

HOUSE COMMITTEE OF REFERENCE REPORT

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Chairman of Committee

February 7, 2013  
Date

Committee on Judiciary.

After consideration on the merits, the Committee recommends the following:

HB13-1020 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

1 Amend printed bill, strike everything below the enacting clause and  
2 substitute the following:

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

5 **24-33.5-112. Forensic medical evidence in sexual assault cases**  
6 **- rules - testing - confidentiality - repeal.** (1) **Rules.** (a) ON OR BEFORE  
7 THIRTY DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION, THE  
8 EXECUTIVE DIRECTOR SHALL BEGIN THE PROCESS OF PROMULGATING  
9 RULES FOR FORENSIC MEDICAL EVIDENCE COLLECTED IN CONNECTION  
10 WITH AN ALLEGED SEXUAL ASSAULT. NOT LESS THAN NINETY DAYS PRIOR  
11 TO THE PROMULGATION OF THE RULES, THE DIVISION SHALL CONVENE A  
12 REPRESENTATIVE GROUP OF PARTICIPANTS AS DEFINED IN SECTION  
13 24-4-102 (14.5) TO SOLICIT INPUT INTO THE DEVELOPMENT OF THE RULES.  
14 THE REPRESENTATIVE GROUP MUST INCLUDE PERSONS AFFECTED BY THE  
15 RULES AND PERSONS RESPONSIBLE FOR IMPLEMENTATION OF THE RULES.  
16 THE DIVISION MAY CONVENE AS MANY MEETINGS OF THE REPRESENTATIVE  
17 GROUP AS IS NECESSARY.

18 (b) ON OR BEFORE SIX MONTHS AFTER THE EFFECTIVE DATE OF  
19 THIS SECTION, THE EXECUTIVE DIRECTOR SHALL PROMULGATE THE RULES.  
20 THE RULES MUST INCLUDE:

21 (I) A REQUIREMENT THAT FORENSIC EVIDENCE MUST BE  
22 COLLECTED IF A VICTIM OF AN ALLEGED SEXUAL ASSAULT REQUESTS IT TO  
23 BE COLLECTED;

1 (II) STANDARDS FOR WHAT EVIDENCE MUST BE SUBMITTED TO THE  
2 COLORADO BUREAU OF INVESTIGATION OR ANOTHER ACCREDITED CRIME  
3 LABORATORY;

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

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

12 (A) CONSENT FORMS THAT NOTIFY PERSONS OF THE POTENTIAL  
13 EFFECTS OF EACH STEP OF THE PROCESS, INCLUDING COLLECTION, TESTING,  
14 AND RELEASE OF TEST RESULTS AND REQUIRE ACKNOWLEDGMENT OF  
15 CONSENT FOR EACH STEP OF THE PROCESS;

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

17 (C) WHO MAY WITHDRAW CONSENT AND WHEN IT MAY BE  
18 WITHDRAWN; AND

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

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

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

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

31 (A) THE AUTHORITY OF THE AGENCY TO SUBMIT THE EVIDENCE TO  
32 THE COLORADO BUREAU OF INVESTIGATION OR OTHER ACCREDITED CRIME  
33 LABORATORY;

34 (B) THE AUTHORITY OF THE COLORADO BUREAU OF  
35 INVESTIGATION OR OTHER ACCREDITED CRIME LABORATORY TO ANALYZE  
36 THE EVIDENCE OR PROVIDE RESULTS OF THE ANALYSIS TO APPROPRIATE  
37 PERSONS; OR

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

39 (b) ON AND AFTER NINETY DAYS AFTER THE PROMULGATION OF  
40 THE RULES DESCRIBED IN PARAGRAPH (b) OF SUBSECTION (1) OF THIS  
41 SECTION, ALL PERSONNEL AT A MEDICAL FACILITY PERFORMING A

1 FORENSIC MEDICAL EXAMINATION AND ALL OTHER PERSONS HAVING  
2 CUSTODY OF FORENSIC MEDICAL EVIDENCE COLLECTED IN CONNECTION  
3 WITH AN ALLEGED SEXUAL ASSAULT OR THE RESULTS OF TESTS  
4 CONDUCTED ON THE EVIDENCE SHALL COMPLY WITH THE PROMULGATED  
5 RULES.

6 (c) A PERSON WHO RECEIVES EVIDENCE OR RESULTS OF TESTS  
7 UNDER THIS SECTION SHALL NOT DISCLOSE THE EVIDENCE OR TEST  
8 RESULTS EXCEPT TO THE EXTENT THAT DISCLOSURE IS CONSISTENT WITH  
9 THE AUTHORIZED PURPOSE FOR WHICH THE PERSON OBTAINED THE  
10 EVIDENCE.

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

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

19 (II) MEETS THE CRITERIA FOR MANDATORY TESTING PURSUANT TO  
20 THE RULES ADOPTED BY THE EXECUTIVE DIRECTOR PURSUANT TO  
21 SUBSECTION (1) OF THIS SECTION.

22 (b) SUBJECT TO AVAILABLE LABORATORY SPACE, ON OR BEFORE  
23 NINETY DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION, EACH LAW  
24 ENFORCEMENT AGENCY SHALL FORWARD TO THE COLORADO BUREAU OF  
25 INVESTIGATION OR OTHER ACCREDITED CRIME LABORATORY THE FORENSIC  
26 MEDICAL EVIDENCE IDENTIFIED ON THE INVENTORY SUBMITTED TO THE  
27 COLORADO BUREAU OF INVESTIGATION.

28 (c) ON OR BEFORE ONE HUNDRED TWENTY DAYS AFTER THE  
29 EFFECTIVE DATE OF THIS SECTION, THE COLORADO BUREAU OF  
30 INVESTIGATION SHALL SUBMIT TO THE GOVERNOR AND TO THE JUDICIARY  
31 COMMITTEES OF THE SENATE AND HOUSE OF REPRESENTATIVES, OR ANY  
32 SUCCESSOR COMMITTEES, A PROPOSED PLAN FOR ANALYZING BY JUNE 30,  
33 2014, ALL OF THE FORENSIC MEDICAL EVIDENCE OF ALLEGED SEXUAL  
34 ASSAULTS INVENTORIED PURSUANT TO PARAGRAPH (a) OF THIS  
35 SUBSECTION (4).

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

1 (e) THIS SUBSECTION (4) IS REPEALED, EFFECTIVE JULY 1, 2015.  
2 **SECTION 2. Safety clause.** The general assembly hereby finds,  
3 determines, and declares that this act is necessary for the immediate  
4 preservation of the public peace, health, and safety."

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