

First Regular Session  
Sixty-ninth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 13-0289.01 Jerry Barry x4341

HOUSE BILL 13-1020

---

HOUSE SPONSORSHIP

McNulty,

SENATE SPONSORSHIP

(None),

---

House Committees

Judiciary  
Appropriations

Senate Committees

Judiciary

---

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 PROMULGATE RULES FOR FORENSIC MEDICAL  
8 EVIDENCE COLLECTED IN CONNECTION WITH AN ALLEGED SEXUAL  
9 ASSAULT. THE RULES MUST INCLUDE STANDARDS FOR WHAT EVIDENCE  
10 MUST BE SUBMITTED TO THE COLORADO BUREAU OF INVESTIGATION OR  
11 ANOTHER ACCREDITED CRIME LABORATORY AND TIME FRAMES FOR WHEN  
12 THE EVIDENCE MUST BE SUBMITTED, ANALYZED, AND COMPARED TO DNA  
13 DATABASES. THE RULES MUST INDICATE THAT EVIDENCE THAT MEETS THE  
14 CRITERIA FOR MANDATORY SUBMISSION MUST BE SUBMITTED WITHIN  
15 TWENTY-ONE DAYS AFTER RECEIPT BY A LAW ENFORCEMENT AGENCY.

1 (b) ON AND AFTER SIXTY DAYS AFTER THE EFFECTIVE DATE OF THIS  
2 SECTION, ALL LAW ENFORCEMENT AGENCIES IN THE STATE SHALL COMPLY  
3 WITH THE RULES PROMULGATED PURSUANT TO PARAGRAPH (a) OF THIS  
4 SUBSECTION (1) FOR EVIDENCE RECEIVED AFTER THAT DATE.

5 (c) THE FAILURE OF A LAW ENFORCEMENT AGENCY TO COMPLY  
6 WITH THE RULES PROMULGATED PURSUANT TO PARAGRAPH (a) OF THIS  
7 SUBSECTION (1) DOES NOT AFFECT:

8 (I) THE AUTHORITY OF THE AGENCY TO SUBMIT THE EVIDENCE TO  
9 THE COLORADO BUREAU OF INVESTIGATION OR OTHER ACCREDITED CRIME  
10 LABORATORY;

11 (II) THE AUTHORITY OF THE COLORADO BUREAU OF  
12 INVESTIGATION OR OTHER ACCREDITED CRIME LABORATORY TO ANALYZE  
13 THE EVIDENCE OR PROVIDE RESULTS OF THE ANALYSIS TO APPROPRIATE  
14 PERSONS; OR

15 (III) THE ADMISSIBILITY OF THE EVIDENCE IN ANY COURT.

16 (2) **Consent.** (a) PERSONNEL AT A MEDICAL FACILITY PERFORMING  
17 A FORENSIC MEDICAL EXAMINATION SHALL NOT RELEASE EVIDENCE IN  
18 CONNECTION WITH A SEXUAL ASSAULT UNLESS WRITTEN CONSENT FOR THE  
19 RELEASE OF THE EVIDENCE IS SIGNED BY:

20 (I) THE VICTIM, IF THE VICTIM IS FIFTEEN YEARS OF AGE OR OLDER;

21 (II) THE VICTIM'S PARENT OR GUARDIAN OR AN EMPLOYEE OF A  
22 COUNTY DEPARTMENT OF SOCIAL SERVICES IF THE VICTIM IS YOUNGER  
23 THAN FIFTEEN YEARS OF AGE; OR

24 (III) THE VICTIM'S PERSONAL REPRESENTATIVE IF THE VICTIM IS  
25 DECEASED.

26 (b) THE WRITTEN CONSENT MUST SPECIFY:

27 (I) THE EVIDENCE COVERED BY THE RELEASE;

1 (II) THE REASON OR PURPOSE OF THE RELEASE; AND

2 (III) THE PERSON TO WHOM THE EVIDENCE WILL BE RELEASED.

3 (c) A VICTIM OR OTHER PERSON WHO HAS AUTHORIZED TO  
4 CONSENT MAY WITHDRAW CONSENT TO THE RELEASE OF THE EVIDENCE BY  
5 SUBMITTING A WRITTEN NOTICE OF WITHDRAWAL TO THE PERSON OR  
6 PROGRAM TO WHICH CONSENT WAS PROVIDED. WITHDRAWAL OF CONSENT  
7 DOES NOT AFFECT EVIDENCE DISCLOSED BEFORE THE DATE THAT THE  
8 WRITTEN NOTICE OF THE WITHDRAWAL WAS RECEIVED.

9 (d) A PERSON WHO RECEIVES EVIDENCE UNDER THIS SUBSECTION  
10 (1) SHALL NOT DISCLOSE THE EVIDENCE EXCEPT TO THE EXTENT THAT  
11 DISCLOSURE IS CONSISTENT WITH THE AUTHORIZED PURPOSE FOR WHICH  
12 THE PERSON OBTAINED THE EVIDENCE.

13 (3) **Backlog.** (a) ON OR BEFORE SIXTY DAYS AFTER THE EFFECTIVE  
14 DATE OF THIS SECTION, EACH LAW ENFORCEMENT AGENCY SHALL SUBMIT  
15 TO THE COLORADO BUREAU OF INVESTIGATION AN INVENTORY OF ALL  
16 FORENSIC MEDICAL EVIDENCE OF A SEXUAL ASSAULT THAT HAS NOT BEEN  
17 ANALYZED BY THE COLORADO BUREAU OF INVESTIGATION OR OTHER  
18 ACCREDITED CRIME LABORATORY AND THAT:

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

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

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

1 COLORADO BUREAU OF INVESTIGATION.

2 (c) ON OR BEFORE NINETY DAYS AFTER THE EFFECTIVE DATE OF  
3 THIS SECTION, THE COLORADO BUREAU OF INVESTIGATION SHALL SUBMIT  
4 TO THE GOVERNOR AND TO THE JUDICIARY COMMITTEES OF THE SENATE  
5 AND HOUSE OF REPRESENTATIVES, OR ANY SUCCESSOR COMMITTEES, A  
6 PROPOSED PLAN FOR ANALYZING ALL OF THE FORENSIC MEDICAL EVIDENCE  
7 OF A SEXUAL ASSAULT BY JUNE 30, 2014.

8 (d) A LAW ENFORCEMENT AGENCY MAY DEVELOP ITS OWN PLAN TO  
9 ANALYZE FORENSIC MEDICAL EVIDENCE OF A SEXUAL ASSAULT, IF ALL  
10 EVIDENCE IS ANALYZED BY JUNE 30, 2014. IF A LAW ENFORCEMENT  
11 AGENCY DEVELOPS ITS OWN PLAN, IT SHALL NOT FORWARD AN INVENTORY  
12 OR THE FORENSIC MEDICAL EVIDENCE TO THE COLORADO BUREAU OF  
13 INVESTIGATION AS REQUIRED BY PARAGRAPH (a) OF THIS SUBSECTION (3).

14 (e) THIS SUBSECTION (3) IS REPEALED, EFFECTIVE JULY 1, 2015.

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