

**INFORMATION ABOUT FORENSIC MEDICAL EXAMS FOR VICTIMS WHO DO NOT WANT TO  
COOPERATE WITH LAW ENFORCEMENT (HB 08-1217)  
FOR  
VICTIM SERVICES AGENCIES**

The Violence Against Women Act (VAWA) is a federally funded program that promotes a coordinated, multidisciplinary approach to improving the criminal justice system's response to victims of sexual assault and domestic violence. The State of Colorado receives approximately 1.7 million dollars annually from the U.S. Department of Justice, Office on Violence Against Women to provide grants to victim services, law enforcement, district attorneys, and court agencies that address domestic violence, sexual assault and stalking.

In order to continue to be eligible to receive VAWA funds, states must meet all applicable requirements, including certifying that they are in compliance with the statutory eligibility requirements of the Violence Against Women Act. The 2005 reauthorization of the VAWA statute included, among other provisions, a requirement that forensic medical examinations be afforded to all sexual assault victims regardless of their decision to participate in the criminal justice system and/or cooperate with law enforcement and that victims are not charged with the expenses related to the exam.

In the 2008 legislative session, the General Assembly passed HB08-1217, which enables victims of sexual assault to receive a forensic medical exam without having to participate in the criminal justice system or cooperate with law enforcement. In addition, such victims do not have to pay the cost of the forensic medical exam.

**Underreported/Unreported Nature of Sexual Assault Cases**

There are many reasons why a victim of a sexual assault may want a forensic medical exam but not want to go forward with the investigation of the case.

- Sexual assault victims rarely report to law enforcement first; usually they first go to a close friend or relative, a health care provider, or a victim advocate.
- Law enforcement is more likely to be notified of sexual assaults that are committed by strangers than by someone the victim knows.
- Victims are often unwilling to report a sexual assault for fear of not being believed or being blamed for the crime. Victims do not report for reasons including:
  - (1) they knew or are related to their assailant;
  - (2) they are intimidated by the assailant's position, power, or social status;
  - (3) they engaged in drug or alcohol use or willingly entered the assailant's car or apartment;
  - (4) fear of retaliation from the offender;
  - (5) fear of being blamed by others;
  - (6) fear of their names being made public by the news media.
- If victims of sexual assault do report the crime, it is common for them to postpone reporting the incident to law enforcement or anyone else. Victims often delay reporting a sexual assault for days, weeks, months, or even years, and many never disclose it to anyone, including their closest friends.

**How This Statute Will Help Victims of Crime**

At times, victims of sexual assault do not immediately want to cooperate with law enforcement due to the very personal nature of the investigation and because they may want to consider all of their options before proceeding. This legislation allows sexual assault victims the opportunity to obtain forensic evidence while allowing them time to consider the options as to cooperating with the investigation of the crime.

Evidence collected during the forensic examination has been found to hold a direct correlation to a successful prosecution. Not only the actual evidence, but also the circumstances in which it was collected plays a critical role in the future of the case well before it enters the courtroom. Obviously, physical evidence connecting the suspect to the crime is a critical variable that prosecutors consider when determining how and whether they will proceed with a case.

A timely, well-done forensic examination also has the potential of addressing many of the concerns of sexual assault victims and can increase the likelihood, through the documentation of visible injuries and evidence collected, of the successful investigation and prosecution of sex offenders, should victims decide to cooperate with the investigation of the case.

### What Should I Do?

If a victim of a sexual assault contacts your agency, it is important that they have the following information:

- **FORENSIC EXAM:** The victim can go to a medical facility/hospital that provides forensic medical exams and receive the exam at no cost to them. The State of Colorado – Division of Criminal Justice (DCJ) will pay only the cost of the forensic exam. **Any additional medical expenses will be the responsibility of the patient.**
- **LAW ENFORCEMENT WILL BE CONTACTED:** Let the victim know that under Colorado law, medical personnel are required to report the crime to a law enforcement agency. If the victim knows the location of where the assault occurred, that law enforcement agency will be contacted. If the location is unknown, the law enforcement agency local to the hospital will be contacted. HB 08-1217 does not change the mandatory reporting law outlined in C.R.S. § 12-36-135 and does not allow for anonymous reporting. As such, the name of the victim will be provided to law enforcement. The only change as a result of HB 08-1217 is that the victim of a sexual assault crime who does not want to cooperate with law enforcement can receive the exam without being required to participate in the criminal justice system or cooperate with law enforcement. If the victim decides that she/he would like to discuss the crime with the law enforcement agency, she/he will need to contact the law enforcement agency directly.
- **VICTIM COMPENSATION:** Let the victim know that Colorado has a victim compensation program that provides assistance with medical bills. One of the requirements of receiving victim compensation is that the victim has cooperated fully with law enforcement officials in the apprehension and prosecution of the assailant. The victim compensation board can waive this requirement for good cause. Victims of sexual assault who want a forensic medical exam but do not want to cooperate with law enforcement will need to contact the victim compensation program in the jurisdiction where the crime occurred and discuss her/his situation with the victim compensation administrator about whether the board may or could waive this requirement. Victims can contact the Colorado Division of Criminal Justice to locate the appropriate victim compensation administrator by calling 303-239-5719.
- **FORENSIC EVIDENCE COLLECTION KIT:** Let the victim know that the forensic evidence collection kit will be turned over to the appropriate law enforcement agency. The victim will be notified by the medical facility of which law enforcement agency received the kit and that it will be stored at the law enforcement agency for two years. ((HB 08-1397 Concerning the Evidence Collected in Criminal Cases was passed after HB 08-1217 and may affect the length of time evidence needs to be held, however the time would be longer than 2 years.)
- **DOMESTIC VIOLENCE CASES:** In a domestic violence case, other pertinent domestic violence laws may affect the actions taken by the law enforcement agency.

Please contact the Colorado Division of Criminal Justice for further information at 303-239-5719 or email [Debbie.kasyon@cdps.state.co.us](mailto:Debbie.kasyon@cdps.state.co.us) or check our website at <http://dcj.state.co.us/ovp/VAWA>