

**NOTE: This bill has been prepared for the signatures of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.**

# An Act

SENATE BILL 15-128

BY SENATOR(S) Carroll, Aguilar, Baumgardner, Cooke, Crowder, Donovan, Garcia, Grantham, Guzman, Heath, Jahn, Johnston, Jones, Kefalas, Kerr, Merrifield, Newell, Roberts, Scheffel, Scott, Steadman, Todd, Ulibarri, Woods, Cadman;  
also REPRESENTATIVE(S) Landgraf and Primavera, Becker K., Danielson, Fields, Ginal, Kagan, Lee, Lontine, McCann, Melton, Mitsch Bush, Pabon, Pettersen, Priola, Rosenthal, Ryden, Salazar, Singer, Tyler, Williams, Winter.

CONCERNING REPORTS TO LAW ENFORCEMENT BY MEDICAL FACILITIES WITH  
THE CONSENT OF A VICTIM OF A SEXUAL ASSAULT.

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

**SECTION 1.** In Colorado Revised Statutes, 12-36-135, **amend** (1) as follows:

**12-36-135. Injuries to be reported - penalty for failure to report - immunity from liability.** (1) (a) (I) ~~It shall be the duty of~~ Every licensee who attends or treats ANY OF THE FOLLOWING INJURIES SHALL REPORT THE INJURY AT ONCE TO THE POLICE OF THE CITY, TOWN, OR CITY AND COUNTY OR THE SHERIFF OF THE COUNTY IN WHICH THE LICENSEE IS LOCATED:

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

(A) A bullet wound, a gunshot wound, a powder burn, or any other injury arising from the discharge of a firearm, or an injury caused by a knife, an ice pick, or any other sharp or pointed instrument that the licensee believes to have been intentionally inflicted upon a person; ~~or~~

(B) An injury arising from a dog bite that the licensee believes was inflicted upon a person by a dangerous dog, as defined in section 18-9-204.5 (2) (b), C.R.S.; or

(C) Any other injury that the licensee has reason to believe involves a criminal act, including injuries resulting from domestic violence. ~~to report the injury at once to the police of the city, town, or city and county or the sheriff of the county in which the licensee is located.~~

(II) Any licensee who fails to make a report as required by this section commits a class 2 petty offense, as defined by section 18-1.3-503, C.R.S., and, upon conviction thereof, shall be punished by a fine of not more than three hundred dollars, or by imprisonment in the county jail for not more than ninety days, or by both such fine and imprisonment.

(b) (I) When a licensee OR NURSE performs a MEDICAL forensic ~~medical~~ examination that includes the collection of evidence at the request of a victim of sexual assault, ~~not in connection with a referring or requesting law enforcement agency, and~~ THE LICENSEE'S OR NURSE'S EMPLOYING MEDICAL FACILITY SHALL, WITH THE CONSENT OF THE VICTIM OF THE SEXUAL ASSAULT, MAKE ONE OF THE FOLLOWING REPORTS TO LAW ENFORCEMENT:

(A) A LAW ENFORCEMENT REPORT IF A VICTIM WISHES TO OBTAIN A MEDICAL FORENSIC EXAMINATION WITH EVIDENCE COLLECTION AND AT THE TIME OF THE MEDICAL FORENSIC EXAMINATION CHOOSES TO PARTICIPATE IN THE CRIMINAL JUSTICE SYSTEM;

(B) A MEDICAL REPORT IF A VICTIM WISHES TO OBTAIN A MEDICAL FORENSIC EXAMINATION WITH EVIDENCE COLLECTION BUT AT THE TIME OF THE MEDICAL FORENSIC EXAMINATION CHOOSES NOT TO PARTICIPATE IN THE CRIMINAL JUSTICE SYSTEM. THE LICENSEE OR NURSE SHALL COLLECT SUCH EVIDENCE AND VICTIM IDENTIFYING INFORMATION, AND THE EMPLOYING MEDICAL FACILITY SHALL RELEASE THE EVIDENCE AND INFORMATION TO LAW ENFORCEMENT FOR TESTING IN ACCORDANCE WITH SECTION

24-33.5-113 (1) (b) (III), C.R.S., AND STORAGE IN ACCORDANCE WITH SECTION 18-3-407.5 (3) (c), C.R.S.; OR

(C) AN ANONYMOUS REPORT IF A VICTIM WISHES TO OBTAIN A MEDICAL FORENSIC EXAMINATION WITH EVIDENCE COLLECTION BUT AT THE TIME OF THE MEDICAL FORENSIC EXAMINATION CHOOSES NOT TO HAVE PERSONAL IDENTIFYING INFORMATION PROVIDED TO LAW ENFORCEMENT OR TO PARTICIPATE IN THE CRIMINAL JUSTICE SYSTEM. THE LICENSEE OR NURSE SHALL COLLECT SUCH EVIDENCE, AND THE EMPLOYING MEDICAL FACILITY SHALL RELEASE IT TO LAW ENFORCEMENT FOR STORAGE IN ACCORDANCE WITH SECTION 18-3-407.5 (3) (c), C.R.S. LAW ENFORCEMENT SHALL RECEIVE NO IDENTIFYING INFORMATION FOR THE VICTIM. LAW ENFORCEMENT SHALL ASSIGN A UNIQUE IDENTIFYING NUMBER TO THE EVIDENCE, AND THE LICENSEE OR NURSE SHALL RECORD THE IDENTIFYING NUMBER IN THE MEDICAL RECORD AND NOTIFY THE VICTIM THAT THE IDENTIFYING NUMBER IS RECORDED. ADDITIONALLY, THE LICENSEE OR NURSE SHALL PROVIDE THE IDENTIFYING NUMBER TO THE VICTIM.

(II) NOTHING IN THIS SECTION:

(A) PROHIBITS A VICTIM FROM ANONYMOUSLY SPEAKING TO LAW ENFORCEMENT ABOUT THE VICTIM'S RIGHTS OR OPTIONS PRIOR TO DETERMINING WHETHER TO CONSENT TO A REPORT DESCRIBED IN THIS PARAGRAPH (b); OR

(B) REQUIRES A LICENSEE, NURSE, OR MEDICAL FACILITY TO MAKE A REPORT TO LAW ENFORCEMENT CONCERNING AN ALLEGED SEXUAL ASSAULT IF MEDICAL FORENSIC EVIDENCE IS NOT COLLECTED.

(III) IF THE LICENSEE'S EMPLOYING MEDICAL FACILITY KNOWS WHERE THE ~~crime~~ ALLEGED SEXUAL ASSAULT OCCURRED, THE FACILITY SHALL ~~contact~~ MAKE THE REPORT WITH THE LAW ENFORCEMENT AGENCY IN WHOSE JURISDICTION THE CRIME OCCURRED REGARDING PRESERVATION OF THE EVIDENCE. IF THE MEDICAL FACILITY DOES NOT KNOW WHERE THE ~~crime~~ ALLEGED SEXUAL ASSAULT OCCURRED, THE FACILITY SHALL ~~contact~~ MAKE THE REPORT WITH ITS LOCAL LAW ENFORCEMENT AGENCY REGARDING PRESERVATION OF THE EVIDENCE.

(IV) IN ADDITION TO THE REPORT REQUIRED BY SUBPARAGRAPH (I) OF THIS PARAGRAPH (b) TO BE FILED BY THE EMPLOYING MEDICAL FACILITY, A LICENSEE WHO ATTENDS OR TREATS ANY OF THE INJURIES DESCRIBED IN

SUB-SUBPARAGRAPH (A) OF SUBPARAGRAPH (I) OF PARAGRAPH (a) OF THIS SUBSECTION (1) OF A VICTIM OF A SEXUAL ASSAULT SHALL ALSO REPORT THE INJURY TO THE POLICE OR SHERIFF AS REQUIRED BY PARAGRAPH (a) OF THIS SUBSECTION (1).

**SECTION 2.** In Colorado Revised Statutes, 18-3-407.5, **amend** (3) (c); and **add** (3) (d) as follows:

**18-3-407.5. Victim evidence - forensic evidence - electronic lie detector exam without victim's consent prohibited.** (3) (c) When personnel at a medical facility perform a MEDICAL forensic ~~medical~~ examination that includes the collection of evidence based on the request of a victim of a sexual offense ~~not in connection with a referring or requesting law enforcement agency~~, and the medical facility performing the examination knows where the crime occurred, the facility shall contact the law enforcement agency in whose jurisdiction the crime occurred regarding preservation of the evidence. If the medical facility does not know where the crime occurred, the facility shall contact its local law enforcement agency regarding preservation of the evidence. Notwithstanding any other statutory requirements regarding storage of biological evidence, the law enforcement agency contacted by the medical facility shall retrieve the evidence from the facility and store it for at least two years.

(d) A LAW ENFORCEMENT AGENCY SHALL NOT SUBMIT MEDICAL FORENSIC EVIDENCE ASSOCIATED WITH AN ANONYMOUS REPORT SUBMITTED PURSUANT TO SECTION 12-36-135, C.R.S., TO THE COLORADO BUREAU OF INVESTIGATION OR ANY OTHER LABORATORY FOR TESTING AS DESCRIBED IN SECTION 24-33.5-113, C.R.S. MEDICAL FORENSIC EVIDENCE ASSOCIATED WITH A MEDICAL REPORT SUBMITTED PURSUANT TO SECTION 12-36-135, C.R.S., WHEN THE VICTIM HAS CONSENTED TO EVIDENCE TESTING, SHALL BE SUBMITTED TO THE COLORADO BUREAU OF INVESTIGATION OR ANOTHER LABORATORY AND TESTED, PURSUANT TO SECTION 24-33.5-113, C.R.S., REGARDLESS OF WHETHER THE VICTIM HAS CHOSEN TO PARTICIPATE IN THE CRIMINAL JUSTICE SYSTEM.

**SECTION 3. 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.

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Bill L. Cadman  
PRESIDENT OF  
THE SENATE

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Dickey Lee Hullinghorst  
SPEAKER OF THE HOUSE  
OF REPRESENTATIVES

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Cindi L. Markwell  
SECRETARY OF  
THE SENATE

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Marilyn Eddins  
CHIEF CLERK OF THE HOUSE  
OF REPRESENTATIVES

APPROVED \_\_\_\_\_

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John W. Hickenlooper  
GOVERNOR OF THE STATE OF COLORADO