

First Regular Session
Seventieth General Assembly
STATE OF COLORADO

REVISED

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

LLS NO. 15-0159.01 Jerry Barry x4341

SENATE BILL 15-128

SENATE SPONSORSHIP

Carroll,

HOUSE SPONSORSHIP

Landgraf and Primavera,

Senate Committees

Judiciary

House Committees

Public Health Care & Human Services

A BILL FOR AN ACT

101 CONCERNING REPORTS TO LAW ENFORCEMENT BY MEDICAL
102 FACILITIES WITH THE CONSENT OF A VICTIM OF A SEXUAL
103 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/bills summaries>.)

Current law requires a medical facility to report to law enforcement when certain medical personnel collect medical forensic evidence of a sexual assault (evidence) if the victim consents. The bill adds nurses to the medical personnel. The bill requires the report to be:

! A law enforcement report if the victim requests that the

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.

HOUSE
2nd Reading Unamended
March 11, 2015

SENATE
3rd Reading Unamended
February 18, 2015

SENATE
2nd Reading Unamended
February 17, 2015

evidence be collected and at the time of the medical treatment chooses to participate in the criminal justice system;

! A medical report if the victim requests that the evidence be collected but at the time of the medical treatment chooses not to participate in the criminal justice system; or

! An anonymous report if the victim consents to the collection of the evidence but at the time of the medical treatment chooses not to have personal identifying information disclosed to law enforcement or to participate in the criminal justice system.

For an anonymous report, the medical facility shall not provide information identifying the victim to law enforcement, and law enforcement shall not submit the evidence for testing. For a law enforcement or medical report, law enforcement shall submit the evidence for testing pursuant to existing law.

The bill clarifies that a victim may speak anonymously to law enforcement and that no report is required if evidence is not collected.

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

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

4 **12-36-135. Injuries to be reported - penalty for failure to**
5 **report - immunity from liability.** (1) (a) (I) ~~It shall be the duty of Every~~
6 ~~licensee who attends or treats ANY OF THE FOLLOWING INJURIES SHALL~~
7 ~~REPORT THE INJURY AT ONCE TO THE POLICE OF THE CITY, TOWN, OR CITY~~
8 ~~AND COUNTY OR THE SHERIFF OF THE COUNTY IN WHICH THE LICENSEE IS~~
9 ~~LOCATED:~~

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

14 (B) An injury arising from a dog bite that the licensee believes
15 was inflicted upon a person by a dangerous dog, as defined in section

1 18-9-204.5 (2) (b), C.R.S.; or

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

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

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

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

22 (B) A MEDICAL REPORT IF A VICTIM WISHES TO OBTAIN A MEDICAL
23 FORENSIC EXAMINATION WITH EVIDENCE COLLECTION BUT AT THE TIME OF
24 THE MEDICAL FORENSIC EXAMINATION CHOOSES NOT TO PARTICIPATE IN
25 THE CRIMINAL JUSTICE SYSTEM. THE LICENSEE OR NURSE SHALL COLLECT
26 SUCH EVIDENCE AND VICTIM IDENTIFYING INFORMATION, AND THE
27 EMPLOYING MEDICAL FACILITY SHALL RELEASE THE EVIDENCE AND

1 INFORMATION TO LAW ENFORCEMENT FOR TESTING IN ACCORDANCE WITH
2 SECTION 24-33.5-113 (1) (b) (III), C.R.S., AND STORAGE IN ACCORDANCE
3 WITH SECTION 18-3-407.5 (3) (c), C.R.S.; OR

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

19 (II) NOTHING IN THIS SECTION:

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

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

27 (III) IF THE LICENSEE'S EMPLOYING MEDICAL FACILITY KNOWS WHERE THE

1 ~~crime~~ ALLEGED SEXUAL ASSAULT occurred, the facility shall ~~contact~~
2 MAKE THE REPORT WITH the law enforcement agency in whose
3 jurisdiction the crime occurred regarding preservation of the evidence. If
4 the medical facility does not know where the ~~crime~~ ALLEGED SEXUAL
5 ASSAULT occurred, the facility shall ~~contact~~ MAKE THE REPORT WITH its
6 local law enforcement agency regarding preservation of the evidence.

7 (IV) IN ADDITION TO THE REPORT REQUIRED BY SUBPARAGRAPH (I)
8 OF THIS PARAGRAPH (b) TO BE FILED BY THE EMPLOYING MEDICAL
9 FACILITY, A LICENSEE WHO ATTENDS OR TREATS ANY OF THE INJURIES
10 DESCRIBED IN SUB-SUBPARAGRAPH (A) OF SUBPARAGRAPH (I) OF
11 PARAGRAPH (a) OF THIS SUBSECTION (1) OF A VICTIM OF A SEXUAL
12 ASSAULT SHALL ALSO REPORT THE INJURY TO THE POLICE OR SHERIFF AS
13 REQUIRED BY PARAGRAPH (a) OF THIS SUBSECTION (1).

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

16 **18-3-407.5. Victim evidence - forensic evidence - electronic lie**
17 **detector exam without victim's consent prohibited.** (3) (c) When
18 personnel at a medical facility perform a MEDICAL forensic ~~medical~~
19 examination that includes the collection of evidence based on the request
20 of a victim of a sexual offense ~~not in connection with a referring or~~
21 ~~requesting law enforcement agency~~, and the medical facility performing
22 the examination knows where the crime occurred, the facility shall
23 contact the law enforcement agency in whose jurisdiction the crime
24 occurred regarding preservation of the evidence. If the medical facility
25 does not know where the crime occurred, the facility shall contact its
26 local law enforcement agency regarding preservation of the evidence.
27 Notwithstanding any other statutory requirements regarding storage of

1 biological evidence, the law enforcement agency contacted by the
2 medical facility shall retrieve the evidence from the facility and store it
3 for at least two years.

4 (d) A LAW ENFORCEMENT AGENCY SHALL NOT SUBMIT MEDICAL
5 FORENSIC EVIDENCE ASSOCIATED WITH AN ANONYMOUS REPORT
6 SUBMITTED PURSUANT TO SECTION 12-36-135, C.R.S., TO THE COLORADO
7 BUREAU OF INVESTIGATION OR ANY OTHER LABORATORY FOR TESTING AS
8 DESCRIBED IN SECTION 24-33.5-113, C.R.S. MEDICAL FORENSIC EVIDENCE
9 ASSOCIATED WITH A MEDICAL REPORT SUBMITTED PURSUANT TO SECTION
10 12-36-135, C.R.S., WHEN THE VICTIM HAS CONSENTED TO EVIDENCE
11 TESTING, SHALL BE SUBMITTED TO THE COLORADO BUREAU OF
12 INVESTIGATION OR ANOTHER LABORATORY AND TESTED, PURSUANT TO
13 SECTION 24-33.5-113, C.R.S., REGARDLESS OF WHETHER THE VICTIM HAS
14 CHOSEN TO PARTICIPATE IN THE CRIMINAL JUSTICE SYSTEM.

15 **SECTION 3. 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.