

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

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 13-0289.01 Jerry Barry x4341

HOUSE BILL 13-1020

HOUSE SPONSORSHIP

McNulty,

SENATE SPONSORSHIP

Roberts,

House Committees

Judiciary
Appropriations

Senate Committees

Judiciary
Appropriations

A BILL FOR AN ACT

101 **CONCERNING EVIDENCE COLLECTED IN CONNECTION WITH A SEXUAL**
102 **ASSAULT, AND, IN CONNECTION THEREWITH, MAKING AN**
103 **APPROPRIATION.**

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:

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.*

SENATE
Amended 2nd Reading
May 6, 2013

HOUSE
3rd Reading Unamended
April 15, 2013

HOUSE
Amended 2nd Reading
April 12, 2013

! 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.

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.

1 THE DIVISION MAY CONVENE AS MANY MEETINGS OF THE REPRESENTATIVE
2 GROUP AS IS NECESSARY.

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

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

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

12 (III) TIME FRAMES FOR WHEN THE EVIDENCE MUST BE SUBMITTED,
13 ANALYZED, AND COMPARED TO DNA DATABASES. THE RULES ON TIME
14 FRAMES MUST INDICATE THAT, ONCE THE BACKLOG DESCRIBED IN
15 SUBSECTION (4) OF THIS SECTION IS RESOLVED, EVIDENCE THAT MEETS THE
16 CRITERIA FOR MANDATORY SUBMISSION MUST BE SUBMITTED WITHIN
17 TWENTY-ONE DAYS AFTER RECEIPT BY A LAW ENFORCEMENT AGENCY.

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

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

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

26 (C) WHO MAY WITHDRAW CONSENT AND WHEN IT MAY BE
27 WITHDRAWN; AND

1 (D) WHEN AND HOW RESULTS OF TESTS MAY BE RELEASED AND
2 FOR WHAT PURPOSES;

3 (V) A PLAN FOR PRIORITIZING THE TESTING OF THE BACKLOG OF
4 FORENSIC MEDICAL EVIDENCE TO BE FORWARDED TO THE COLORADO
5 BUREAU OF INVESTIGATION PURSUANT TO SUBSECTION (4) OF THIS
6 SECTION AND A PLAN FOR TESTING NEWLY COLLECTED FORENSIC MEDICAL
7 EVIDENCE ONCE THE BACKLOG IS RESOLVED; AND

8 (VI) THE DATE, AS SOON AS PRACTICABLE, BY WHICH A LAW
9 ENFORCEMENT AGENCY MUST ANALYZE ITS BACKLOG OF FORENSIC
10 MEDICAL EVIDENCE IF IT DOES NOT FORWARD SUCH EVIDENCE TO THE
11 COLORADO BUREAU OF INVESTIGATION FOR ANALYSIS.

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

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

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

22 (A) THE AUTHORITY OF THE AGENCY TO SUBMIT THE EVIDENCE TO
23 THE COLORADO BUREAU OF INVESTIGATION OR OTHER ACCREDITED CRIME
24 LABORATORY;

25 (B) THE AUTHORITY OF THE COLORADO BUREAU OF
26 INVESTIGATION OR OTHER ACCREDITED CRIME LABORATORY TO ANALYZE
27 THE EVIDENCE OR PROVIDE RESULTS OF THE ANALYSIS TO APPROPRIATE

1 PERSONS; OR

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

3 (b) ON AND AFTER NINETY DAYS AFTER THE PROMULGATION OF
4 THE RULES DESCRIBED IN PARAGRAPH (b) OF SUBSECTION (1) OF THIS
5 SECTION, ALL PERSONNEL AT A MEDICAL FACILITY PERFORMING A
6 FORENSIC MEDICAL EXAMINATION AND ALL OTHER PERSONS HAVING
7 CUSTODY OF FORENSIC MEDICAL EVIDENCE COLLECTED IN CONNECTION
8 WITH AN ALLEGED SEXUAL ASSAULT OR THE RESULTS OF TESTS
9 CONDUCTED ON THE EVIDENCE SHALL COMPLY WITH THE PROMULGATED
10 RULES.

11 (c) A PERSON WHO RECEIVES EVIDENCE OR RESULTS OF TESTS
12 UNDER THIS SECTION SHALL NOT DISCLOSE THE EVIDENCE OR TEST
13 RESULTS EXCEPT TO THE EXTENT THAT DISCLOSURE IS CONSISTENT WITH
14 THE AUTHORIZED PURPOSE FOR WHICH THE PERSON OBTAINED THE
15 EVIDENCE.

16 (4) **Backlog.** (a) ON OR BEFORE NINETY DAYS AFTER THE
17 EFFECTIVE DATE OF THIS SECTION, EACH LAW ENFORCEMENT AGENCY
18 SHALL SUBMIT TO THE COLORADO BUREAU OF INVESTIGATION AN
19 INVENTORY OF ALL FORENSIC MEDICAL EVIDENCE OF ANY ALLEGED
20 SEXUAL ASSAULTS THAT HAVE NOT BEEN ANALYZED BY THE COLORADO
21 BUREAU OF INVESTIGATION OR OTHER ACCREDITED CRIME LABORATORY
22 AND THAT IS FOR AN ACTIVE CRIMINAL INVESTIGATION.

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

1 INVENTORY SUBMITTED TO THE COLORADO BUREAU OF INVESTIGATION.

2 (c) ON OR BEFORE ONE HUNDRED TWENTY DAYS AFTER THE
3 EFFECTIVE DATE OF THIS SECTION, THE COLORADO BUREAU OF
4 INVESTIGATION SHALL SUBMIT TO THE GOVERNOR AND TO THE JUDICIARY
5 COMMITTEES OF THE SENATE AND HOUSE OF REPRESENTATIVES, OR ANY
6 SUCCESSOR COMMITTEES, A PROPOSED PLAN FOR ANALYZING AS SOON AS
7 PRACTICABLE ALL OF THE FORENSIC MEDICAL EVIDENCE OF ALLEGED
8 SEXUAL ASSAULTS INVENTORIED PURSUANT TO PARAGRAPH (a) OF THIS
9 SUBSECTION (4) AND FOR ANALYZING NEWLY COLLECTED FORENSIC
10 MEDICAL EVIDENCE AS SOON AS PRACTICABLE.

11 (d) A LAW ENFORCEMENT AGENCY MAY DEVELOP ITS OWN PLAN TO
12 ANALYZE FORENSIC MEDICAL EVIDENCE OF ALLEGED SEXUAL ASSAULTS IF
13 ALL EVIDENCE IS ANALYZED BY THE DATE SPECIFIED BY RULE PURSUANT
14 TO SUBSECTION (1) OF THIS SECTION. IF A LAW ENFORCEMENT AGENCY
15 DEVELOPS ITS OWN PLAN, IT SHALL NOT FORWARD AN INVENTORY OF THE
16 FORENSIC MEDICAL EVIDENCE TO THE COLORADO BUREAU OF
17 INVESTIGATION AS REQUIRED BY PARAGRAPH (a) OF THIS SUBSECTION (4).

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

19 (5) THE DEPARTMENT OF PUBLIC SAFETY SHALL INCLUDE WITHIN
20 ITS BUDGET REQUESTS AND SUPPLEMENTAL BUDGET REQUESTS SUBMITTED
21 TO THE JOINT BUDGET COMMITTEE FUNDING REQUESTS TO ANALYZE AS
22 SOON AS PRACTICABLE THE BACKLOG OF FORENSIC MEDICAL EVIDENCE OF
23 ANY ALLEGED SEXUAL ASSAULTS FORWARDED TO THE COLORADO BUREAU
24 OF INVESTIGATION PURSUANT TO SUBSECTION (4) OF THIS SECTION AND TO
25 ANALYZE NEWLY COLLECTED FORENSIC MEDICAL EVIDENCE AS SOON AS
26 PRACTICABLE.

27 **SECTION 2. Appropriation.** In addition to any other

1 appropriation, there is hereby appropriated, out of any moneys in the
2 general fund not otherwise appropriated, to the department of public
3 safety, for the fiscal year beginning July 1, 2013, the sum of \$6,351,002,
4 or so much thereof as may be necessary, for allocation to the Colorado
5 bureau of investigation, laboratory and investigative services, operating
6 expenses, for contract services for testing of backlog evidence related to
7 the implementation of this act.

8 **SECTION 3. Safety clause.** The general assembly hereby finds,
9 determines, and declares that this act is necessary for the immediate
10 preservation of the public peace, health, and safety.