



**APPLICATION BY VICTIM OR INTERESTED PERSON FOR HIV TESTING OF ALLEGED OFFENDER**

*Section 30 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No. 32 of 2007)*

**PLEASE READ THE FOLLOWING NOTES BEFORE COMPLETING THE APPLICATION FORM:**

- (1) In terms of the Act, the victim of a sexual offence or an interested person acting on behalf of the victim, may apply for the HIV testing of the alleged perpetrator of the sexual offence. The Act provides that an *interested person* is any person who has a material interest in the well-being of a victim, including a spouse, same sex or heterosexual permanent life partner, parent, guardian, family member, care giver, curator, counsellor, medical practitioner, health service provider, social worker or teacher of a victim.
- (2) If the application is made by an interested person (as set out above), the application must be made with the written consent of the victim, unless the victim is —
  - younger than 14 years;
  - mentally disabled;
  - unconscious;
  - a person in respect of whom a curator has been appointed in terms of an order of court; or
  - a person whom the magistrate considering the application, is satisfied is unable to provide the required consent.
 Where applicable, the written consent of the victim must be attached to the application form.
- (3) If you require assistance with the completion of the application form, you may request the investigating officer to assist you.

**IN THE MAGISTRATES' COURT FOR THE DISTRICT OF .....**

**HELD AT .....**

Case No.:.....

**APPLICATION**

To the clerk of the court, .....

Take notice that .....

(the victim\*/interested person\*) in terms of section 30 of the Act applies to this Court for an order –

- (a) that the alleged sex offender, described below, be tested for HIV\*; and
- (b) that the HIV test results be disclosed to ..... (the victim\*/interested person\*) and to the alleged offender; or
- (c) that the test results of the alleged offender, which has already been obtained on application by an investigating officer as contemplated in section 32 of the Act, be disclosed to ..... (the victim\*/interested person\*)

\* Delete which is not applicable

**PART A: DECLARATION BY VICTIM OR INTERESTED PERSON ACTING ON BEHALF OF VICTIM**

**1. PARTICULARS OF VICTIM**

Full names and surname: .....

Indicate any other surnames: .....

Date of birth: .....

Age: .....

Identity number/passport number: .....

**2. PARTICULARS OF INTERESTED PERSON, IF APPLICABLE (See note (1) above)**

Full names and surname: .....

Date of birth: .....

Identity number/passport number: .....

Relationship with victim (eg parent): .....

If the applicant is not the spouse, same sex or heterosexual permanent life partner or parent of the victim, state the reason why application is made on behalf of victim: .....

**3. WRITTEN CONSENT OF VICTIM IF APPLICATION IS MADE BY INTERESTED PERSON (See note (2) above)**

(a) Has the written consent been obtained from the victim? ..... If yes, attach the consent to this form\*

(b) The written consent of the victim is not required if the victim is \* —

- below the age of 14 years;
- mentally disabled;
- unconscious;
- a person in respect of whom a curator has been appointed by the court; or
- unable to provide consent because (provide reasons): .....

\* Delete which is not applicable

**4. PARTICULARS OF ALLEGED SEXUAL OFFENCE AND POSSIBLE EXPOSURE TO THE BODY FLUIDS OF THE OFFENDER**

*(To be completed by the victim or the interested person acting on his or her behalf or by the investigating officer)*

(a) Date, time and place where the alleged sexual offence was committed: .....

(b) Explain why you believe that you were exposed to the body fluids (semen, blood, vaginal fluid) of the alleged offender: .....

(Attach a copy of the J 88 or medical report if available)



was sworn to / affirmed \* before me and the deponent's signature was placed thereon in my presence.

SIGNED AND SWORN TO / SOLEMNLY CONFIRMED\* IN MY PRESENCE ON THIS THE ..... DAY OF..... AT ..... AND AT ..... (TIME).

.....  
**SIGNATURE OF JUSTICE OF THE PEACE/COMMISSIONER OF OATHS**

Full names: .....

Designation: .....

Area for which appointed: .....

Business address: .....

.....

*\*Delete whichever is not applicable*

**PART B: ALLEGED OFFENDER**

**1. PARTICULARS OF ALLEGED OFFENDER***(To be completed by the investigating officer)*

A complaint in respect of an alleged sexual offence has been reported by the victim whose particulars appear in PART A above against the alleged offender whose particulars appear below.

Name and surname: .....

Date of birth: .....

Age: .....

Identity number/passport number: .....

Residential address/temporary address: .....

.....

Telephone number: .....

Cell number: .....

CAS/CR no: .....

Offence charged with: .....

**Is the alleged offender in detention or has he or she been released on bail?***( Delete if not applicable)*

If the alleged offender is in detention, state the place where he or she is being detained:

.....

If the alleged offender has been released on bail, state the bail conditions subject to which he or she has been released: .....

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**6. AFFIDAVIT/SOLEMN DECLARATION BY INVESTIGATING OFFICER**

