

**First Regular Session
Seventy-first General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 17-0611.01 Richard Sweetman x4333

HOUSE BILL 17-1322

HOUSE SPONSORSHIP

Esgar and Landgraf,

SENATE SPONSORSHIP

Donovan,

House Committees

Judiciary

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING AN EXCEPTION TO THE REQUIREMENT THAT CERTAIN**
102 **MEDICAL PROFESSIONALS REPORT TO LAW ENFORCEMENT**
103 **CONCERNING INJURIES RESULTING FROM DOMESTIC VIOLENCE.**

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://leg.colorado.gov>.)

Current law requires any licensed physician, physician assistant, or anesthesiologist assistant (licensee) who attends or treats any of certain injuries, 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.

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.*

The bill states that a licensee shall not report an injury that the licensee has reason to believe involves an act of domestic violence if:

- ! The victim of the injury is at least 18 years of age and indicates his or her preference that the injury not be reported;
- ! The injury is not an injury that the licensee is otherwise required to report;
- ! The licensee has no reason to believe that the injury involves a criminal act other than domestic violence; and
- ! The licensee has referred the victim to a victim's advocate.

The licensee shall document the victim's request in the victim's medical record.

Under current law, any licensee who, in good faith, makes such a report of an injury is immune from any liability, civil or criminal, that might otherwise be incurred or imposed with respect to the making of the report. The bill states that a licensee who does not make a report under the new conditions described in the bill is also immune to such liability.

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 **(2); and add (1)(a)(III), (1)(a)(IV), and (1)(a)(V) as follows:**

4 **12-36-135. Injuries to be reported - penalty for failure to**
5 **report - immunity from liability. (1)(a)(III)** NOTWITHSTANDING THE
6 REPORTING REQUIREMENT DESCRIBED IN SUBSECTION (1)(a)(I)(C) OF THIS
7 SECTION, A LICENSEE **IS NOT REQUIRED TO** REPORT AN INJURY THAT THE
8 LICENSEE HAS REASON TO BELIEVE OCCURRED AS A RESULT OF DOMESTIC
9 VIOLENCE IF:

10 (A) THE VICTIM OF THE INJURY IS AT LEAST EIGHTEEN YEARS OF
11 AGE AND INDICATES HIS OR HER PREFERENCE THAT THE INJURY NOT BE
12 REPORTED;

13 (B) THE INJURY IS NOT AN INJURY THAT THE LICENSEE IS REQUIRED
14 TO REPORT PURSUANT TO SUBSECTION (1)(a)(I)(A) OR (1)(a)(I)(B) OF THIS
15 SECTION; **AND**

16 (C) THE LICENSEE HAS NO REASON TO BELIEVE THAT THE INJURY

1 INVOLVES A CRIMINAL ACT OTHER THAN DOMESTIC VIOLENCE.

2 (IV) IF A LICENSEE HAS REASON TO BELIEVE THAT AN INJURY
3 RESULTED FROM AN ACT OF DOMESTIC VIOLENCE, HE OR SHE SHALL REFER
4 THE VICTIM TO A VICTIM'S ADVOCATE, AS DEFINED IN SECTION 13-90-107
5 (1)(k)(II), REGARDLESS OF WHETHER THE LICENSEE REPORTS THE INJURY
6 TO LAW ENFORCEMENT.

7 (V) IF, PURSUANT TO A VICTIM'S REQUEST, A LICENSEE DOES NOT
8 REPORT AN INJURY THAT THE LICENSEE HAS REASON TO BELIEVE
9 OCCURRED AS A RESULT OF DOMESTIC VIOLENCE, AS DESCRIBED IN
10 SUBSECTION (1)(a)(III) OF THIS SECTION, THE LICENSEE SHALL DOCUMENT
11 THE VICTIM'S REQUEST IN THE VICTIM'S MEDICAL RECORD.

12 (2) Any licensee who, in good faith, makes a report pursuant to
13 subsection (1) of this section ~~shall have immunity~~ OR DOES NOT MAKE A
14 REPORT AS DESCRIBED IN SUBSECTION (1)(a)(III) OF THIS SECTION IS
15 IMMUNE from any liability, civil or criminal, that might otherwise be
16 incurred or imposed with respect to the making of such report, and ~~shall~~
17 ~~have~~ HAS the same immunity with respect to participation in any judicial
18 proceeding resulting from such report.

19 **SECTION 2. Act subject to petition - effective date.** This act
20 takes effect at 12:01 a.m. on the day following the expiration of the
21 ninety-day period after final adjournment of the general assembly (August
22 9, 2017, if adjournment sine die is on May 10, 2017); except that, if a
23 referendum petition is filed pursuant to section 1 (3) of article V of the
24 state constitution against this act or an item, section, or part of this act
25 within such period, then the act, item, section, or part will not take effect
26 unless approved by the people at the general election to be held in

- 1 November 2018 and, in such case, will take effect on the date of the
- 2 official declaration of the vote thereon by the governor.