

**First Regular Session
Seventy-first General Assembly
STATE OF COLORADO**

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 17-0611.01 Richard Sweetman x4333

HOUSE BILL 17-1322

HOUSE SPONSORSHIP

Esgar and Landgraf,

SENATE SPONSORSHIP

Donovan and Lundberg,

House Committees

Judiciary

Senate Committees

State, Veterans, & Military Affairs

A BILL FOR AN ACT

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

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

Current law requires any licensed physician, physician assistant, or anesthesiologist assistant (licensee) who attends or treats any of certain injuries, including injuries resulting from domestic violence, to 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.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

SENATE
2nd Reading Unamended
May 8, 2017

HOUSE
3rd Reading Unamended
May 1, 2017

HOUSE
Amended 2nd Reading
April 28, 2017

The bill states that a licensee shall not report an injury that the licensee has reason to believe involves an act of domestic violence if:

- ! The victim of the injury is at least 18 years of age and indicates his or her preference that the injury not be reported;
- ! The injury is not an injury that the licensee is otherwise required to report;
- ! The licensee has no reason to believe that the injury involves a criminal act other than domestic violence; and
- ! The licensee has referred the victim to a victim's advocate.

The licensee shall document the victim's request in the victim's medical record.

Under current law, any licensee who, in good faith, makes such a report of an injury is immune from any liability, civil or criminal, that might otherwise be incurred or imposed with respect to the making of the report. The bill states that a licensee who does not make a report under the new conditions described in the bill is also immune to such liability.

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

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

5 **12-36-135. Injuries to be reported - penalty for failure to**
6 **report - immunity from liability.** (1) (a) (I) Every licensee who attends
7 or treats any of the following injuries shall report the injury at once to the
8 police of the city, town, or city and county or the sheriff of the county in
9 which the licensee is located:

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

1 18-1-901 (3)(p).

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

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

9 (B) THE INJURY IS NOT AN INJURY THAT THE LICENSEE IS REQUIRED
10 TO REPORT PURSUANT TO SUBSECTION (1)(a)(I)(A) OR (1)(a)(I)(B) OF THIS
11 SECTION.

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

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

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

27 (2) (a) Any licensee who, in good faith, makes a report pursuant

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

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

13 **SECTION 2. Act subject to petition - effective date.** This act
14 takes effect at 12:01 a.m. on the day following the expiration of the
15 ninety-day period after final adjournment of the general assembly (August
16 9, 2017, if adjournment sine die is on May 10, 2017); except that, if a
17 referendum petition is filed pursuant to section 1 (3) of article V of the
18 state constitution against this act or an item, section, or part of this act
19 within such period, then the act, item, section, or part will not take effect
20 unless approved by the people at the general election to be held in
21 November 2018 and, in such case, will take effect on the date of the
22 official declaration of the vote thereon by the governor.