

CHAPTER 325

CHILDREN AND DOMESTIC MATTERS

HOUSE BILL 17-1322

BY REPRESENTATIVE(S) Esgar and Landgraf, Arndt, Jackson, Kennedy, Lontine, Melton, Michaelson Jenet, Mitsch Bush, Pabon, Pettersen, Rosenthal, Salazar, Valdez, Winter, Young, Duran;
also SENATOR(S) Donovan and Lundberg, Crowder, Kefalas, Kerr, Martinez Humenik, Merrifield, Smallwood, Tate, Todd.

AN ACT

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

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

SECTION 1. In Colorado Revised Statutes, 12-36-135, **amend** (1)(a)(I)(C) and (2); and **add** (1)(a)(III), (1)(a)(IV), (1)(a)(V), and (1)(a)(VI) as follows:

12-36-135. Injuries to be reported - penalty for failure to report - immunity from liability. (1) (a) (I) Every licensee who attends or treats any of the following injuries shall 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:

(C) Any other injury that the licensee has reason to believe involves a criminal act; ~~including injuries resulting from domestic violence~~ EXCEPT THAT A LICENSEE IS NOT REQUIRED TO REPORT AN INJURY THAT HE OR SHE HAS REASON TO BELIEVE RESULTED FROM DOMESTIC VIOLENCE UNLESS HE OR SHE IS REQUIRED TO REPORT THE INJURY PURSUANT TO SUBSECTION (1)(a)(I)(A) OR (1)(a)(I)(B) OF THIS SECTION OR THE INJURY IS A SERIOUS BODILY INJURY, AS DEFINED IN SECTION 18-1-901 (3)(p).

(III) EXCEPT AS DESCRIBED IN SUBSECTION (1)(a)(I)(C) OF THIS SECTION, A LICENSEE MAY, BUT IS NOT REQUIRED TO, REPORT AN INJURY THAT HE OR SHE HAS REASON TO BELIEVE OCCURRED AS A RESULT OF DOMESTIC VIOLENCE IF:

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

(B) THE INJURY IS NOT AN INJURY THAT THE LICENSEE IS REQUIRED TO REPORT

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

PURSUANT TO SUBSECTION (1)(a)(I)(A) OR (1)(a)(I)(B) OF THIS SECTION.

(IV) IF A LICENSEE DOES NOT REPORT AN INJURY PURSUANT TO A VICTIM'S REQUEST, AS DESCRIBED IN SUBSECTION (1)(a)(III) OF THIS SECTION, THE LICENSEE SHALL DOCUMENT THE VICTIM'S REQUEST IN THE VICTIM'S MEDICAL RECORD.

(V) BEFORE A LICENSEE REPORTS AN INJURY THAT HE OR SHE HAS REASON TO BELIEVE RESULTED FROM DOMESTIC VIOLENCE, AS DESCRIBED IN SUBSECTION (1)(a)(III) OF THIS SECTION, THE LICENSEE SHALL MAKE A GOOD-FAITH EFFORT, CONFIDENTIALLY, TO ADVISE THE VICTIM OF THE LICENSEE'S INTENT TO DO SO.

(VI) IF A LICENSEE HAS REASON TO BELIEVE THAT AN INJURY RESULTED FROM DOMESTIC VIOLENCE, THEN, REGARDLESS OF WHETHER THE LICENSEE REPORTS THE INJURY TO LAW ENFORCEMENT, THE LICENSEE SHALL EITHER REFER THE VICTIM TO A VICTIM'S ADVOCATE, AS DEFINED IN SECTION 13-90-107 (1)(k)(II), OR PROVIDE THE VICTIM WITH INFORMATION CONCERNING SERVICES AVAILABLE TO VICTIMS OF ABUSE.

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

(b) A LICENSEE WHO, IN GOOD FAITH, REFERS A VICTIM TO A VICTIM'S ADVOCATE OR PROVIDES A VICTIM WITH INFORMATION CONCERNING SERVICES AVAILABLE TO VICTIMS OF ABUSE, AS DESCRIBED IN SUBSECTION (1)(a)(VI) OF THIS SECTION, IS NOT CIVILLY LIABLE FOR ANY ACT OR OMISSION OF THE VICTIM'S ADVOCATE OR OF ANY AGENCY THAT PROVIDES SUCH SERVICES TO THE VICTIM.

SECTION 2. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 9, 2017, if adjournment sine die is on May 10, 2017); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2018 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: June 5, 2017