

**First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 13-0289.01 Jerry Barry x4341

HOUSE BILL 13-1020

HOUSE SPONSORSHIP

McNulty,

SENATE SPONSORSHIP

Roberts,

House Committees

Judiciary
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING EVIDENCE COLLECTED IN CONNECTION WITH A SEXUAL**
102 **ASSAULT.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill requires the executive director of the department of public safety to adopt rules concerning forensic medical evidence of a sexual assault (forensic evidence) collected by law enforcement agencies. The rules shall include:

! Standards for when forensic evidence must be submitted by

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

law enforcement agencies to the Colorado bureau of investigation or another accredited crime laboratory (laboratory); and

! Time frames for when the forensic evidence must be submitted, analyzed, and compared to DNA databases.

The bill requires the consent of the victim prior to the release of forensic evidence following disclosure of the purpose for the release and allows the victim to withdraw consent.

To resolve the backlog of unanalyzed forensic evidence, the bill requires:

! Law enforcement agencies to submit to the Colorado bureau of investigation (CBI) an inventory of all unanalyzed forensic evidence in active investigations that meets the standard for mandatory submission; and

! The CBI to submit a plan to analyze all of the forensic evidence inventories by law enforcement agencies.

A law enforcement agency may develop its own plan to analyze forensic evidence if the evidence will be analyzed by June 30, 2014.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add 24-33.5-112** as
3 follows:

4 **24-33.5-112. Forensic medical evidence in sexual assault cases**

5 **- rules - testing - confidentiality - repeal.** (1) **Rules.** (a) ON OR BEFORE

6 THIRTY DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION, THE

7 EXECUTIVE DIRECTOR SHALL BEGIN THE PROCESS OF PROMULGATING

8 RULES FOR FORENSIC MEDICAL EVIDENCE COLLECTED IN CONNECTION

9 WITH AN ALLEGED SEXUAL ASSAULT. NOT LESS THAN NINETY DAYS PRIOR

10 TO THE PROMULGATION OF THE RULES, THE DIVISION SHALL CONVENE A

11 REPRESENTATIVE GROUP OF PARTICIPANTS AS DEFINED IN SECTION

12 24-4-102 (14.5) TO SOLICIT INPUT INTO THE DEVELOPMENT OF THE RULES.

13 THE REPRESENTATIVE GROUP MUST INCLUDE PERSONS AFFECTED BY THE

14 RULES AND PERSONS RESPONSIBLE FOR IMPLEMENTATION OF THE RULES.

15 THE DIVISION MAY CONVENE AS MANY MEETINGS OF THE REPRESENTATIVE

1 GROUP AS IS NECESSARY.

2 (b) ON OR BEFORE SIX MONTHS AFTER THE EFFECTIVE DATE OF
3 THIS SECTION, THE EXECUTIVE DIRECTOR SHALL PROMULGATE THE RULES.

4 THE RULES MUST INCLUDE:

5 (I) A REQUIREMENT THAT FORENSIC EVIDENCE MUST BE
6 COLLECTED IF A VICTIM OF AN ALLEGED SEXUAL ASSAULT REQUESTS IT TO
7 BE COLLECTED;

8 (II) STANDARDS FOR WHAT EVIDENCE MUST BE SUBMITTED TO THE
9 COLORADO BUREAU OF INVESTIGATION OR ANOTHER ACCREDITED CRIME
10 LABORATORY;

11 (III) TIME FRAMES FOR WHEN THE EVIDENCE MUST BE SUBMITTED,
12 ANALYZED, AND COMPARED TO DNA DATABASES. THE RULES ON TIME
13 FRAMES MUST INDICATE THAT EVIDENCE THAT MEETS THE CRITERIA FOR
14 MANDATORY SUBMISSION MUST BE SUBMITTED WITHIN TWENTY-ONE DAYS
15 AFTER RECEIPT BY A LAW ENFORCEMENT AGENCY.

16 (IV) STANDARDS FOR CONSENT FOR THE COLLECTION, TESTING,
17 AND RELEASE OF TEST RESULTS OF THE FORENSIC MEDICAL EVIDENCE,
18 INCLUDING BUT NOT LIMITED TO:

19 (A) CONSENT FORMS THAT NOTIFY PERSONS OF THE POTENTIAL
20 EFFECTS OF EACH STEP OF THE PROCESS, INCLUDING COLLECTION, TESTING,
21 AND RELEASE OF TEST RESULTS AND REQUIRE ACKNOWLEDGMENT OF
22 CONSENT FOR EACH STEP OF THE PROCESS;

23 (B) WHO MAY GIVE CONSENT AND WHEN IS IT REQUIRED;

24 (C) WHO MAY WITHDRAW CONSENT AND WHEN IT MAY BE
25 WITHDRAWN; AND

26 (D) WHEN AND HOW RESULTS OF TESTS MAY BE RELEASED AND
27 FOR WHAT PURPOSES.

1 (2) LAW ENFORCEMENT AND MEDICAL PERSONNEL SHALL NOT, FOR
2 ANY REASON, DISCOURAGE A VICTIM OF AN ALLEGED SEXUAL ASSAULT
3 FROM RECEIVING A FORENSIC MEDICAL EXAMINATION.

4 (3) **Compliance.** (a) (I) ON AND AFTER NINETY DAYS AFTER THE
5 PROMULGATION OF THE RULES AUTHORIZED BY PARAGRAPH (b) OF
6 SUBSECTION (1) OF THIS SECTION, ALL LAW ENFORCEMENT AGENCIES IN
7 THE STATE SHALL COMPLY WITH THE PROMULGATED RULES.

8 (II) THE FAILURE OF A LAW ENFORCEMENT AGENCY TO COMPLY
9 WITH THE RULES PROMULGATED PURSUANT TO PARAGRAPH (b) OF
10 SUBSECTION (1) OF THIS SECTION DOES NOT AFFECT:

11 (A) THE AUTHORITY OF THE AGENCY TO SUBMIT THE EVIDENCE TO
12 THE COLORADO BUREAU OF INVESTIGATION OR OTHER ACCREDITED CRIME
13 LABORATORY;

14 (B) THE AUTHORITY OF THE COLORADO BUREAU OF
15 INVESTIGATION OR OTHER ACCREDITED CRIME LABORATORY TO ANALYZE
16 THE EVIDENCE OR PROVIDE RESULTS OF THE ANALYSIS TO APPROPRIATE
17 PERSONS; OR

18 (C) THE ADMISSIBILITY OF THE EVIDENCE IN ANY COURT.

19 (b) ON AND AFTER NINETY DAYS AFTER THE PROMULGATION OF
20 THE RULES DESCRIBED IN PARAGRAPH (b) OF SUBSECTION (1) OF THIS
21 SECTION, ALL PERSONNEL AT A MEDICAL FACILITY PERFORMING A
22 FORENSIC MEDICAL EXAMINATION AND ALL OTHER PERSONS HAVING
23 CUSTODY OF FORENSIC MEDICAL EVIDENCE COLLECTED IN CONNECTION
24 WITH AN ALLEGED SEXUAL ASSAULT OR THE RESULTS OF TESTS
25 CONDUCTED ON THE EVIDENCE SHALL COMPLY WITH THE PROMULGATED
26 RULES.

27 (c) A PERSON WHO RECEIVES EVIDENCE OR RESULTS OF TESTS

1 UNDER THIS SECTION SHALL NOT DISCLOSE THE EVIDENCE OR TEST
2 RESULTS EXCEPT TO THE EXTENT THAT DISCLOSURE IS CONSISTENT WITH
3 THE AUTHORIZED PURPOSE FOR WHICH THE PERSON OBTAINED THE
4 EVIDENCE.

5 (4) **Backlog.** (a) ON OR BEFORE NINETY DAYS AFTER THE
6 EFFECTIVE DATE OF THIS SECTION, EACH LAW ENFORCEMENT AGENCY
7 SHALL SUBMIT TO THE COLORADO BUREAU OF INVESTIGATION AN
8 INVENTORY OF ALL FORENSIC MEDICAL EVIDENCE OF ANY ALLEGED
9 SEXUAL ASSAULTS THAT HAVE NOT BEEN ANALYZED BY THE COLORADO
10 BUREAU OF INVESTIGATION OR OTHER ACCREDITED CRIME LABORATORY
11 AND THAT:

12 (I) IS FOR AN ACTIVE CRIMINAL INVESTIGATION; AND

13 (II) MEETS THE CRITERIA FOR MANDATORY TESTING PURSUANT TO
14 THE RULES ADOPTED BY THE EXECUTIVE DIRECTOR PURSUANT TO
15 SUBSECTION (1) OF THIS SECTION.

16 (b) SUBJECT TO AVAILABLE LABORATORY SPACE, ON OR BEFORE
17 NINETY DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION, EACH LAW
18 ENFORCEMENT AGENCY SHALL FORWARD TO THE COLORADO BUREAU OF
19 INVESTIGATION OR OTHER ACCREDITED CRIME LABORATORY THE FORENSIC
20 MEDICAL EVIDENCE IDENTIFIED ON THE INVENTORY SUBMITTED TO THE
21 COLORADO BUREAU OF INVESTIGATION.

22 (c) ON OR BEFORE ONE HUNDRED TWENTY DAYS AFTER THE
23 EFFECTIVE DATE OF THIS SECTION, THE COLORADO BUREAU OF
24 INVESTIGATION SHALL SUBMIT TO THE GOVERNOR AND TO THE JUDICIARY
25 COMMITTEES OF THE SENATE AND HOUSE OF REPRESENTATIVES, OR ANY
26 SUCCESSOR COMMITTEES, A PROPOSED PLAN FOR ANALYZING BY JUNE 30,
27 2014, ALL OF THE FORENSIC MEDICAL EVIDENCE OF ALLEGED SEXUAL

1 ASSAULTS INVENTORIED PURSUANT TO PARAGRAPH (a) OF THIS
2 SUBSECTION (4).

3 (d) A LAW ENFORCEMENT AGENCY MAY DEVELOP ITS OWN PLAN TO
4 ANALYZE FORENSIC MEDICAL EVIDENCE OF ALLEGED SEXUAL ASSAULTS IF
5 ALL EVIDENCE IS ANALYZED BY JUNE 30, 2014. IF A LAW ENFORCEMENT
6 AGENCY DEVELOPS ITS OWN PLAN, IT SHALL NOT FORWARD AN INVENTORY
7 OF THE FORENSIC MEDICAL EVIDENCE TO THE COLORADO BUREAU OF
8 INVESTIGATION AS REQUIRED BY PARAGRAPH (a) OF THIS SUBSECTION (4).

9 (e) THIS SUBSECTION (4) IS REPEALED, EFFECTIVE JULY 1, 2015.

10 **SECTION 2. Safety clause.** The general assembly hereby finds,
11 determines, and declares that this act is necessary for the immediate
12 preservation of the public peace, health, and safety.