



Court Ordered Testing

According to the South Dakota Codified Law, Chapter 23A-35B, a victim or a law enforcement officer may request in writing to the state's attorney that the defendant or the juvenile be tested for blood-borne pathogen infection by the DOH and that a search warrant be obtained for the purpose of taking a blood sample from the defendant or the juvenile for testing for such infection. The court may order a search warrant for the purpose of taking a blood sample from the defendant or the juvenile for testing. If the court orders a search warrant, the DOH shall initiate the test for blood-borne pathogen infection within forty-eight hours after the laboratory receives the blood sample.

A health professional licensed or certified to do so shall take the blood samples required for testing for blood-borne pathogen infection and forward them to the DOH for testing. The testing shall take place under a test protocol determined by the DOH. A licensed physician designated by the victim or the law enforcement officer to receive the results of the test shall notify the victim or the law enforcement officer and the defendant or the juvenile of the results within forty-eight hours after receipt.

Sample Collection

- A red-top or serum separator tube should be drawn for testing. **Gray-topped tubes (sodium-luoride) are NOT acceptable and will be rejected.**
- Label the tube with the first and last name (individual being drawn), birthdate, and collection date.
- Samples are acceptable for testing for up to 7 days refrigerated at 2-8°C or frozen at -20°C.

Sample Submission

- Submit the court order/search warrant.
- Submit a medical submission form with the name of the individual who is having their blood drawn. <https://doh.sd.gov/media/w3tdtp2o/medicallabservicesform.pdf>

- The facility name and address should be filled out with the name of the facility and/or physician who will receive the test results.
- Include the name/address of the organization who will receive the invoice.
- The SDPHL Medical Laboratory shall initiate testing of Hepatitis B (HBsAg), Hepatitis C (HCV), and HIV within 48 hours of receiving a court-ordered specimen. If the specimen is received Friday through Sunday, the specimen shall be processed and pre-logged into the computer system to ensure compliance with the law.

Packaging and Shipping the Sample

- Learn your responsibility when shipping infectious substances. Guidance can be found at: <https://doh.sd.gov/laboratory/medical-microbiology-testing/packaging-shipping/>
- Send your package clearly labeled: "Attention Medical Laboratory."
- Samples may be shipped free of charge through the SDPHL courier service. Call for an on-demand pickup at: 1-877-434-9366.

Receiving Results

- **Test results will be sent to the designated physician** unless the court order states otherwise.
- If anyone other than a physician is to receive the results, **it must be stated in the court order**, including the name and address of the person/agency.
- Test results will be faxed to the provider if the submitting agency has a secure fax agreement on-file with the SDPHL. <https://doh.sd.gov/media/i5qnicax/securefax.pdf>
- If no secure fax agreement is in place, the report will be sent via USPS to the physician/medical facility, or the agency listed in the court order.

Questions:

- Please contact the Serology Section in the Medical Laboratory. 605-773-3368

Court-Ordered Bloodborne Pathogen Testing FAQ

South Dakota Public Health Laboratory (SDPHL)

Contact Information

Q: Who should I contact with questions or to notify the laboratory of court-ordered testing?

A: Please contact the South Dakota Public Health Laboratory (SDPHL) Medical Laboratory – Serology Section at 605-773-3368.

Specimen Requirements

Q: What specimen should be submitted?

A: Submit either a red-top serum tube or a yellow-top serum separator tube (SST). Gray-top (sodium fluoride) tubes are not acceptable.

Q: How long can a specimen be stored before testing?

A: Serum specimens should be tested within 7 days of collection unless the serum has been frozen at -20°C.

Q: How should the specimen be labeled?

A: Label each specimen with the patient's full name, date of birth, and collection date.

Q: What paperwork is required?

A: Include the SDPHL Specimen Requisition and a copy of the Court Order/Search Warrant with every submission.

Q: How should specimens be submitted?

A: Submit specimens and all required documentation by courier or mail. Clearly mark the outside of the package: 'Attention: Medical Laboratory.'

Testing

Q: What tests are performed?

A: In accordance with South Dakota Codified Law (SDCL) Chapter 23A-35B, SDPHL performs testing for Hepatitis C virus (HCV), Human Immunodeficiency Virus (HIV), and Hepatitis B surface antigen (HBsAg).

Q: When will testing be performed?

A: Testing will begin within 48 hours of receiving a valid court-ordered specimen. Specimens received Friday through Sunday will be processed and pre-logged to ensure compliance with state law.

Reporting Results

Q: Who receives the results?

A: Results are sent to the submitting physician designated by the victim or law enforcement officer unless the court order specifies otherwise. If someone other than a physician is to receive the results, the court order must clearly identify the recipient by name and mailing address.

Q: How are results delivered?

A: Results are faxed to agencies with a secure fax agreement on file with SDPHL. If a secure fax agreement is not available, results will be mailed via USPS to the designated physician, medical facility, or agency identified in the court order.