

HOUSE COMMITTEE OF REFERENCE REPORT

Chair of Committee

February 27, 2024
Date

Committee on Judiciary.

After consideration on the merits, the Committee recommends the following:

HB24-1072 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

- 1 Amend printed bill, page 2, after line 1 insert:
2 "SECTION 1. Legislative declaration. (1) The general assembly
3 finds that:
4 (a) Sexual violence is a significant public safety and health
5 concern in Colorado;
6 (b) Sexual violence has a serious long-term impact on mental and
7 physical health, resulting in trillions of dollars in costs in the United
8 States;
9 (c) According to the department of public health and environment,
10 one in three Coloradans has experienced sexual violence and eighty
11 percent of those experiences occur prior to the victim turning twenty-five.
12 Furthermore, the likelihood of experiencing sexual violence increases if
13 the person experienced sexual violence prior to the victim turning
14 eighteen.
15 (d) According to the centers for disease control and prevention in
16 the federal department of health and human services, more than one-third
17 of sexual assaults are committed by an intimate partner, leading to a
18 significant crossover of intimate partner violence and sexual violence;
19 (e) Sexual crimes are the most unreported crimes due to many
20 factors, including fear of retaliation, feelings of shame, self-blame, fear of
21 blame, fear of disbelief, fear of the criminal justice process, and complex
22 trauma caused by experiencing sexual violence committed by an intimate
23 partner or friend;
24 (f) The successful prosecution of sexual offenders is abysmally
25 low due to societal myths about sexual crimes resulting in victim blaming,
26 as well as the high rate of victims opting not to participate in the criminal
27 justice system because of a lack of protection from harassment and
28 humiliation;

1 (g) The purpose of section 18-3-407, Colorado Revised Statutes,
2 amended in this act and commonly referred to as the "rape shield statute",
3 is to protect victims and witnesses of sexual crimes from humiliation
4 caused by public disclosure of their intimate lives absent a preliminary
5 showing that evidence will be relevant and that the probative value of the
6 evidence is not substantially outweighed by the presumed prejudicial
7 impact of the evidence on the victim's or witness's privacy and to confuse
8 the issues in the case; and

9 (h) Victims and witnesses of sexual crimes should not be subjected
10 to psychological or emotional abuse in the courtroom as a price for their
11 cooperation in the prosecution, and the defendant must be provided due
12 process in defending against the allegations. Unless victims and witnesses
13 are protected from unnecessary and humiliating inquiries into their sexual
14 history, they will continue to remain silent regarding sexual abuse.

15 (2) Therefore, the general assembly declares it necessary to protect
16 victims and witnesses from irrelevant, humiliating, and degrading
17 interrogation while simultaneously protecting an accused person's right to
18 present a defense. Accordingly, section 18-3-407, Colorado Revised
19 Statutes, must be strengthened and clarified to address barriers that
20 victims face in reporting and participating in the criminal justice process."

21 Renumber succeeding sections accordingly.

22 Page 2, line 3, strike "(1.3) and (1.7)" and substitute "(4)".

23 Page 2, line 6, strike "Evidence" and substitute "~~Evidence~~ SUBJECT TO
24 CONSTITUTIONAL LIMITATIONS, EVIDENCE".

25 Page 3, strike lines 5 through 27.

26 Page 4, strike lines 1 through 6.

27 Page 5, strike lines 7 through 9 and substitute:
28 "FALSE REPORTING OF UNLAWFUL SEXUAL BEHAVIOR IS NOT
29 SUBSTANTIALLY OUTWEIGHED BY THE PRESUMPTIVE UNFAIR PREJUDICE,
30 CONFUSION OF THE ISSUES, MISLEADING OF THE JURY, OR UNFAIR INVASION
31 OF THE PRIVACY OF THE VICTIM OR WITNESS."

32 Page 5, strike lines 13 through 21 and substitute:
33 "ALSO ARTICULATE FACTS THAT WOULD, BY A PREPONDERANCE OF THE
34 EVIDENCE, DEMONSTRATE THAT THE VICTIM OR WITNESS HAS MADE A
35 REPORT OF SEXUAL ASSAULT THAT WAS DEMONSTRABLY FALSE OR FALSE
36 IN FACT PRIOR TO OR SUBSEQUENT TO THE ALLEGED OFFENSE."

1 Page 5, strike line 27, and substitute "THE PROBATIVE VALUE OF THE
2 EVIDENCE IS NOT SUBSTANTIALLY OUTWEIGHED BY THE PROBABILITY
3 THAT ITS ADMISSION WILL CREATE UNFAIR PREJUDICE, CONFUSION OF THE
4 ISSUES, MISLEADING OF THE JURY, OR UNFAIR INVASION OF THE PRIVACY
5 OF THE VICTIM OR WITNESS, the".

6 Page 6, strike lines 1 and 2.

7 Page 6, after line 5 insert:

8 "(4) (a) EVIDENCE OF THE VICTIM'S MANNER OF DRESS OR
9 HAIRSTYLE AT THE TIME OF, PRIOR TO, OR SUBSEQUENT TO THE ALLEGED
10 OFFENSE IS NOT ADMISSIBLE AS EVIDENCE OF THE VICTIM'S CONSENT TO
11 SEXUAL CONTACT, SEXUAL PENETRATION, OR SEXUAL INTRUSION BY THE
12 DEFENDANT IN A CASE INVOLVING UNLAWFUL SEXUAL BEHAVIOR, AS
13 DEFINED IN SECTION 16-22-102 (9); AN OFFENSE DESCRIBED IN PART 4 OF
14 ARTICLE 7 OF THIS TITLE 18; OR AN ATTEMPT OR CONSPIRACY TO COMMIT
15 ANY OF THOSE OFFENSES.

16 (b) FOR PURPOSES OF THIS SECTION, "MANNER OF DRESS" DOES
17 NOT MEAN:

18 (I) TESTIMONY OR PHYSICAL EVIDENCE OF THE VICTIM'S CLOTHING
19 OR ITS PHYSICAL CONDITION AT THE TIME OF, PRIOR TO, OR SUBSEQUENT
20 TO THE ALLEGED OFFENSE, OFFERED AS EVIDENCE FOR A PURPOSE OTHER
21 THAN THE VICTIM'S CONSENT; OR

22 (II) EVIDENCE OF THE VOLUNTARY OR CONSENSUAL REMOVAL OF
23 THE VICTIM'S CLOTHING."

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