

NO FISCAL IMPACT

Drafting Number: LLS 08-0565**Date:** February 9, 2008**Prime Sponsor(s):** Rep. Roberts
Sen. Shaffer**Bill Status:** House Judiciary**Fiscal Analyst:** Marc Carey (303-866-4102)

TITLE: CONCERNING AMENDING STATUTES RELATED TO EVIDENCE IN SEXUAL ASSAULT CASES TO CONFORM WITH THE FEDERAL "VIOLENCE AGAINST WOMEN ACT".**Summary of Legislation**

This bill prohibits a law enforcement agency, prosecuting officer, or other governmental official from:

- asking a sexual assault victim to take a lie detector test as a condition of proceeding with the criminal investigation or prosecution; and
- making a forensic medical examination, including collection of evidence, contingent upon a victim's willingness to participate in the criminal justice process.

This bill also requires the Division of Criminal Justice in the Department of Public Safety, and not the victim, to pay for this medical examination. Finally, the bill requires the medical facility that performs such a medical examination on the request of the victim (as opposed to the law enforcement agency) to contact the law enforcement agency in whose jurisdiction the crime occurred regarding the storage of evidence. That agency is then required to retrieve the evidence, and store it for at least 2 years. The bill is effective upon signature of the Governor, or upon becoming law without his signature.

Background

The 2005 S.T.O.P. Violence Against Women Act (VAWA) provides that federal funds from the U.S. Department of Justice be made available to states to distribute in the form of competitive grants to organizations that address violence against women. Each year in Colorado, the VAWA Advisory Board makes funding recommendations to the executive director of the Department of Public Safety. Offices and agencies of state government, local governments, nonprofit organizations and non-governmental victim service programs and Indian tribal governments are eligible to receive grant moneys if selected. Governmental applicants must provide 25% non-federal cash or in-kind match. Other applicants are encouraged to voluntarily provide such matching funds.

Assessment

Department for Public Safety, Office of Victims Programs. The office is responsible for administering VAWA grant moneys and making recommendations to the executive director regarding grant awards. The total amount of money available for distribution from year to year depends upon the amount awarded by Congress. In 2007, the office recommended 58 separate grants for a total of \$1,625,718.

In the summer of 2007, the Department of Justice changed its regulations with regard to the VAWA program. Specifically, it threatened to cut off funding unless states were able to certify, by January 1, 2009, that victims of sexual assault would never be required to:

- take a polygraph test; and
- participate in the criminal justice process in order to receive a forensic medical examination, including a collection of evidence.

This bill will allow Colorado to make this certification by the federal deadline, and in doing so, seeks to ensure that the flow of federal VAWA funds will continue. State agencies and local governments are currently receiving these grants, and with passage of this bill, they will continue to do so. Thus, the bill does not affect state or local revenues or expenditures and is assessed as having no fiscal impact.

Departments Contacted

Public Safety