

Second Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 26-0722.01 Eden Rolland x2373

SENATE BILL 26-162

SENATE SPONSORSHIP

Frizell and Mullica,

HOUSE SPONSORSHIP

Hartsook and Hamrick,

Senate Committees
Health & Human Services

House Committees

A BILL FOR AN ACT

101 CONCERNING RELEASING HEALTH-CARE TEST RESULTS TO PATIENTS.

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>.)

Beginning July 1, 2027, the bill prohibits the immediate release of a patient's sensitive test results to the patient's electronic health record or through a patient portal. Instead, the bill requires that sensitive test results, once they are finalized, not be released as part of the patient's electronic health record or through a patient portal for 3 business days.

The bill establishes 2 exceptions to this requirement: Sensitive test results may be immediately released as part of the patient's electronic health record or through a patient portal if the patient's health-care

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

provider authorizes immediate release of the results or if the patient requests to receive the sensitive test results of a particular test without delay.

The bill defines "sensitive test results" as:

- A pathology or radiology report that is ordered for the purpose of diagnosing or monitoring a patient for cancer; or
- Test results that may reveal a genetic marker that relates to a cancer condition.

The bill specifies that a custodian of a patient's electronic health record that contains sensitive test results is responsible for implementing the requirements of the bill. A person that fails to comply with the requirements of the bill is not subject to civil, criminal, or administrative liability or professional disciplinary action.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 12-30-126 as
3 follows:

4 **12-30-126. Sensitive test results protection act - prohibition**
5 **against early release - exceptions - short title - legislative declaration**
6 **- definitions.**

7 (1) **Short title.** THE SHORT TITLE OF THIS SECTION IS THE
8 "SENSITIVE TEST RESULTS PROTECTION ACT".

9 (2) **Legislative declaration.**

10 (a) THE GENERAL ASSEMBLY FINDS THAT:

11 (I) THE FEDERAL "21ST CENTURY CURES ACT", PUB.L. 114-255,
12 130 STAT. 1033, ESTABLISHES STANDARDS AND REQUIREMENTS FOR
13 PROVIDING PATIENTS WITH ACCESS TO THEIR ELECTRONIC HEALTH
14 INFORMATION. THE FEDERAL ACT ALSO STATES THAT INFORMATION
15 BLOCKING BY HEALTH-CARE PROVIDERS, INCLUDING PHYSICIANS, IS A
16 PRACTICE THAT IS LIKELY TO INTERFERE WITH, PREVENT, OR MATERIALLY
17 DISCOURAGE THE ACCESS, EXCHANGE, OR USE OF ELECTRONIC HEALTH

1 INFORMATION.

2 (II) THE FEDERAL ACT ALLOWS STATES TO ESTABLISH EXCEPTIONS
3 TO THE FEDERAL ACT'S REQUIREMENTS;

4 (III) REGULATIONS IMPLEMENTING THE FEDERAL ACT REQUIRE THE
5 ELECTRONIC RELEASE OF ALL TEST RESULTS TO PATIENTS IMMEDIATELY,
6 BEFORE PATIENTS HAVE AN OPPORTUNITY TO TALK WITH THEIR PHYSICIAN
7 OR HEALTH-CARE PROVIDER ABOUT THE TEST RESULTS. THIS
8 REQUIREMENT CAN POTENTIALLY LEAD TO PATIENT CONFUSION AND
9 PROLONGED OR UNNECESSARY CONCERN ABOUT THE TEST RESULTS.

10 (IV) PATIENTS HAVE A FUNDAMENTAL RIGHT TO ACCESS THEIR
11 OWN HEALTH INFORMATION. HOWEVER, FEDERAL REGULATIONS DO NOT
12 CONTEMPLATE A BRIEF AND PURPOSEFUL DELAY IN THE RELEASE OF TEST
13 RESULTS TO AFFORD A PATIENT'S PHYSICIAN OR HEALTH-CARE PROVIDER
14 AN OPPORTUNITY TO ACCOMMODATE THE PATIENT'S PREFERENCES OR
15 CONTACT THE PATIENT ABOUT SENSITIVE TEST RESULTS.

16 (V) RULES AND STANDARDS CONCERNING COMMUNICATING WITH
17 PATIENTS SHOULD REFLECT THE COMPLEXITIES AND CONSEQUENCES OF
18 RELEASING SENSITIVE TEST RESULTS TO PATIENTS. THIS IS ESPECIALLY THE
19 CASE WHEN COMMUNICATING WITH A PATIENT ABOUT SENSITIVE TEST
20 RESULTS OR WHEN A PATIENT'S UNDERSTANDING OF SENSITIVE TEST
21 RESULTS MAY BENEFIT FROM A PHYSICIAN'S OR HEALTH-CARE PROVIDER'S
22 REVIEW OF THE RESULTS BEFORE THE RESULTS ARE RELEASED AND MADE
23 AVAILABLE TO THE PATIENT AS PART OF THE PATIENT'S ELECTRONIC
24 HEALTH RECORD OR THROUGH A PATIENT PORTAL.

25 (VI) IF A RADIOLOGIC TEST, GENETIC MARKER TEST, OR
26 PATHOLOGIC EXAM REPORT REVEALS RESULTS THAT ARE LIKELY TO BE
27 DISTRESSING TO OR UNEXPECTED BY THE PATIENT, THE PHYSICIAN OR

1 HEALTH-CARE PROVIDER WHO ORDERED THE TEST OR EXAM SHOULD HAVE
2 AN OPPORTUNITY TO REVIEW THE RESULTS BEFORE THE RESULTS ARE
3 RELEASED AND MADE AVAILABLE TO THE PATIENT AS PART OF THE
4 PATIENT'S ELECTRONIC HEALTH RECORD OR THROUGH A PATIENT PORTAL.
5 IN THIS WAY, THE PHYSICIAN OR HEALTH-CARE PROVIDER MAY SHARE THE
6 RESULTS MORE PERSONALLY WITH THE PATIENT, PROVIDE APPROPRIATE
7 MEDICAL GUIDANCE AND SUPPORT, ANSWER QUESTIONS ABOUT PROGNOSIS
8 AND TREATMENT OPTIONS, AND GATHER APPROPRIATE RESOURCES FOR
9 THE PATIENT.

10 (VII) A PATIENT WHO WISHES TO RECEIVE THEIR SENSITIVE TEST
11 RESULTS IMMEDIATELY SHOULD STILL BE ABLE TO REQUEST TO RECEIVE
12 TEST RESULTS WITHOUT DELAY.

13 (b) THE GENERAL ASSEMBLY, THEREFORE, DECLARES THAT
14 PATIENTS SHOULD BE PROTECTED FROM THE RISK OF MISUNDERSTANDING
15 SENSITIVE TEST RESULTS WITHOUT THE BENEFIT OF THE REVIEW AND
16 GUIDANCE OF THE PHYSICIAN OR HEALTH-CARE PROVIDER WHO ORDERED
17 THE TEST OR EXAM. THERE SHOULD BE AN EXCEPTION TO THE FEDERAL
18 ACT'S REQUIREMENT THAT SENSITIVE TEST RESULTS BE RELEASED TO A
19 PATIENT IMMEDIATELY AFTER THE RESULTS ARE FINALIZED REGARDLESS
20 OF THE SENSITIVITY OF THE TEST RESULTS OR THE PATIENT'S WISHES.
21 INSTEAD, A PHYSICIAN OR HEALTH-CARE PROVIDER WHO ORDERS A TEST
22 OR EXAM SHOULD HAVE AN OPPORTUNITY TO REVIEW SENSITIVE TEST
23 RESULTS BEFORE THEY ARE RELEASED AND MADE AVAILABLE TO THE
24 PATIENT AS PART OF THE PATIENT'S ELECTRONIC HEALTH RECORD OR
25 THROUGH A PATIENT PORTAL.

26 (3) **Definitions.** AS USED IN THIS SECTION, UNLESS THE CONTEXT
27 OTHERWISE REQUIRES:

1 (a) (I) "CUSTODIAN" MEANS A HEALTH-CARE FACILITY, ENTITY, OR
2 INDIVIDUAL HEALTH-CARE PROVIDER THAT HAS CUSTODY OF A PATIENT'S
3 ELECTRONIC HEALTH RECORD, WHICH ELECTRONIC HEALTH RECORD
4 CONTAINS SENSITIVE TEST RESULTS, AND THAT IS:

5 (A) A HEALTH-CARE FACILITY OR ENTITY FROM WHICH AN ORDER
6 FOR SENSITIVE TEST RESULTS ORIGINATES; OR

7 (B) AN INDIVIDUAL HEALTH-CARE PROVIDER WHO ORDERS
8 SENSITIVE TEST RESULTS.

9 (II) "CUSTODIAN" INCLUDES:

10 (A) A HEALTH-CARE FACILITY LICENSED OR CERTIFIED PURSUANT
11 TO SECTION 25-1.5-103 (1)(a)(I)(A);

12 (B) A HEALTH-CARE FACILITY LICENSED OR CERTIFIED PURSUANT
13 TO ARTICLE 3 OF TITLE 25;

14 (C) ANY ENTITY REGULATED UNDER TITLE 10 THAT PROVIDES
15 HEALTH-CARE SERVICES, AS DEFINED IN SECTION 10-16-102 (33),
16 DIRECTLY OR INDIRECTLY THROUGH A MANAGED CARE PLAN, AS DEFINED
17 IN SECTION 10-16-102 (43); OR

18 (D) AN INDIVIDUAL HEALTH-CARE PROVIDER WHO IS SUBJECT TO
19 LICENSURE UNDER THIS TITLE 12 AND WHO IS AUTHORIZED TO ORDER
20 SENSITIVE TEST RESULTS.

21 (b) "ELECTRONIC HEALTH RECORD" HAS THE SAME MEANING AS
22 "QUALIFIED EHR" AS DEFINED IN 45 CFR 170.102.

23 (c) "FEDERAL ACT" MEANS THE FEDERAL "21ST CENTURY CURES
24 ACT", PUB.L. 114-255, 130 STAT. 1033.

25 (d) "PATIENT PORTAL" MEANS A SECURE ONLINE SYSTEM THAT
26 PROVIDES A PATIENT WITH ELECTRONIC ACCESS TO THEIR PERSONAL
27 HEALTH INFORMATION AND THAT DIRECTLY LINKS TO AN ELECTRONIC

1 HEALTH RECORD.

2 (e) "SENSITIVE TEST RESULT" MEANS:

3 (I) A PATHOLOGY REPORT OR RADIOLOGY REPORT THAT IS
4 ORDERED FOR THE PURPOSE OF DIAGNOSING OR MONITORING A PATIENT
5 FOR CANCER; OR

6 (II) A TEST RESULT THAT MAY REVEAL A GENETIC MARKER THAT
7 RELATES TO A CANCER CONDITION.

8 (4) **Prohibition against immediate release of sensitive test**
9 **results - exceptions.**

10 (a) BEGINNING JULY 1, 2027, EXCEPT AS PERMITTED UNDER
11 SUBSECTION (4)(b) OF THIS SECTION, SENSITIVE TEST RESULTS SHALL NOT
12 BE RELEASED OR BE MADE AVAILABLE TO A PATIENT AS PART OF THE
13 PATIENT'S ELECTRONIC HEALTH RECORD OR THROUGH A PATIENT PORTAL
14 EARLIER THAN THREE BUSINESS DAYS AFTER THE SENSITIVE TEST RESULTS
15 ARE FINALIZED.

16 (b) SENSITIVE TEST RESULTS MAY BE RELEASED AND BE MADE
17 AVAILABLE TO A PATIENT AS PART OF THE PATIENT'S ELECTRONIC HEALTH
18 RECORD OR THROUGH A PATIENT PORTAL IMMEDIATELY AND WITHOUT
19 DELAY AFTER THE SENSITIVE TEST RESULTS ARE FINALIZED IF:

20 (I) THE PATIENT'S PHYSICIAN OR TREATING HEALTH-CARE
21 PROVIDER AUTHORIZES THE SENSITIVE TEST RESULTS TO BE RELEASED
22 BEFORE THE END OF THE THREE-BUSINESS-DAY PERIOD; OR

23 (II) THE PATIENT REQUESTS TO RECEIVE THE SENSITIVE TEST
24 RESULTS OF A PARTICULAR TEST OR EXAM WITHOUT DELAY, WHICH
25 REQUEST:

26 (A) APPLIES ONLY TO THE RESULTS OF THE SPECIFIED TEST OR
27 EXAM AND DOES NOT APPLY TO THE RESULTS OF A DIFFERENT TEST OR

1 EXAM; AND

2 (B) MUST BE MADE TO THE PHYSICIAN OR TREATING HEALTH-CARE
3 PROVIDER WHO ORDERED THE SENSITIVE TEST RESULTS OR BE MADE
4 ELECTRONICALLY BY MEANS OF THE PATIENT'S ELECTRONIC HEALTH
5 RECORD OR THROUGH THE PATIENT PORTAL.

6 (c) THE CUSTODIAN OR CUSTODIANS OF A PATIENT'S ELECTRONIC
7 HEALTH RECORD SHALL IMPLEMENT THIS SUBSECTION (4).

8 (d) COMPLIANCE WITH THE REQUIREMENTS OF THIS SECTION IS NOT
9 INFORMATION BLOCKING UNDER 42 U.S.C. SEC. 300jj-52.

10 (e) A PERSON IS NOT SUBJECT TO CIVIL, CRIMINAL, OR
11 ADMINISTRATIVE LIABILITY OR PROFESSIONAL DISCIPLINARY ACTION FOR
12 FAILING TO COMPLY WITH THE REQUIREMENTS OF THIS SECTION.

13 **SECTION 2. Act subject to petition - effective date.** This act
14 takes effect at 12:01 a.m. on the day following the expiration of the
15 ninety-day period after final adjournment of the general assembly (August
16 12, 2026, if adjournment sine die is on May 13, 2026); except that, if a
17 referendum petition is filed pursuant to section 1 (3) of article V of the
18 state constitution against this act or an item, section, or part of this act
19 within such period, then the act, item, section, or part will not take effect
20 unless approved by the people at the general election to be held in
21 November 2026 and, in such case, will take effect on the date of the
22 official declaration of the vote thereon by the governor.