



Legislative
Council Staff

Nonpartisan Services for Colorado's Legislature

HB 20-1228

FINAL FISCAL NOTE

Drafting Number: LLS 20-0866
Prime Sponsors: Rep. Froelich
Sen. Danielson

Date: July 14, 2020
Bill Status: Postponed Indefinitely
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Bill Topic: **PROTECT SURVIVORS' RIGHTS TO RAPE KIT EVIDENCE**

**Summary of
Fiscal Impact:**

- State Revenue
- State Expenditure
- State Transfer
- TABOR Refund
- Local Government
- Statutory Public Entity

The bill would have required the Division of Criminal Justice to research implementation of a sexual assault evidence tracking system; required medical professionals to make certain disclosures to victims; and allowed victims to be informed of and object to evidence destruction in certain cases. It would have increased state expenditures and local government workload in FY 2020-21 only.

**Appropriation
Summary:**

For FY 2020-21, the bill would have required an appropriation of \$44,200 to the Department of Public Safety.

**Fiscal Note
Status:**

The final fiscal note reflects the reengrossed bill. This bill was not enacted into law; therefore, the impacts identified in this analysis do not take effect.

**Table 1
State Fiscal Impacts Under HB 20-1228**

		FY 2020-21	FY 2021-22
Revenue		-	-
Expenditures	General Fund	\$44,200	
Transfers		-	-
TABOR Refund		-	-

Summary of Legislation

The bill requires a statewide multi-disciplinary committee to research existing statewide systems to track forensic medical evidence related to a sexual assault; requires medical professionals to make certain disclosures to victims; and requires notifications regarding and permits objections to evidence destruction. These provisions are described below.

Evidence tracking system. The bill requires the Division of Criminal Justice (division) in the Department of Public Safety (DPS) and a statewide coalition for sexual assault victims to convene a statewide multi-disciplinary committee to research existing statewide systems to track forensic medical evidence related to a sexual assault. The committee must include representation from law enforcement, including the Colorado Bureau of Investigation (CBI) in the DPS; system and community-based advocates; medical professionals; and district attorneys. The division is also required to consult with representatives of law enforcement, district attorneys, criminal defense attorneys, and statewide organizations representing victims of sexual assault.

By December 1, 2021, the committee must:

- research forensic medical evidence collection costs for law enforcement agencies in relation to their overall evidence budgets and how these costs effect agencies' ability to pay for medical forensic exams;
- determine the average costs of medical forensic exams statewide and whether the current sexual assault victim emergency payment program payment limits are sufficient;
- determine whether victims are receiving medical bills they are prohibited from receiving pursuant to federal law;
- assess whether law enforcement agencies are sending forensic medical evidence for testing within 21 days;
- research whether victims are being encouraged to decline a medical forensic evidence exam because law enforcement cannot afford to pay the cost of evidence collection;
- research existing tracking systems with secure electronic access that allow a victim, or the victim's designee, to access or receive information about the location, lab submission status, completion of forensic testing, and storage of forensic medical evidence that was gathered from the victim, provided that the disclosure does not impede or compromise an ongoing investigation and reveal the victim's current location;
- develop guidelines and a plan to implement a tracking system;
- estimate the money, resources, and training needed to create, manage, and maintain the tracking system;
- recommend sources of public and private funding to implement the tracking system plans and reduce administrative requirements;
- recommend changes to law or policy required to support the implementation of the plans; and
- report the division's findings, recommendations, and any proposed legislation to the Judiciary Committees of the General Assembly

This section repeals on July 1, 2021.

Notifications from medical professionals. The bill requires medical professionals performing a medical forensic examination to inform the victim:

- of the contact information for the nearest sexual assault victim's advocate if the victim makes a law enforcement report;

- of the contact information for the nearest community-based victim advocate if the victim makes a medical or an anonymous report; and
- that any forensic medical evidence collected must be maintained until after the assailant may no longer be prosecuted for the crime and that the victim must be notified prior to the destruction of such evidence.

Notifications regarding evidence testing and objections to evidence destruction. The bill requires certain victim notifications and opportunities for objection related to forensic medical evidence where the related case has not resulted in a conviction or plea of guilty, including:

- the right to be notified that the forensic medical evidence has been submitted to an accredited crime lab for testing;
- the right to be notified when the law enforcement agency has received the results of the medical forensic evidence DNA analysis from the accredited crime laboratory;
- the right to be informed at least 60 days prior to the destruction of forensic medical evidence collected in connection with the alleged sex offense; and
- the right to file, prior to the expiration of the 60-day period, an objection with the law enforcement agency, the CBI, or the accredited crime laboratory that is proposing to destroy the forensic medical evidence.

The bill requires the law enforcement agency to maintain the medical evidence until the statute of limitation has run out on the crime and for an additional 10 years if the victim objects to its destruction.

State Expenditures

The bill increases state General Fund expenditures by \$44,200 in FY 2020-21 in the DPS, and DPS workload on an ongoing basis. It will also increase workload in the Department of Regulatory Agencies (DORA).

Department of Public Safety. The division requires \$44,200 for a contractor to coordinate the work describe in the evidence tracking system section of the summary. The contractor will be required for an estimated 68-day period, paid at the Department of Justice daily rate of \$650. The fiscal note does not estimate the cost to build a sexual assault evidence tracking system, as this is not required by the bill and will vary depending on the recommendation for how the system will operate. The division will also have a workload impact to participate in the stakeholder consultations in FY 2020-21. On an ongoing basis, workload in the CBI will increase to perform the notifications requirements related to forensic medical evidence.

Department of Regulatory Agencies. DORA will update its materials to reflect the notification requirements for medical professionals created by the bill. No change in appropriations is required.

Local Government

For both district attorneys and local law enforcement agencies, workload will increase to participate in the stakeholder process required under the bill. District attorney workload will also increase to ensure the victim rights notifications required by the bill reach affected clients. Law enforcement costs may also increase as a result of maintaining evidence for longer periods and to issue notifications required by the bill.

Effective Date

The bill was postponed indefinitely by the Senate Health and Human Services Committee on May 27, 2020.

State Appropriations

For FY 2020-21, the bill requires and includes a General Fund appropriation of \$44,200 to the DPS.

State and Local Government Contacts

District Attorneys
Public Safety

Information Technology
Regulatory Agencies

Law
Sheriffs