

## CHAPTER 109

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**CRIMINAL LAW AND PROCEDURE**


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## SENATE BILL 15-126

BY SENATOR(S) Cooke and Johnston, Baumgardner, Donovan, Grantham, Guzman, Heath, Jones, Kefalas, Kerr, Lambert, Lundberg, Marble, Martinez Humenik, Merrifield, Newell, Roberts, Scheffel, Steadman, Todd, Woods, Cadman; also REPRESENTATIVE(S) Foote, Becker K., Court, Fields, Ginal, Kagan, Lee, Melton, Mitsch Bush, Moreno, Pabon, Pettersen, Primavera, Rosenthal, Salazar, Singer, Tyler, Vigil, Williams, Winter, Hullinghorst.

## AN ACT

## CONCERNING MEDICAL TESTS FOR VICTIMS OF CRIMES OF ASSAULT.

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

**SECTION 1.** In Colorado Revised Statutes, 18-3-203, **repeal** (1) (f.5) (II); and **add** (3) as follows:

**18-3-203. Assault in the second degree.** (1) A person commits the crime of assault in the second degree if:

(f.5) (II) ~~(A) Any adult or juvenile who is bound over for trial for the offense described in subparagraph (I) of this paragraph (f.5) subsequent to a preliminary hearing or after having waived the right to a preliminary hearing, any person who is indicted for or is convicted of any such offense, or any person who is determined to have provided blood, seminal fluid, urine, feces, saliva, mucus, or vomit to a person bound over for trial for, indicted for, or convicted of such an offense shall be ordered by the court to submit to a medical test for communicable diseases and to supply blood, feces, urine, saliva, or other bodily fluid required for the test. The results of such test shall be reported to the court or the court's designee, who shall then disclose the results to any victim of the offense who requests such disclosure. Review and disclosure of medical test results by the court shall be closed and confidential, and any transaction records relating thereto shall also be closed and confidential. If a person subject to a medical test for communicable diseases pursuant this sub-subparagraph (A) voluntarily submits to a medical test for communicable diseases, the fact of such person's voluntary submission shall be admissible in mitigation of sentence if the person is convicted of the charged offense.~~

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

~~(B) In addition to any other penalty provided by law, the court may order any person who is convicted of the offense described in subparagraph (1) of this paragraph (f.5) to meet all or any portion of the financial obligations of medical tests performed on and treatment prescribed for the victim or victims of the offense.~~

~~(C) At the time of sentencing, the court may order that an offender described in sub-subparagraph (B) of this subparagraph (H) be put on a period of probation for the purpose of paying the testing and treatment costs of the victim or victims; except that the period of probation, when added to any time served, shall not exceed the maximum sentence that can be imposed for the offense.~~

(3) (a) THE COURT SHALL ORDER ANY ADULT OR JUVENILE WHO IS BOUND OVER FOR TRIAL FOR AN OFFENSE DESCRIBED IN SUBSECTION (1) OF THIS SECTION SUBSEQUENT TO A PRELIMINARY HEARING OR AFTER HAVING WAIVED THE RIGHT TO A PRELIMINARY HEARING, ANY PERSON WHO IS INDICTED FOR OR IS CONVICTED OF ANY SUCH OFFENSE, OR ANY PERSON WHO IS DETERMINED TO HAVE PROVIDED BLOOD, SEMINAL FLUID, URINE, FECES, SALIVA, MUCUS, OR VOMIT TO A PERSON BOUND OVER FOR TRIAL FOR, INDICTED FOR, OR CONVICTED OF SUCH AN OFFENSE TO SUBMIT TO A MEDICAL TEST FOR COMMUNICABLE DISEASES AND TO SUPPLY BLOOD, FECES, URINE, SALIVA, OR OTHER BODILY FLUID REQUIRED FOR THE TEST IF THE PERSON'S BLOOD, SEMINAL FLUID, URINE, FECES, SALIVA, MUCUS, OR VOMIT CAME INTO CONTACT WITH ANY VICTIM OF THE ASSAULT, PEACE OFFICER, FIREFIGHTER, EMERGENCY MEDICAL CARE PROVIDER, OR EMERGENCY MEDICAL SERVICE PROVIDER. WITHIN TEN DAYS AFTER RECEIPT OF THE MEDICAL TEST RESULTS, THE DEFENDANT SHALL REPORT THE RESULTS TO THE COURT OR THE COURT'S DESIGNEE, WHO SHALL THEN DISCLOSE THE RESULTS TO ANY VICTIM, PEACE OFFICER, FIREFIGHTER, EMERGENCY MEDICAL CARE PROVIDER, OR EMERGENCY MEDICAL SERVICE PROVIDER WHO CAME INTO CONTACT WITH THE SUBSTANCE AND REQUESTS SUCH DISCLOSURE. REVIEW AND DISCLOSURE OF MEDICAL TEST RESULTS BY THE COURT MUST BE CLOSED AND CONFIDENTIAL, AND ANY RELATED TRANSACTION RECORDS ARE ALSO CLOSED AND CONFIDENTIAL. IF A PERSON SUBJECT TO A MEDICAL TEST FOR COMMUNICABLE DISEASES PURSUANT TO THIS PARAGRAPH (a) VOLUNTARILY SUBMITS TO A MEDICAL TEST FOR COMMUNICABLE DISEASES, THE FACT OF SUCH PERSON'S VOLUNTARY SUBMISSION IS ADMISSIBLE IN MITIGATION OF SENTENCE IF THE PERSON IS CONVICTED OF THE CHARGED OFFENSE.

(b) IN ADDITION TO ANY OTHER PENALTY PROVIDED BY LAW, THE COURT MAY ORDER ANY PERSON WHO IS CONVICTED OF THE OFFENSE DESCRIBED IN SUBSECTION (1) OF THIS SECTION TO MEET ALL OR ANY PORTION OF THE FINANCIAL OBLIGATIONS OF MEDICAL TESTS PERFORMED ON AND TREATMENT PRESCRIBED FOR THE VICTIM, PEACE OFFICER, FIREFIGHTER, EMERGENCY MEDICAL CARE PROVIDER, OR EMERGENCY MEDICAL SERVICE PROVIDER.

(c) ANY PERSON WHO RECEIVES THE RESULTS OF A MEDICAL TEST PURSUANT TO THIS SECTION SHALL NOT PUBLICLY DISCLOSE THE RESULTS.

**SECTION 2.** In Colorado Revised Statutes, 18-3-204, **repeal** (4); and **repeal and reenact, with amendments**, (2) as follows:

**18-3-204. Assault in the third degree.** (2) (a) THE COURT SHALL ORDER ANY

ADULT OR JUVENILE WHO IS BOUND OVER FOR TRIAL FOR AN OFFENSE DESCRIBED IN SUBSECTION (1) OF THIS SECTION, ANY PERSON CONVICTED OF ANY SUCH OFFENSE, OR ANY PERSON WHO IS DETERMINED TO HAVE PROVIDED BLOOD, SEMINAL FLUID, URINE, FECES, SALIVA, MUCUS, OR VOMIT TO A PERSON BOUND OVER FOR TRIAL FOR, INDICTED FOR, OR CONVICTED OF SUCH AN OFFENSE TO SUBMIT TO A MEDICAL TEST FOR COMMUNICABLE DISEASES AND TO SUPPLY BLOOD, FECES, URINE, SALIVA, OR OTHER BODILY FLUID REQUIRED FOR THE TEST IF THE PERSON'S BLOOD, SEMINAL FLUID, URINE, FECES, SALIVA, MUCUS, OR VOMIT CAME INTO CONTACT WITH ANY VICTIM OF THE ASSAULT, PEACE OFFICER, FIREFIGHTER, EMERGENCY MEDICAL CARE PROVIDER, OR EMERGENCY MEDICAL SERVICE PROVIDER. WITHIN TEN DAYS AFTER RECEIPT OF THE MEDICAL TEST RESULTS, THE DEFENDANT SHALL REPORT THE RESULTS TO THE COURT OR THE COURT'S DESIGNEE, WHO SHALL THEN DISCLOSE THE RESULTS TO ANY VICTIM, PEACE OFFICER, FIREFIGHTER, EMERGENCY MEDICAL CARE PROVIDER, OR EMERGENCY MEDICAL SERVICE PROVIDER WHO CAME INTO CONTACT WITH THE SUBSTANCE AND REQUESTS SUCH DISCLOSURE. REVIEW AND DISCLOSURE OF MEDICAL TEST RESULTS BY THE COURT MUST BE CLOSED AND CONFIDENTIAL, AND ANY RELATED TRANSACTION RECORDS ARE ALSO CLOSED AND CONFIDENTIAL. IF A PERSON SUBJECT TO A MEDICAL TEST FOR COMMUNICABLE DISEASES PURSUANT TO THIS PARAGRAPH (a) VOLUNTARILY SUBMITS TO A MEDICAL TEST FOR COMMUNICABLE DISEASES, THE FACT OF SUCH PERSON'S VOLUNTARY SUBMISSION IS ADMISSIBLE IN MITIGATION OF SENTENCE IF THE PERSON IS CONVICTED OF THE CHARGED OFFENSE.

(b) IN ADDITION TO ANY OTHER PENALTY PROVIDED BY LAW, THE COURT MAY ORDER ANY PERSON WHO IS CONVICTED OF THE OFFENSE DESCRIBED IN SUBSECTION (1) OF THIS SECTION TO MEET ALL OR ANY PORTION OF THE FINANCIAL OBLIGATIONS OF MEDICAL TESTS PERFORMED ON AND TREATMENT PRESCRIBED FOR THE VICTIM, PEACE OFFICER, FIREFIGHTER, EMERGENCY MEDICAL CARE PROVIDER, OR EMERGENCY MEDICAL SERVICE PROVIDER.

(c) ANY PERSON WHO RECEIVES THE RESULTS OF A MEDICAL TEST PURSUANT TO THIS SECTION SHALL NOT PUBLICLY DISCLOSE THE RESULTS.

(4) ~~"Emergency medical care provider" means a doctor, intern, nurse, nurse's aid, physician's assistant, ambulance attendant or operator, air ambulance pilot, paramedic, or any other member of a hospital or health care facility staff or security force who is involved in providing emergency medical care at a hospital or health care facility, or in an air ambulance or ambulance as defined in section 25-3.5-103 (1) and (1.5), C.R.S.~~

**SECTION 3.** In Colorado Revised Statutes, 18-3-202, **repeal as added by Senate Bill 15-005** (3) (d) as follows:

**18-3-202. Assault in the first degree - definitions.** (3) (d) ~~As used in this subsection (3), unless the context otherwise requires, "emergency medical care provider" means a doctor, intern, nurse, nurse's aid, physician's assistant, ambulance attendant or operator, air ambulance pilot, paramedic, or any other member of a hospital or health care facility staff or security force who is involved in providing emergency medical care at a hospital or health care facility, or in an air ambulance or ambulance as defined in section 25-3.5-103 (1) and (1.5), C.R.S.~~

**SECTION 4.** In Colorado Revised Statutes, 18-3-201, **amend** (1); and **add** (1.3) as follows:

**18-3-201. Definitions.** As used in sections 18-3-201 to 18-3-203, unless the context otherwise requires:

(1) ~~"Emergency medical service provider" has the same meaning as set forth in section 25-3.5-103 (8), C.R.S. The term refers to both paid and volunteer emergency medical service providers.~~ "EMERGENCY MEDICAL CARE PROVIDER" MEANS A DOCTOR, INTERN, NURSE, NURSE'S AIDE, PHYSICIAN'S ASSISTANT, AMBULANCE ATTENDANT OR OPERATOR, AIR AMBULANCE PILOT, PARAMEDIC, OR ANY OTHER MEMBER OF A HOSPITAL OR HEALTH CARE FACILITY STAFF OR SECURITY FORCE WHO IS INVOLVED IN PROVIDING EMERGENCY MEDICAL CARE AT A HOSPITAL OR HEALTH CARE FACILITY, OR IN AN AIR AMBULANCE OR AMBULANCE AS DEFINED IN SECTION 25-3.5-103 (1) AND (1.5), C.R.S.

(1.3) "EMERGENCY MEDICAL SERVICE PROVIDER" HAS THE SAME MEANING AS SET FORTH IN SECTION 25-3.5-103 (8), C.R.S. THE TERM REFERS TO BOTH PAID AND VOLUNTEER EMERGENCY MEDICAL SERVICE PROVIDERS.

**SECTION 5.** In Colorado Revised Statutes, 18-1.3-501, **amend** (1.5) (b) as follows:

**18-1.3-501. Misdemeanors classified - drug misdemeanors and drug petty offenses classified - penalties - definitions.** (1.5) (b) As used in this section, "peace officer, emergency medical service provider, emergency medical care provider, or firefighter engaged in the performance of his or her duties" means a peace officer as described in section 16-2.5-101, C.R.S., emergency medical service provider as defined in part 1 of article 3.5 of title 25, C.R.S., emergency medical care provider as defined by ~~section 18-3-204 (4)~~ SECTION 18-3-201 (1), or a firefighter as defined in section 18-3-201 (1.5), who is engaged or acting in or who is present to engage or act in the performance of a duty, service, or function imposed, authorized, required, or permitted by law to be performed by a peace officer, emergency medical service provider, emergency medical care provider, or firefighter, whether or not the peace officer, emergency medical service provider, emergency medical care provider, or firefighter is within the territorial limits of his or her jurisdiction, if the peace officer, emergency medical service provider, emergency medical care provider, or firefighter is in uniform or the person committing an assault upon or offense against or otherwise acting toward the peace officer, emergency medical service provider, emergency medical care provider, or firefighter knows or reasonably should know that the victim is a peace officer, emergency medical service provider, emergency medical care provider, or firefighter or if the peace officer, emergency medical service provider, emergency medical care provider, or firefighter is intentionally assaulted in retaliation for the performance of his or her official duties.

**SECTION 6. Effective date - applicability.** This act takes effect July 1, 2015, and applies to offenses committed on or after said date; except that section 3 of the act only takes effect if Senate Bill 15-005 becomes law.

**SECTION 7. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 16, 2015