A BILL FOR AN ACT

CONCERNING EVIDENCE COLLECTED IN CONNECTION WITH A SEXUAL 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:

1. Standards for when forensic evidence must be submitted by
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.

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

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

24-33.5-112. Forensic medical evidence in sexual assault cases - rules - testing - confidentiality - repeal. (1) Rules. (a) On or before thirty days after the effective date of this section, the executive director shall promulgate rules for forensic medical evidence collected in connection with an alleged sexual assault. The rules must include standards for what evidence must be submitted to the Colorado bureau of investigation or another accredited crime laboratory and time frames for when the evidence must be submitted, analyzed, and compared to DNA databases. The rules must indicate that evidence that meets the criteria for mandatory submission must be submitted within twenty-one days after receipt by a law enforcement agency.
(b) On and after sixty days after the effective date of this section, all law enforcement agencies in the state shall comply with the rules promulgated pursuant to paragraph (a) of this subsection (1) for evidence received after that date.

(c) The failure of a law enforcement agency to comply with the rules promulgated pursuant to paragraph (a) of this subsection (1) does not affect:

(I) The authority of the agency to submit the evidence to the Colorado bureau of investigation or other accredited crime laboratory;

(II) The authority of the Colorado bureau of investigation or other accredited crime laboratory to analyze the evidence or provide results of the analysis to appropriate persons; or

(III) The admissibility of the evidence in any court.

(2) Consent. (a) Personnel at a medical facility performing a forensic medical examination shall not release evidence in connection with a sexual assault unless written consent for the release of the evidence is signed by:

(I) The victim, if the victim is fifteen years of age or older;

(II) The victim's parent or guardian or an employee of a county department of social services if the victim is younger than fifteen years of age; or

(III) The victim's personal representative if the victim is deceased.

(b) The written consent must specify:

(I) The evidence covered by the release;
(II) The reason or purpose of the release; and

(III) The person to whom the evidence will be released.

(c) A victim or other person who has authorized to
consent may withdraw consent to the release of the evidence by
submitting a written notice of withdrawal to the person or
program to which consent was provided. Withdrawal of consent
does not affect evidence disclosed before the date that the
written notice of the withdrawal was received.

(d) A person who receives evidence under this subsection
(1) shall not disclose the evidence except to the extent that
disclosure is consistent with the authorized purpose for which
the person obtained the evidence.

(3) Backlog. (a) On or before sixty days after the effective
date of this section, each law enforcement agency shall submit
to the Colorado bureau of investigation an inventory of all
forensic medical evidence of a sexual assault that has not been
analyzed by the Colorado bureau of investigation or other
accredited crime laboratory and that:

(I) Is for an active criminal investigation; and

(II) Meets the criteria for mandatory testing pursuant to
the rules adopted by the executive director pursuant to
subsection (1) of this section.

(b) Subject to available laboratory space, on or before
ninety days after the effective date of this section, each law
enforcement agency shall forward to the Colorado bureau of
investigation or other accredited crime laboratory the forensic
medical evidence identified on the inventory submitted to the
COLORADO BUREAU OF INVESTIGATION.

(c) On or before ninety days after the effective date of this section, the Colorado Bureau of Investigation shall submit to the governor and to the judiciary committees of the Senate and House of Representatives, or any successor committees, a proposed plan for analyzing all of the forensic medical evidence of a sexual assault by June 30, 2014.

(d) A law enforcement agency may develop its own plan to analyze forensic medical evidence of a sexual assault, if all evidence is analyzed by June 30, 2014. If a law enforcement agency develops its own plan, it shall not forward an inventory or the forensic medical evidence to the Colorado Bureau of Investigation as required by paragraph (a) of this subsection (3).

(e) This subsection (3) is repealed, effective July 1, 2015.

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