 counseling as required under section 141A.7.

10 3. ~~Subsequent testing arising out of the same incident of~~  
11 ~~exposure shall be conducted in accordance with the procedural~~  
12 ~~and confidentiality requirements of~~ this subchapter.

13 4. 3. Results of a test performed under this subchapter,  
14 except as provided in subsection 13 11, shall be disclosed only  
15 to the physician or other practitioner who ~~orders~~ performs the  
16 test of the convicted or alleged offender; the convicted or  
17 alleged offender; the victim; the victim counselor or person  
18 requested by the victim to provide counseling regarding the  
19 HIV-related test and results; the physician of the victim if  
20 requested by the victim; the parent, guardian, or custodian of  
21 the victim, if the victim is a minor; and the county attorney  
22 ~~who filed the petition for HIV-related testing under this~~  
23 ~~chapter~~. Results of a test performed under this subchapter  
24 shall not be disclosed to any other person without the written  
25 informed consent of the convicted or alleged offender. A  
26 person to whom the results of a test have been disclosed under  
27 this subchapter is subject to the confidentiality provisions of  
28 section 141A.9, and shall not disclose the results to another  
29 person except as authorized by section 141A.9, subsection 2,  
30 paragraph "i".

31 5. 4. If testing is ordered under this subchapter, the  
32 court shall also order periodic testing of the convicted or  
33 alleged offender prior to trial and during the period of  
34 incarceration, probation, or parole ~~or of the alleged offender~~  
35 ~~during a period of six months following the initial test if~~



1 ~~the physician or other practitioner who ordered the initial~~  
2 ~~test of the convicted or alleged offender certifies that, based~~  
3 ~~upon prevailing scientific opinion regarding the maximum period~~  
4 ~~during which the results of an HIV-related test may be negative~~  
5 ~~for a person after being HIV-infected, additional testing~~  
6 ~~is necessary to determine whether the convicted or alleged~~  
7 ~~offender was HIV-infected at the time the sexual assault or~~  
8 ~~alleged sexual assault was perpetrated as medically necessary.~~  
9 The results of ~~the test~~ tests conducted pursuant to this  
10 subsection shall be released only to the physician or other  
11 practitioner who ~~orders~~ performs the test of the convicted or  
12 alleged offender, i the convicted or alleged offender, i the  
13 victim counselor or person requested by the victim to provide  
14 the counseling regarding the HIV-related test and results, l who  
15 shall disclose the results to the petitioner, i the physician  
16 of the victim, if requested by the victim, i and the county  
17 attorney ~~who filed the petition for HIV-related testing under~~  
18 section 915.42.

19 ~~6.~~ 5. The court shall not consider the disclosure of an  
20 alleged offender's serostatus to an alleged victim, prior to  
21 conviction, as a basis for a reduced plea or reduced sentence.

22 ~~7.~~ 6. The fact that an HIV-related test was performed  
23 under this subchapter and the results of the test shall not be  
24 included in the convicted offender's medical or criminal record  
25 unless otherwise included in department of corrections records.

26 ~~8.~~ 7. The fact that an HIV-related test was performed under  
27 this subchapter and the results of the test shall not be used  
28 as a basis for further prosecution of a convicted offender  
29 in relation to the incident ~~which~~ that is the subject of the  
30 testing, to enhance punishments, or to influence sentencing.

31 ~~9.~~ If the serologic status of a convicted offender, which is  
32 conveyed to the victim, is based upon an HIV-related test other  
33 than a test which is authorized as a result of the procedures  
34 established in this subchapter, legal protections which attach  
35 to such testing shall be the same as those which attach to

1 ~~an initial test under this subchapter, and the rights to a~~  
2 ~~predislosure hearing and to appeal provided under section~~  
3 ~~915.42 shall apply.~~

4 ~~10.~~ 8. HIV-related testing required under this subchapter  
5 shall be conducted by the state hygienic laboratory.

6 ~~11.~~ 9. Notwithstanding the provisions of this subchapter  
7 requiring initial testing, ~~if a petition is filed with the~~  
8 ~~court under section 915.42 requesting an order for testing~~  
9 ~~and the order is granted, and if a test has previously been~~  
10 performed on the convicted or alleged offender while under the  
11 control of the department of corrections, the test results  
12 shall be provided in lieu of the performance of an initial test  
13 of the convicted or alleged offender, in accordance with this  
14 subchapter.

15 ~~12.~~ 10. In addition to the counseling received by a victim,  
16 referral to appropriate health care and support services shall  
17 be provided.

18 ~~13.~~ 11. In addition to persons to whom disclosure of  
19 the results of a convicted or alleged offender's HIV-related  
20 test results is authorized under this subchapter, the victim  
21 may also disclose the results to the victim's spouse, persons  
22 with whom the victim has engaged in vaginal, anal, or oral  
23 intercourse subsequent to the sexual assault, or members of the  
24 victim's family within the third degree of consanguinity.

25 ~~14.~~ 12. A person to whom disclosure of a convicted or  
26 alleged offender's HIV-related test results is authorized  
27 under this subchapter shall not disclose the results to any  
28 other person for whom disclosure is not authorized under this  
29 subchapter. A person who intentionally or recklessly makes  
30 an unauthorized disclosure in violation of this subsection  
31 is subject to a civil penalty of one thousand dollars.  
32 The attorney general or the attorney general's designee  
33 may maintain a civil action to enforce this subchapter.  
34 Proceedings maintained under this subsection shall provide for  
35 the anonymity of the test subject and all documentation shall

1 be maintained in a confidential manner.

2 EXPLANATION

3 The inclusion of this explanation does not constitute agreement with  
4 the explanation's substance by the members of the general assembly.

5 This bill relates to victims of sexual assault including  
6 sexual abuse evidence, notification of rights, HIV testing of  
7 a convicted or alleged assailant, and testing, reporting, and  
8 counseling of a victim.

9 Current law requires a law enforcement agency to store a  
10 sexual abuse evidence collection kit (kit) for a minimum of 15  
11 years, or in the case of a minor victim for a minimum of 15  
12 years after the minor reaches the age of majority.

13 The bill provides that the law enforcement agency shall  
14 store the kit in a clean, dry location for a minimum of 20  
15 years, or in the case of a minor victim for the lifetime of the  
16 minor victim, even if the reported victim of sexual abuse has  
17 not filed a criminal complaint.

18 The bill requires the law enforcement agency to notify the  
19 reported victim in writing, not later than 60 days before the  
20 intended date of disposal of the kit, the reason for disposal  
21 of the kit, and the options that remain available for retention  
22 and analysis of the kit, if any. Upon written request of the  
23 reported victim, the law enforcement agency shall provide  
24 further preservation of the kit or its probative contents.

25 Code section 709.22 provides that if a law enforcement  
26 officer has reason to believe that a sexual assault has  
27 occurred, the officer is required to provide the victim with  
28 immediate and adequate notice of the victim's rights.

29 The bill amends the information required to be included in  
30 the document explaining the victim's rights to include: you  
31 have the right to a sexual assault examination performed at  
32 state expense and the right not to be prevented from receiving  
33 a sexual assault examination. If you choose to have a sexual  
34 assault examination, you have the right to have a sexual  
35 assault examination kit or its probative contents preserved,

1 without charge, for 20 years, or in the case of a minor victim,  
2 for the lifetime of the minor victim. This is your right even  
3 if you do not file a criminal complaint, pursuant to Code  
4 section 709.10(6). You have the right to be informed of the  
5 results of a sexual examination kit if such disclosure will not  
6 impede or compromise an ongoing investigation. You have the  
7 right to be informed of the status and location of a sexual  
8 assault evidence collection kit, and at least 60 days prior  
9 to the intended disposal of your sexual assault examination  
10 kit, you have the right to be notified in writing by a law  
11 enforcement agency of the intended disposal. This notice is  
12 required so that you can make a written request for further  
13 preservation of the kit or its probative contents.

14 Current law provides that if a person is convicted of  
15 sexual assault or adjudicated delinquent for an act of sexual  
16 assault, the county attorney, if requested by the petitioner,  
17 shall petition the court for an order requiring the convicted  
18 offender to submit to an HIV-related test, and provides for a  
19 hearing.

20 The bill removes the petition and hearing requirements and  
21 provides that unless a petitioner chooses to be represented  
22 by private counsel, the county attorney shall represent  
23 the victim's interest. A person who is an alleged sexual  
24 assault offender shall, at the direction of the court or upon  
25 the request of the victim of the alleged offense, undergo a  
26 standard diagnostic test approved by the United States food  
27 and drug administration for HIV infection and other sexually  
28 transmitted infections. If the person refuses to submit  
29 voluntarily to the test, the court shall order the person  
30 to submit to the test. On request of the victim, the court  
31 shall order the defendant to undergo the test within 48 hours  
32 after the defendant is charged for the offense. If the victim  
33 requests testing of the defendant and a law enforcement agency  
34 is unable to locate the defendant during the 48-hour period,  
35 the running of the 48-hour period is tolled until a law

1 enforcement agency locates the defendant and the defendant is  
2 present in the jurisdiction.

3     The bill provides that the results of a test ordered under  
4 Code section 915.42 shall be disclosed to the convicted or  
5 alleged offender and to the victim as soon as practicable. In  
6 addition to the victim and the convicted or alleged offender,  
7 test results shall only be disclosed to: the physician or  
8 other practitioner who performs the test; the victim counselor  
9 or person requested by the victim to provide counseling  
10 regarding the HIV-related test and results; the physician of  
11 the victim if requested by the victim; the parent, guardian,  
12 or custodian of the victim, if the victim is a minor; and  
13 the county attorney. If testing is ordered, the court shall  
14 also order periodic testing of the convicted or alleged  
15 offender prior to trial and during the period of incarceration,  
16 probation, or parole or as medically necessary.