

**Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 20-0866.01 Jerry Barry x4341

HOUSE BILL 20-1228

HOUSE SPONSORSHIP

Froelich,

SENATE SPONSORSHIP

Danielson,

House Committees

Judiciary
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING FORENSIC MEDICAL EVIDENCE OF SEXUAL 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://leg.colorado.gov>.)

The bill requires the division of criminal justice in the department of public safety (division) to research the creation of a statewide system to track forensic medical evidence related to a sexual assault (medical evidence) whereby victims may access specified information concerning the medical evidence. The division shall report its findings to specified committees of the general assembly.

The bill requires the medical professional collecting the medical evidence to inform victims of the contact information for the nearest

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

sexual assault victim's advocate, the length of time that medical evidence must be preserved, and their right to be notified of the destruction of the medical evidence.

If a conviction or plea has not been entered in a case, the bill requires the entity holding the medical evidence to notify the victim prior to the medical evidence being destroyed and to maintain the medical evidence for an additional 10 years if the victim objects to the destruction.

The bill requires the executive director of the department of public safety to promulgate rules requiring the entity holding medical evidence to maintain the medical evidence until the statute of limitations on commencing a criminal action has passed.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 24-33.5-524 as
3 follows:

4 **24-33.5-524. Tracking forensic medical evidence in sexual**
5 **assault cases - study - report - definitions - repeal.** (1) AS USED IN THIS
6 SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

7 (a) "FORENSIC MEDICAL EVIDENCE" MEANS MEDICAL EVIDENCE
8 COLLECTED IN CONNECTION WITH AN ALLEGED SEXUAL ASSAULT.

9 (b) "TRACKING SYSTEM" MEANS A UNIFORM STATEWIDE SYSTEM
10 TO TRACK THE LOCATION, LAB SUBMISSION STATUS, COMPLETION OF
11 FORENSIC TESTING, AND STORAGE OF FORENSIC MEDICAL EVIDENCE.

12 (2) THE DIVISION SHALL, AS SOON AS PRACTICABLE BUT NOT LATER
13 THAN DECEMBER 1, 2020:

14 (a) RESEARCH OPTIONS TO CREATE A TRACKING SYSTEM AND
15 DEVELOP GUIDELINES AND A PLAN TO IMPLEMENT SUCH A SYSTEM;

16 (b) DEVELOP GUIDELINES AND A PLAN TO IMPLEMENT A TRACKING
17 SYSTEM WITH SECURE ELECTRONIC ACCESS THAT ALLOWS A VICTIM, OR
18 THE VICTIM'S DESIGNEE, TO ACCESS OR RECEIVE INFORMATION ABOUT THE
19 LOCATION, LAB SUBMISSION STATUS, COMPLETION OF FORENSIC TESTING,

1 AND STORAGE OF FORENSIC MEDICAL EVIDENCE THAT WAS GATHERED
2 FROM THE VICTIM, PROVIDED THAT THE DISCLOSURE DOES NOT IMPEDE OR
3 COMPROMISE AN ONGOING INVESTIGATION AND REVEAL THE VICTIM'S
4 CURRENT LOCATION;

5 (c) DEVELOP GUIDELINES AND A PLAN TO SAFEGUARD
6 CONFIDENTIALITY AND LIMITED DISCLOSURE OF THE INFORMATION
7 CONTAINED IN THE TRACKING SYSTEM;

8 (d) ESTIMATE THE MONEY, RESOURCES, AND TRAINING NEEDED TO
9 CREATE, MANAGE, AND MAINTAIN THE TRACKING SYSTEM;

10 (e) RECOMMEND SOURCES OF PUBLIC AND PRIVATE FUNDING TO
11 IMPLEMENT THE PLANS DEVELOPED PURSUANT TO THIS SUBSECTION (2);

12 (f) RECOMMEND CHANGES TO LAW OR POLICY REQUIRED TO
13 SUPPORT THE IMPLEMENTATION OF THE PLANS DEVELOPED PURSUANT TO
14 THIS SUBSECTION (2); AND

15 (g) REPORT THE DIVISION'S FINDINGS, RECOMMENDATIONS, AND
16 ANY PROPOSED LEGISLATION TO THE JUDICIARY COMMITTEES OF THE
17 HOUSE OF REPRESENTATIVES AND THE SENATE, OR ANY SUCCESSOR
18 COMMITTEES.

19 (3) IN CONDUCTING THE WORK REQUIRED BY SUBSECTION (2) OF
20 THIS SECTION, THE DIVISION SHALL CONSULT WITH REPRESENTATIVES OF
21 LAW ENFORCEMENT, DISTRICT ATTORNEYS, CRIMINAL DEFENSE
22 ATTORNEYS, AND STATEWIDE ORGANIZATIONS REPRESENTING VICTIMS OF
23 SEXUAL ASSAULT.

24 (4) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2021.

25 **SECTION 2.** In Colorado Revised Statutes, 12-240-139, **add**
26 (1)(b)(V) as follows:

27 **12-240-139. Injuries to be reported - penalty for failure to**

1 **report - immunity from liability - definitions.** (1) (b) (V) A LICENSEE
2 OR NURSE WHO PERFORMS A MEDICAL FORENSIC EXAMINATION AS
3 DESCRIBED IN SUBSECTION (1)(b)(I) OF THIS SECTION SHALL INFORM THE
4 VICTIM:

5 (A) OF THE CONTACT INFORMATION FOR THE NEAREST SEXUAL
6 ASSAULT VICTIM'S ADVOCATE; AND

7 (B) THAT ANY FORENSIC MEDICAL EVIDENCE COLLECTED MUST BE
8 MAINTAINED UNTIL AFTER THE ASSAILANT MAY NO LONGER BE
9 PROSECUTED FOR THE CRIME AND THAT THE VICTIM MUST BE NOTIFIED
10 PRIOR TO THE DESTRUCTION OF SUCH EVIDENCE.

11 **SECTION 3.** In Colorado Revised Statutes, 24-4.1-302.5, **add**
12 (1)(b.8) as follows:

13 **24-4.1-302.5. Rights afforded to victims - definitions.** (1) In
14 order to preserve and protect a victim's rights to justice and due process,
15 each victim of a crime has the following rights:

16 (b.8) FOR A VICTIM OF AN ALLEGED SEX OFFENSE THAT HAS NOT
17 RESULTED IN A CONVICTION OR PLEA OF GUILTY:

18 (I) THE RIGHT TO BE INFORMED AT LEAST SIXTY DAYS PRIOR TO
19 THE DESTRUCTION OF FORENSIC MEDICAL EVIDENCE COLLECTED IN
20 CONNECTION WITH THE ALLEGED SEX OFFENSE; AND

21 (II) THE RIGHT TO FILE, PRIOR TO THE EXPIRATION OF THE
22 SIXTY-DAY PERIOD, AN OBJECTION WITH THE LAW ENFORCEMENT AGENCY,
23 THE COLORADO BUREAU OF INVESTIGATION, OR THE ACCREDITED CRIME
24 LABORATORY THAT IS PROPOSING TO DESTROY THE FORENSIC MEDICAL
25 EVIDENCE.

26 **SECTION 4.** In Colorado Revised Statutes, 24-4.1-303, **add**
27 (14.9) as follows:

1 **24-4.1-303. Procedures for ensuring rights of victims of**
2 **crimes.** (14.9) (a) IF, IN A CASE OF AN ALLEGED SEX OFFENSE THAT HAS
3 NOT RESULTED IN A CONVICTION OR PLEA OF GUILTY, THE LAW
4 ENFORCEMENT AGENCY, THE COLORADO BUREAU OF INVESTIGATION, OR
5 THE ACCREDITED CRIME LABORATORY WITH CUSTODY OF FORENSIC
6 MEDICAL EVIDENCE WANTS TO DESTROY THE EVIDENCE, IT SHALL NOTIFY
7 THE VICTIM AT LEAST SIXTY DAYS PRIOR TO THE DESTRUCTION OF THE
8 FORENSIC MEDICAL EVIDENCE.

9 (b) WHEN A VICTIM OBJECTS TO THE DESTRUCTION OF FORENSIC
10 MEDICAL EVIDENCE AFTER RECEIVING NOTICE PURSUANT TO SUBSECTION
11 (14.9)(a) OF THIS SECTION, THE LAW ENFORCEMENT AGENCY, THE
12 COLORADO BUREAU OF INVESTIGATION, OR THE ACCREDITED CRIME
13 LABORATORY SHALL RETAIN THE FORENSIC MEDICAL EVIDENCE FOR AN
14 ADDITIONAL TEN YEARS.

15 **SECTION 5.** In Colorado Revised Statutes, 24-33.5-113, **add**
16 (1)(c) as follows:

17 **24-33.5-113. Forensic medical evidence in sexual assault cases**
18 **- rules - testing - confidentiality.** (1) **Rules.** (c) IN ADDITION TO THE
19 RULES REQUIRED BY SUBSECTION (1)(b) OF THIS SECTION, ON OR BEFORE
20 OCTOBER 1, 2020, THE EXECUTIVE DIRECTOR SHALL PROMULGATE OR
21 AMEND RULES TO REQUIRE THAT, UNLESS THE EVIDENCE HAS BEEN USED
22 TO POSITIVELY IDENTIFY A DEFENDANT WHO IS CONVICTED OR PLED
23 GUILTY TO A CRIME ASSOCIATED WITH THE ALLEGED SEXUAL ASSAULT,
24 LAW ENFORCEMENT AGENCIES, THE COLORADO BUREAU OF
25 INVESTIGATION, OR ACCREDITED CRIME LABORATORIES MAINTAIN
26 FORENSIC MEDICAL EVIDENCE COLLECTED IN CONNECTION WITH AN
27 ALLEGED SEXUAL ASSAULT FOR THE PERIOD OF TIME IN WHICH THE ADULT

1 OR JUVENILE MAY BE PROSECUTED PURSUANT TO SECTION 16-5-401 (8)(a).
2 THE RULES PROMULGATED PURSUANT TO THIS SUBSECTION (1)(c) APPLY
3 TO EVIDENCE COLLECTED ON, BEFORE, OR AFTER THE EFFECTIVE DATE OF
4 THIS SUBSECTION (1)(c).

5 **SECTION 6. Act subject to petition - effective date.** This act
6 takes effect at 12:01 a.m. on the day following the expiration of the
7 ninety-day period after final adjournment of the general assembly (August
8 5, 2020, if adjournment sine die is on May 6, 2020); except that, if a
9 referendum petition is filed pursuant to section 1 (3) of article V of the
10 state constitution against this act or an item, section, or part of this act
11 within such period, then the act, item, section, or part will not take effect
12 unless approved by the people at the general election to be held in
13 November 2020 and, in such case, will take effect on the date of the
14 official declaration of the vote thereon by the governor.