

HB1020_L.003

HOUSE COMMITTEE OF REFERENCE AMENDMENT

Committee on Judiciary.HB13-1020 be amended as follows:

1 Amend printed bill, strike everything below the enacting clause and
2 substitute the following:

3 "SECTION 1. In Colorado Revised Statutes, add 24-33.5-112 as
4 follows:

5 **24-33.5-112. Forensic medical evidence in sexual assault cases**
6 **- rules - testing - confidentiality - repeal.** (1) **Rules.** (a) ON OR BEFORE
7 THIRTY DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION, THE
8 EXECUTIVE DIRECTOR SHALL BEGIN THE PROCESS OF PROMULGATING
9 RULES FOR FORENSIC MEDICAL EVIDENCE COLLECTED IN CONNECTION
10 WITH AN ALLEGED SEXUAL ASSAULT. NOT LESS THAN NINETY DAYS PRIOR
11 TO THE PROMULGATION OF THE RULES, THE DIVISION SHALL CONVENE A
12 REPRESENTATIVE GROUP OF PARTICIPANTS AS DEFINED IN SECTION
13 24-4-102 (14.5) TO SOLICIT INPUT INTO THE DEVELOPMENT OF THE RULES.
14 THE REPRESENTATIVE GROUP MUST INCLUDE PERSONS AFFECTED BY THE
15 RULES AND PERSONS RESPONSIBLE FOR IMPLEMENTATION OF THE RULES.
16 THE DIVISION MAY CONVENE AS MANY MEETINGS OF THE REPRESENTATIVE
17 GROUP AS IS NECESSARY.

18 (b) ON OR BEFORE SIX MONTHS AFTER THE EFFECTIVE DATE OF
19 THIS SECTION, THE EXECUTIVE DIRECTOR SHALL PROMULGATE THE RULES.
20 THE RULES MUST INCLUDE:

21 (I) A REQUIREMENT THAT FORENSIC EVIDENCE MUST BE
22 COLLECTED IF A VICTIM OF AN ALLEGED SEXUAL ASSAULT REQUESTS IT TO
23 BE COLLECTED;

24 (II) STANDARDS FOR WHAT EVIDENCE MUST BE SUBMITTED TO THE
25 COLORADO BUREAU OF INVESTIGATION OR ANOTHER ACCREDITED CRIME
26 LABORATORY;

27 (III) TIME FRAMES FOR WHEN THE EVIDENCE MUST BE SUBMITTED,
28 ANALYZED, AND COMPARED TO DNA DATABASES. THE RULES ON TIME
29 FRAMES MUST INDICATE THAT EVIDENCE THAT MEETS THE CRITERIA FOR
30 MANDATORY SUBMISSION MUST BE SUBMITTED WITHIN TWENTY-ONE DAYS
31 AFTER RECEIPT BY A LAW ENFORCEMENT AGENCY.

32 (IV) STANDARDS FOR CONSENT FOR THE COLLECTION, TESTING,
33 AND RELEASE OF TEST RESULTS OF THE FORENSIC MEDICAL EVIDENCE,
34 INCLUDING BUT NOT LIMITED TO:

35 (A) CONSENT FORMS THAT NOTIFY PERSONS OF THE POTENTIAL
36 EFFECTS OF EACH STEP OF THE PROCESS, INCLUDING COLLECTION, TESTING,
37 AND RELEASE OF TEST RESULTS AND REQUIRE ACKNOWLEDGMENT OF



1 CONSENT FOR EACH STEP OF THE PROCESS;
2 (B) WHO MAY GIVE CONSENT AND WHEN IS IT REQUIRED;
3 (C) WHO MAY WITHDRAW CONSENT AND WHEN IT MAY BE
4 WITHDRAWN; AND
5 (D) WHEN AND HOW RESULTS OF TESTS MAY BE RELEASED AND
6 FOR WHAT PURPOSES.
7 (2) LAW ENFORCEMENT AND MEDICAL PERSONNEL SHALL NOT, FOR
8 ANY REASON, DISCOURAGE A VICTIM OF AN ALLEGED SEXUAL ASSAULT
9 FROM RECEIVING A FORENSIC MEDICAL EXAMINATION.
10 (3) **Compliance.** (a) (I) ON AND AFTER SIXTY DAYS AFTER THE
11 PROMULGATION OF THE RULES AUTHORIZED BY PARAGRAPH (b) OF
12 SUBSECTION (1) OF THIS SECTION, ALL LAW ENFORCEMENT AGENCIES IN
13 THE STATE SHALL COMPLY WITH THE PROMULGATED RULES.
14 (II) THE FAILURE OF A LAW ENFORCEMENT AGENCY TO COMPLY
15 WITH THE RULES PROMULGATED PURSUANT TO PARAGRAPH (b) OF
16 SUBSECTION (1) OF THIS SECTION DOES NOT AFFECT:
17 (A) THE AUTHORITY OF THE AGENCY TO SUBMIT THE EVIDENCE TO
18 THE COLORADO BUREAU OF INVESTIGATION OR OTHER ACCREDITED CRIME
19 LABORATORY;
20 (B) THE AUTHORITY OF THE COLORADO BUREAU OF
21 INVESTIGATION OR OTHER ACCREDITED CRIME LABORATORY TO ANALYZE
22 THE EVIDENCE OR PROVIDE RESULTS OF THE ANALYSIS TO APPROPRIATE
23 PERSONS; OR
24 (C) THE ADMISSIBILITY OF THE EVIDENCE IN ANY COURT.
25 (b) ON AND AFTER SIXTY DAYS AFTER THE PROMULGATION OF THE
26 RULES DESCRIBED IN PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION,
27 ALL PERSONNEL AT A MEDICAL FACILITY PERFORMING A FORENSIC
28 MEDICAL EXAMINATION AND ALL OTHER PERSONS HAVING CUSTODY OF
29 FORENSIC MEDICAL EVIDENCE COLLECTED IN CONNECTION WITH AN
30 ALLEGED SEXUAL ASSAULT OR THE RESULTS OF TESTS CONDUCTED ON THE
31 EVIDENCE SHALL COMPLY WITH THE PROMULGATED RULES.
32 (c) A PERSON WHO RECEIVES EVIDENCE OR RESULTS OF TESTS
33 UNDER THIS SECTION SHALL NOT DISCLOSE THE EVIDENCE OR TEST
34 RESULTS EXCEPT TO THE EXTENT THAT DISCLOSURE IS CONSISTENT WITH
35 THE AUTHORIZED PURPOSE FOR WHICH THE PERSON OBTAINED THE
36 EVIDENCE.
37 (4) **Backlog.** (a) ON OR BEFORE SIXTY DAYS AFTER THE EFFECTIVE
38 DATE OF THIS SECTION, EACH LAW ENFORCEMENT AGENCY SHALL SUBMIT
39 TO THE COLORADO BUREAU OF INVESTIGATION AN INVENTORY OF ALL
40 FORENSIC MEDICAL EVIDENCE OF ANY ALLEGED SEXUAL ASSAULTS THAT
41 HAVE NOT BEEN ANALYZED BY THE COLORADO BUREAU OF INVESTIGATION

1 OR OTHER ACCREDITED CRIME LABORATORY AND THAT:
2 (I) IS FOR AN ACTIVE CRIMINAL INVESTIGATION; AND
3 (II) MEETS THE CRITERIA FOR MANDATORY TESTING PURSUANT TO
4 THE RULES ADOPTED BY THE EXECUTIVE DIRECTOR PURSUANT TO
5 SUBSECTION (1) OF THIS SECTION.
6 (b) SUBJECT TO AVAILABLE LABORATORY SPACE, ON OR BEFORE
7 NINETY DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION, EACH LAW
8 ENFORCEMENT AGENCY SHALL FORWARD TO THE COLORADO BUREAU OF
9 INVESTIGATION OR OTHER ACCREDITED CRIME LABORATORY THE FORENSIC
10 MEDICAL EVIDENCE IDENTIFIED ON THE INVENTORY SUBMITTED TO THE
11 COLORADO BUREAU OF INVESTIGATION.
12 (c) ON OR BEFORE NINETY DAYS AFTER THE EFFECTIVE DATE OF
13 THIS SECTION, THE COLORADO BUREAU OF INVESTIGATION SHALL SUBMIT
14 TO THE GOVERNOR AND TO THE JUDICIARY COMMITTEES OF THE SENATE
15 AND HOUSE OF REPRESENTATIVES, OR ANY SUCCESSOR COMMITTEES, A
16 PROPOSED PLAN FOR ANALYZING BY JUNE 30, 2014, ALL OF THE FORENSIC
17 MEDICAL EVIDENCE OF ALLEGED SEXUAL ASSAULTS INVENTORIED
18 PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (4).
19 (d) A LAW ENFORCEMENT AGENCY MAY DEVELOP ITS OWN PLAN TO
20 ANALYZE FORENSIC MEDICAL EVIDENCE OF ALLEGED SEXUAL ASSAULTS IF
21 ALL EVIDENCE IS ANALYZED BY JUNE 30, 2014. IF A LAW ENFORCEMENT
22 AGENCY DEVELOPS ITS OWN PLAN, IT SHALL NOT FORWARD AN INVENTORY
23 OF THE FORENSIC MEDICAL EVIDENCE TO THE COLORADO BUREAU OF
24 INVESTIGATION AS REQUIRED BY PARAGRAPH (a) OF THIS SUBSECTION (4).
25 (e) THIS SUBSECTION (4) IS REPEALED, EFFECTIVE JULY 1, 2015.
26 **SECTION 2. Safety clause.** The general assembly hereby finds,
27 determines, and declares that this act is necessary for the immediate
28 preservation of the public peace, health, and safety."

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