

Second Regular Session  
Seventieth General Assembly  
STATE OF COLORADO

REVISED

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

LLS NO. 16-1018.02 Jerry Barry x4341

HOUSE BILL 16-1393

HOUSE SPONSORSHIP

Esgar and Foote,

SENATE SPONSORSHIP

Cooke,

House Committees  
Judiciary

Senate Committees  
State, Veterans, & Military Affairs

A BILL FOR AN ACT

101 CONCERNING PROCEDURES FOR ORDERED TESTING FOR  
102 COMMUNICABLE DISEASES.

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>.)*

Current law provides that a person may be required to submit to a medical test for communicable diseases if the person's or another person's bodily fluid came into contact with another person related to a conviction or finding of probable cause related to an assault in the first, second, or third degree. The bill repeals these provisions and substitutes a provision authorizing a court to issue a search warrant for a person's bodily fluid if

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  
2nd Reading Unamended  
May 3, 2016

HOUSE  
3rd Reading Unamended  
April 29, 2016

HOUSE  
Amended 2nd Reading  
April 28, 2016

probable cause exists to believe that an assault has been committed and that the person's or another person's bodily fluid came into contact with another person.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 16-3-303.8 as  
3 follows:

4 **16-3-303.8. Testing for communicable diseases - court order**  
5 **required - definitions.** (1) AS USED IN THIS SECTION, UNLESS THE  
6 CONTEXT OTHERWISE REQUIRES:

7 (a) "COMMUNICABLE DISEASE" MEANS A DISEASE OR INFECTION  
8 THAT IS SPREAD FROM ONE PERSON TO ANOTHER THROUGH THE EXCHANGE  
9 OF BLOOD OR OTHER BODILY FLUID AND THE HUMAN IMMUNODEFICIENCY  
10 VIRUS (HIV).

11 (b) "EMERGENCY MEDICAL CARE PROVIDER" HAS THE SAME  
12 MEANING AS DEFINED IN SECTION 18-3-201 (1), C.R.S.

13 (c) "EMERGENCY MEDICAL SERVICE PROVIDER" HAS THE SAME  
14 MEANING AS DEFINED IN SECTION 18-3-201 (1.3), C.R.S.

15 (d) "FIREFIGHTER" HAS THE SAME MEANING AS DEFINED IN  
16 SECTION 18-3-201 (1.5), C.R.S.

17 (e) "PEACE OFFICER" MEANS ANY PERSON DESCRIBED IN SECTION  
18 16-2.5-101.

19 (2) **Consent.** UNLESS A PERSON HAS ADMITTED THAT HE OR SHE  
20 HAS A COMMUNICABLE DISEASE AND PROVIDES CONFIRMATION OF THE  
21 DISEASE, A LAW ENFORCEMENT AGENCY SHALL ASK A PERSON TO  
22 VOLUNTARILY CONSENT TO A BLOOD TEST TO DETERMINE IF THE PERSON  
23 HAS A COMMUNICABLE DISEASE IF:

24 (a) THE PERSON COMMITTED AN ASSAULT IN THE FIRST DEGREE, IN

1 VIOLATION OF SECTION 18-3-202, C.R.S.; ASSAULT IN THE SECOND DEGREE  
2 IN VIOLATION OF SECTION 18-3-203, C.R.S.; OR ASSAULT IN THE THIRD  
3 DEGREE IN VIOLATION OF SECTION 18-3-204, C.R.S.; AND

4 (b) DURING OR AS A RESULT OF THE ASSAULT, THE PERSON'S  
5 BLOOD OR OTHER BODILY FLUID CAME INTO CONTACT WITH ANY VICTIM OF  
6 THE ASSAULT, A PEACE OFFICER, FIREFIGHTER, OR EMERGENCY MEDICAL  
7 CARE PROVIDER, OR AN EMERGENCY MEDICAL SERVICE PROVIDER, AND  
8 THERE IS REASON TO BELIEVE, BASED ON INFORMATION FROM A MEDICAL  
9 PROFESSIONAL, THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT,  
10 OR A LOCAL HEALTH AGENCY, THAT THE VICTIM OF THE ASSAULT, PEACE  
11 OFFICER, FIREFIGHTER, EMERGENCY MEDICAL CARE PROVIDER, OR  
12 EMERGENCY MEDICAL SERVICE PROVIDER IS AT RISK OF TRANSMISSION OF  
13 A COMMUNICABLE DISEASE.

14 (3) **Application.** (a) A COURT SHALL ORDER A PERSON TO SUBMIT  
15 BLOOD REQUIRED FOR A TEST FOR COMMUNICABLE DISEASES IF AN  
16 AFFIDAVIT SWORN TO OR AFFIRMED BEFORE THE JUDGE ESTABLISHES THE  
17 FOLLOWING GROUNDS FOR THE ORDER:

18 (I) THERE IS PROBABLE CAUSE THAT A PERSON COMMITTED THE  
19 CRIME OF ASSAULT IN THE FIRST DEGREE, IN VIOLATION OF SECTION  
20 18-3-202, C.R.S.; ASSAULT IN THE SECOND DEGREE IN VIOLATION OF  
21 SECTION 18-3-203, C.R.S.; OR ASSAULT IN THE THIRD DEGREE IN  
22 VIOLATION OF SECTION 18-3-204, C.R.S.;

23 (II) THE PERSON HAS BEEN ASKED TO VOLUNTARILY SUBMIT TO A  
24 BLOOD TEST FOR A COMMUNICABLE DISEASE AND THE PERSON HAS  
25 REFUSED; AND

26 (III) THERE IS PROBABLE CAUSE TO BELIEVE THAT THE PERSON'S  
27 BLOOD OR OTHER BODILY FLUID CAME INTO CONTACT WITH ANY VICTIM

1 OF THE ASSAULT, PEACE OFFICER, FIREFIGHTER, OR EMERGENCY MEDICAL  
2 CARE PROVIDER, OR EMERGENCY MEDICAL SERVICE PROVIDER, AND THERE  
3 IS REASON TO BELIEVE, BASED ON INFORMATION FROM A MEDICAL  
4 PROFESSIONAL, THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT,  
5 OR A LOCAL HEALTH AGENCY, THAT THE VICTIM OF THE ASSAULT, PEACE  
6 OFFICER, FIREFIGHTER, EMERGENCY MEDICAL CARE PROVIDER, OR  
7 EMERGENCY MEDICAL SERVICE PROVIDER IS AT RISK OF TRANSMISSION OF  
8 A COMMUNICABLE DISEASE.

9 (b) THE AFFIDAVIT REQUIRED BY PARAGRAPH (a) OF THIS  
10 SUBSECTION (3) MAY INCLUDE SWORN TESTIMONY REDUCED TO WRITING  
11 AND SIGNED UNDER OATH BY THE WITNESS GIVING THE TESTIMONY  
12 BEFORE THE ISSUANCE OF THE COURT ORDER. A COPY OF THE AFFIDAVIT  
13 AND A COPY OF THE TRANSCRIPT OF TESTIMONY TAKEN IN SUPPORT OF THE  
14 REQUEST FOR THE COURT ORDER MUST BE ATTACHED TO A COURT ORDER  
15 ISSUED PURSUANT TO THIS SECTION.

16 (4) **Order.** IF THE COURT IS SATISFIED THAT GROUNDS FOR THE  
17 APPLICATION EXIST OR THAT THERE IS PROBABLE CAUSE TO BELIEVE THAT  
18 THE GROUNDS EXIST, THE COURT SHALL ISSUE THE COURT ORDER, WHICH  
19 SHALL:

20 (a) IDENTIFY THE NAME OR DESCRIPTION OF THE INDIVIDUAL WHO  
21 IS TO GIVE THE BLOOD;

22 (b) IDENTIFY THE NAMES OF ANY PERSONS MAKING AFFIDAVITS  
23 FOR ISSUANCE OF THE ORDER;

24 (c) IDENTIFY THE CRIMINAL OFFENSE CONCERNING WHICH THE  
25 ORDER HAS BEEN ISSUED;

26 (d) IDENTIFY THE NAME OF THE VICTIM OF THE ASSAULT, PEACE  
27 OFFICER, FIREFIGHTER, EMERGENCY MEDICAL CARE PROVIDER, OR

1 EMERGENCY MEDICAL SERVICE PROVIDER;

2 (e) INCLUDE A MANDATE TO THE OFFICER TO WHOM THE ORDER IS  
3 DIRECTED TO DETAIN THE PERSON FOR ONLY SUCH TIME AS IS NECESSARY  
4 TO OBTAIN THE BLOOD; AND

5 (f) INCLUDE THE TYPEWRITTEN OR PRINTED NAME OF THE JUDGE  
6 ISSUING THE ORDER AND HIS OR HER SIGNATURE.

7 (5) **Execution and return.** (a) THE BLOOD TESTS MUST BE  
8 CONDUCTED UNDER MEDICAL SUPERVISION. A PERSON WHO APPEARS  
9 UNDER AN ORDER OF APPEARANCE ISSUED PURSUANT TO THIS SECTION  
10 SHALL NOT BE DETAINED LONGER THAN IS REASONABLY NECESSARY TO  
11 OBTAIN THE BLOOD UNLESS HE OR SHE IS ARRESTED FOR AN OFFENSE.

12 (b) THE ORDER MAY BE EXECUTED AND RETURNED ONLY WITHIN  
13 THIRTY-FIVE DAYS AFTER ITS ISSUANCE.

14 (c) THE OFFICER EXECUTING THE ORDER SHALL GIVE A COPY OF  
15 THE ORDER TO THE PERSON UPON WHOM IT IS SERVED.

16 (6) **Disclosure of results and confidentiality.** (a) THE RESULTS  
17 OF ANY TEST ON THE BLOOD OBTAINED PURSUANT TO AN ORDER ISSUED  
18 UNDER THIS SECTION MUST BE REPORTED TO THE COURT OR THE COURT'S  
19 DESIGNEE, WHO SHALL THEN DISCLOSE THE RESULTS TO ANY PERSON  
20 NAMED IN PARAGRAPH (d) OF SUBSECTION (4) OF THIS SECTION WHO  
21 REQUESTS THE DISCLOSURE.

22 (b) EXCEPT AS REQUIRED BY PARAGRAPH (a) OF THIS SUBSECTION  
23 (6), THE COURT SHALL KEEP THE TEST RESULTS, DISCLOSURE OF THE TEST  
24 RESULTS, AND ANY RECORDS RELATING TO THE TEST RESULTS OR THE  
25 DISCLOSURE OF THE TEST RESULTS CONFIDENTIAL.

26 (7) **Voluntary submission.** IF A PERSON DESCRIBED IN  
27 PARAGRAPH (a) OF SUBSECTION (3) OF THIS SECTION VOLUNTARILY

1 SUBMITS TO A TEST FOR COMMUNICABLE DISEASES, THE FACT OF THE  
2 PERSON'S VOLUNTARY SUBMISSION IS ADMISSIBLE IN MITIGATION OF  
3 SENTENCE IF THE PERSON IS CONVICTED OF THE CHARGED OFFENSE.

4 **SECTION 2.** In Colorado Revised Statutes, 18-1.3-602, **add** (3)  
5 (a.5) as follows:

6 **18-1.3-602. Definitions.** As used in this part 6, unless the context  
7 otherwise requires:

8 (3) (a.5) "RESTITUTION" INCLUDES, FOR A PERSON CONVICTED OF  
9 ASSAULT IN THE FIRST, SECOND, OR THIRD DEGREE, AS DESCRIBED IN  
10 SECTION 18-3-202, 18-3-203, OR 18-3-204, ALL OR ANY PORTION OF THE  
11 FINANCIAL OBLIGATIONS OF MEDICAL TESTS PERFORMED ON AND  
12 TREATMENT PRESCRIBED FOR A VICTIM, PEACE OFFICER, FIREFIGHTER,  
13 EMERGENCY MEDICAL CARE PROVIDER, OR EMERGENCY MEDICAL SERVICE  
14 PROVIDER.

15 **SECTION 3.** In Colorado Revised Statutes, 18-3-202, **repeal** (3).

16 **SECTION 4.** In Colorado Revised Statutes, 18-3-203, **repeal** (3).

17 **SECTION 5.** In Colorado Revised Statutes, 18-3-204, **repeal** (2).

18 **SECTION 6. Effective date.** This act takes effect July 1, 2016.

19 **SECTION 7. Safety clause.** The general assembly hereby finds,  
20 determines, and declares that this act is necessary for the immediate  
21 preservation of the public peace, health, and safety.