

38-Point Safe Community Challenge Analysis for Colorado

ISSUE 1: CHILD MARRIAGE IN COLORADO

- 1.1 *What is the youngest age one can marry?*
- 1.2 *Is parental approval required?*
- 1.3 *Is judicial approval required?*
- 1.4 *Is there a lower age limit if one of the participants is pregnant?*
- 1.5 *Is there a lower age limit if the minor has been married before?*
- 1.6 *Is there a lower age limit if the participant is in the military?*
- 1.7 *Is there a gender difference in the lowest age limit permitted?*

1.1 What is the youngest age one can marry?

In general 18 years of age. A minor may marry at 16 years of age with judicial approval.

C.R.S. § 14-2-106 (2019) provides:

(1) (a) When a marriage license application has been completed and signed by both parties to a prospective marriage and at least one party has appeared before the county clerk and recorder and has paid the marriage license fee of seven dollars, a fee of twenty dollars to be transmitted by the county clerk and recorder to the state treasurer and credited by the treasurer to the Colorado domestic abuse program fund created in section 39-22-802 (1), and an additional amount established pursuant to section 25-2-121, such amount to be credited to the vital statistics records cash fund pursuant to section 25-2-121, the county clerk shall issue a license to marry and a marriage certificate form upon being furnished:

(I) Satisfactory proof that each party to the marriage will have attained the age of eighteen years at the time the marriage license becomes effective; or, if over the age of sixteen years but has not attained the age of eighteen years, has judicial approval, as provided in section 14-2-108; and

(II) Satisfactory proof that the marriage is not prohibited, as provided in section 14-2-110.

(b) Violation of subsection (1)(a)(I) of this section makes the marriage voidable.

1.2 Is parental approval required?

No. A court is required to make reasonable efforts to notify the parents of legal guardians of each minor, but parental consent is not specifically required.

C.R.S. § 14-2-108 (2019) provides the following for judicial approval:

(1) The juvenile court, as defined in section 19-1-103 (17), after a reasonable effort has been made to notify the parents or legal guardians of each underage party, may order the county clerk and recorder pursuant to subsection (2) of this section to issue a marriage license and a marriage certificate form to a party sixteen or seventeen years of age.

(2) (a) The court may order the county clerk and recorder to issue a marriage license under subsection (1) of this section only if the court finds, after reviewing the report of the guardian ad litem appointed pursuant to subsection (2)(b) of this section, that the underage party is capable of assuming the responsibilities of marriage and the marriage would serve the underage party's best interests. Pregnancy alone does not establish that the best interests of the party would be served.

(b)(I) Prior to ordering the issuance of a marriage license to an underage party, the court shall appoint a guardian ad litem for the underage party and direct the guardian ad litem to investigate the best interests of the underage party and to file a report with the court addressing the factors set forth in subsection (2)(b)(II) of this section and stating a position as to whether the issuance of a marriage license to the underage party is in the underage party's best interests.

(II) The court shall consider all relevant factors, including:

(A) The wishes of the underage party;

(B) The view of the parents or legal guardians of the underage party, if known;

(C) The ability of the underage party to assume the responsibilities of marriage;

(D) The circumstances surrounding the marriage; and

(E) The ability of the underage party to manage the underage party's financial, personal, social, educational, and nonfinancial affairs independent of the underage party's intended spouse both during the marriage or upon dissolution of the marriage.

(3) The district court or the juvenile court, as the case may be, shall authorize performance of a marriage by proxy upon the showing required by the provisions on solemnization, being section 14-2-109.

1.3 Is judicial approval required?

Judicial approval is required for a minor 16 or 17 years of age to marry. See above.

1.4 Is there a lower age limit if one of the participants is pregnant?

No. The law specifically states pregnancy alone is not a reason to allow a child to marry. C.R.S. § 14-2-108(2)(a) (2019) provides "Pregnancy alone does not establish that the best interests of the party would be served [by marriage]."

1.5 Is there a lower age limit if the minor has been married before?

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No.

1.6 Is there a lower age limit if the participant is in the military?

No.

1.7 Is there a gender difference in the lowest age limit permitted?

No.

ISSUE II: CONSENT TO SEXUAL CONTACT

2.1 What is the definition of “consent”?

2.2 Is freely given or affirmative consent required?

2.3 What is the youngest age for a person to consent to sexual contact?

2.4 Is a difference in age accounted for when considering consent?

2.5 Does the law recognize that a developmental disability and/or mental incapacity can impact the ability to consent?

2.6 Does the law recognize that consciousness can impact a person’s ability to consent?

2.7 Does intoxication impact the victim’s ability to consent?

2.8 Is an individual’s ability to consent impacted by their relationship with the perpetrator?

2.1 What is the definition of “consent”?

C.R.S. § 18-3-401 (2019) provides:

(1.5) "Consent" means cooperation in act or attitude pursuant to an exercise of free will and with knowledge of the nature of the act. A current or previous relationship shall not be sufficient to constitute consent under the provisions of this part 4. Submission under the influence of fear shall not constitute consent. Nothing in this definition shall be construed to affect the admissibility of evidence or the burden of proof in regard to the issue of consent under this part 4.

2.2 Is freely given or affirmative consent required?

Not quite. Consent is required to be an “exercise of free will and with knowledge of the nature of the act” by definition. See above. However, consent is not specifically required to be “freely given or by affirmative consent.”

2.3 What is the youngest age for a person to consent to sexual contact?

17 years of age in general. Consent may occur at 15 or 16 years of age if the other person is not more than four years older than the minor. C.R.S. § 18-3-402 (2019) provides:

(1) Any actor who knowingly inflicts sexual intrusion or sexual penetration on a victim commits sexual assault if: . . .

(d) At the time of the commission of the act, the victim is less than fifteen years of age and the actor is at least four years older than the victim and is not the spouse of the victim; or

(e) At the time of the commission of the act, the victim is at least fifteen years of age but less than seventeen years of age and the actor is at least ten years older than the victim and is not the spouse of the victim; . . .

2.4 Is a difference in age accounted for when considering consent?

Yes. C.R.S. § 18-3-402 (2019) provides:

(1) Any actor who knowingly inflicts sexual intrusion or sexual penetration on a victim commits sexual assault if: . . .

(d) At the time of the commission of the act, the victim is less than fifteen years of age and the actor is at least four years older than the victim and is not the spouse of the victim; or

(e) At the time of the commission of the act, the victim is at least fifteen years of age but less than seventeen years of age and the actor is at least ten years older than the victim and is not the spouse of the victim; . . .

2.5 Does the law recognize that a developmental disability and/or mental incapacity can impact the ability to consent?

Yes although it does not specifically list those terms. A developmental disability or mental incapacity could impact a person's ability to consent or make them physically helpless and unable to consent. However, it is only if the person conducting the assault knows the person is incapable of appraising the nature of the victim's conduct or knows that the person is physically helpless and has not consented.

C.R.S. § 18-3-402 (2019) describes "sexual assault" as occurring when "(1) Any actor who knowingly inflicts sexual intrusion or sexual penetration on a victim commits sexual assault if: (b) The actor knows that the victim is incapable of appraising the nature of the victim's conduct; or . . . (h) The victim is physically helpless and the actor knows the victim is physically helpless and the victim has not consented."

"Physically helpless is described as "(3) "Physically helpless" means unconscious, asleep, or otherwise unable to indicate willingness to act." C.R.S. § 18-3-401 (2019).

2.6 Does the law recognize that consciousness can impact a person's ability consent?

Yes. Unconsciousness would fall within the definitions of when an assault constitutes sexual assault. C.R.S. § 18-3-402 (2019) describes "sexual assault" as occurring when "(1) Any actor who knowingly inflicts sexual intrusion or sexual penetration on a victim commits sexual assault if: (b) The actor knows that the victim is incapable of appraising the nature of the victim's conduct; or . . . (h) The victim is physically helpless and the actor knows the victim is physically helpless and the victim has not consented."

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“Physically helpless is described as “(3) "Physically helpless" means unconscious, asleep, or otherwise unable to indicate willingness to act.” C.R.S. § 18-3-401 (2019).

Similarly, C.R.S. § 18-3-404 (2019) describes unlawful sexual contact:

- (1) Any actor who knowingly subjects a victim to any sexual contact commits unlawful sexual contact if:
 - (a) The actor knows that the victim does not consent; or
 - (b) The actor knows that the victim is incapable of appraising the nature of the victim's conduct; or
 - (c) The victim is physically helpless and the actor knows that the victim is physically helpless and the victim has not consented; or
 - (d) The actor has substantially impaired the victim's power to appraise or control the victim's conduct by employing, without the victim's consent, any drug, intoxicant, or other means for the purpose of causing submission[.]

2.7 Does intoxication impact the victim's ability to consent?

Yes. C.R.S. § 18-3-404 (2019) describes unlawful sexual contact:

- (1) Any actor who knowingly subjects a victim to any sexual contact commits unlawful sexual contact if:
 - (a) The actor knows that the victim does not consent; or
 - (b) The actor knows that the victim is incapable of appraising the nature of the victim's conduct; or
 - (c) The victim is physically helpless and the actor knows that the victim is physically helpless and the victim has not consented; or
 - (d) The actor has substantially impaired the victim's power to appraise or control the victim's conduct by employing, without the victim's consent, any drug, intoxicant, or other means for the purpose of causing submission[.]

C.R.S. § 18-3-404(1)(d) (2019) provides that intoxication only applies if the actor has provided an intoxicant without the victim's consent. Nonetheless, the victim would still be unable to appreciate the actor's conduct so the statute would apply. *People In Interest of G.B.*, 2018 WL 2436823 (Colo. App. 2018)

C.R.S. § 18-3-402 (2019) describes “sexual assault” as occurring when “(1) Any actor who knowingly inflicts sexual intrusion or sexual penetration on a victim commits sexual assault if: (b) The actor knows that the victim is incapable of appraising the nature of the victim's conduct; or . . . (h) The victim is physically helpless and the actor knows the victim is physically helpless and the victim has not consented.” This would include intoxication.

“Physically helpless is described as “(3) "Physically helpless" means unconscious, asleep, or otherwise unable to indicate willingness to act.” C.R.S. § 18-3-401 (2019). This would include intoxication.

2.8 Is an individual's ability to consent impacted by a supervisory relationship or a position of authority with the perpetrator?

Yes. Consent to sexual contact with a law enforcement officer cannot be given in certain situations. C.R.S. § 18-3-402 (2019) describes "unlawful sexual contact" as including:

- (1) Any actor who knowingly subjects a victim to any sexual contact commits unlawful sexual contact if:
- (f) The victim is in custody of law or detained in a hospital or other institution and the actor has supervisory or disciplinary authority over the victim and uses this position of authority, unless incident to a lawful search, to coerce the victim to submit[.]

A child cannot consent to sexual contact with a person not their spouse when the person is in a position of power relative to the victim. C.R.S. § 18-3-405.3 (2019) describes "sexual assault on a child by one in a position of trust":

- (1) Any actor who knowingly subjects another not his or her spouse to any sexual contact commits sexual assault on a child by one in a position of trust if the victim is a child less than eighteen years of age and the actor committing the offense is one in a position of trust with respect to the victim.
- (2) Sexual assault on a child by one in a position of trust is a class 3 felony if:
 - (a) The victim is less than fifteen years of age; or
 - (b) The actor commits the offense as a part of a pattern of sexual abuse as described in subsection (1) of this section. No specific date or time need be alleged for the pattern of sexual abuse; except that the acts constituting the pattern of sexual abuse whether charged in the information or indictment or committed prior to or at any time after the offense charged in the information or indictment, shall be subject to the provisions of section 16-5-401 (1)(a), concerning sex offenses against children. The offense charged in the information or indictment shall constitute one of the incidents of sexual contact involving a child necessary to form a pattern of sexual abuse as defined in section 18-3-401 (2.5). Prosecution for any incident of sexual contact constituting the offense or any incident of sexual contact constituting the pattern of sexual abuse may be commenced and the offenses charged in an information or indictment in a county where at least one of the incidents occurred or in a county where an act in furtherance of the offense was committed.
- (3) Sexual assault on a child by one in a position of trust is a class 4 felony if the victim is fifteen years of age or older but less than eighteen years of age and the offense is not committed as part of a pattern of sexual abuse, as described in paragraph (b) of subsection (2) of this section.
- (4) If a defendant is convicted of the class 3 felony of sexual assault on a child pursuant to paragraph (b) of subsection (2) of this section, the court shall sentence the defendant in accordance with the provisions of section 18-1.3-406.

(5) A person who is convicted on or after July 1, 2013, of sexual assault on a child by one in a position of trust under this section, upon conviction, shall be advised by the court that the person has no right:

(a) To notification of the termination of parental rights and no standing to object to the termination of parental rights for a child conceived as a result of the commission of that offense;

(b) To allocation of parental responsibilities, including parenting time and decision-making responsibilities for a child conceived as a result of the commission of that offense;

(c) Of inheritance from a child conceived as a result of the commission of that offense; and

(d) To notification of or the right to object to the adoption of a child conceived as a result of the commission of that offense.

C.R.S. § 18-3-402(3.5) (2019) defines a person in a “position of trust” as:

One in a “position of trust” includes, but is not limited to, any person who is a parent or acting in the place of a parent and charged with any of a parent's rights, duties, or responsibilities concerning a child, including a guardian or someone otherwise responsible for the general supervision of a child's welfare, or a person who is charged with any duty or responsibility for the health, education, welfare, or supervision of a child, including foster care, child care, family care, or institutional care, either independently or through another, no matter how brief, at the time of an unlawful act.

A client cannot consent to have sexual contact with their psychotherapist. C.R.S. § 18-3-405.5 (2019) describes the offense of “sexual assault on a client by a psychotherapist”:

(1) (a) Any actor who knowingly inflicts sexual penetration or sexual intrusion on a victim commits aggravated sexual assault on a client if:

(I) The actor is a psychotherapist and the victim is a client of the psychotherapist;
or

(II) The actor is a psychotherapist and the victim is a client and the sexual penetration or intrusion occurred by means of therapeutic deception.

(b) Aggravated sexual assault on a client is a class 4 felony.

(2) (a) Any actor who knowingly subjects a victim to any sexual contact commits sexual assault on a client if:

(I) The actor is a psychotherapist and the victim is a client of the psychotherapist;
or

(II) The actor is a psychotherapist and the victim is a client and the sexual contact occurred by means of therapeutic deception.

(b) Sexual assault on a client is a class 1 misdemeanor.

(3) Consent by the client to the sexual penetration, intrusion, or contact shall not constitute a defense to such offense.

(4) As used in this section, unless the context otherwise requires:

(a) "Client" means a person who seeks or receives psychotherapy from a psychotherapist.

(b) "Psychotherapist" means any person who performs or purports to perform psychotherapy, whether the person is licensed or registered by the state pursuant to title 12, C.R.S., or certified by the state pursuant to part 5 of article 1 of title 25, C.R.S.

(c) "Psychotherapy" means the treatment, diagnosis, or counseling in a professional relationship to assist individuals or groups to alleviate behavioral or mental health disorders, understand unconscious or conscious motivation, resolve emotional, relationship, or attitudinal conflicts, or modify behaviors that interfere with effective emotional, social, or intellectual functioning.

(d) "Therapeutic deception" means a representation by a psychotherapist that sexual contact, penetration, or intrusion by the psychotherapist is consistent with or part of the client's treatment.

(5) A person who is convicted on or after July 1, 2013, of sexual assault on a client by a psychotherapist under this section, upon conviction, shall be advised by the court that the person has no right:

(a) To notification of the termination of parental rights and no standing to object to the termination of parental rights for a child conceived as a result of the commission of that offense;

(b) To allocation of parental responsibilities, including parenting time and decision-making responsibilities for a child conceived as a result of the commission of that offense;

(c) Of inheritance from a child conceived as a result of the commission of that offense; and

(d) To notification of or the right to object to the adoption of a child conceived as a result of the commission of that offense.

C.R.S. § 18-3-405.7 (2019) describes the crime of "unlawful sexual conduct by a peace officer":

(1) A peace officer commits unlawful sexual conduct by a peace officer by knowingly engaging in sexual contact, sexual intrusion, or sexual penetration under any of the following circumstances:

(a) In the same encounter, the peace officer contacts the victim for the purpose of law enforcement or contacts the victim in the exercise of the officer's employment activities or duties;

(b) The peace officer knows that the victim is, or causes the victim to believe that he or she is, the subject of an active investigation, and the peace officer uses that knowledge to further the sexual contact, intrusion, or penetration; or

(c) In furtherance of sexual contact, intrusion, or penetration, the peace officer makes any show of real or apparent authority.

(2) (a) Unlawful sexual conduct by a peace officer under circumstances when the victim is subject to sexual contact is a class 4 felony.

(b) Unlawful sexual conduct by a peace officer under circumstances in which sexual intrusion or penetration is inflicted on the victim is a class 3 felony.

(3) For the purposes of this section, unless the context otherwise requires, "peace officer" means any person described in article 2.5 of title 16.

(4) It is not a defense to this section that the victim consented to the sexual contact, intrusion, or penetration.

(5) This section does not apply to sexual contact or intrusion that occurs incident to a lawful search.

ISSUE III: HATE CRIMES LAW IN COLORADO

- 3.1 *Does the state have a hate crimes law?*
- 3.2 *Does the hate crimes law require data collection on hate crimes?*
- 3.3 *Does the state criminalize interference with religious worship?*
- 3.4 *Does the state have a criminal penalty enhancement for crimes or have a separate crime for crimes motivated by race, religion, or ethnicity?*
- 3.5 *Do criminal penalty enhancements exist for crimes motivated by sexual orientation?*
- 3.6 *Do criminal penalty enhancements exist for crimes motivated by gender?*
- 3.7 *Do criminal penalty enhancements exist for crimes motivated by gender identity?*
- 3.8 *Do criminal penalty enhancements exist for crimes motivated by disability?*
- 3.9 *Do criminal penalty enhancements exist for crimes motivated by political affiliation?*
- 3.10 *Do criminal penalty enhancements exist for crimes motivated by age?*

3.1 Does the state have a hate crimes law?

Yes. C.R.S. § 18-9-121 (2019) defines "bias-motivated crimes":

(1) The general assembly hereby finds and declares that it is the right of every person, regardless of race, color, ancestry, religion, national origin, physical or mental disability, or sexual orientation to be secure and protected from fear, intimidation, harassment, and physical harm caused by the activities of individuals and groups. The general assembly further finds that the advocacy of unlawful acts against persons or groups because of a person's or group's race, color, ancestry, religion, national origin, physical or mental disability, or sexual orientation for the purpose of inciting and provoking bodily injury or damage to

property poses a threat to public order and safety and should be subject to criminal sanctions.

(2) A person commits a bias-motivated crime if, with the intent to intimidate or harass another person because of that person's actual or perceived race, color, religion, ancestry, national origin, physical or mental disability, or sexual orientation, he or she:

(a) Knowingly causes bodily injury to another person; or

(b) By words or conduct, knowingly places another person in fear of imminent lawless action directed at that person or that person's property and such words or conduct are likely to produce bodily injury to that person or damage to that person's property; or

(c) Knowingly causes damage to or destruction of the property of another person.

(3) Commission of a bias-motivated crime as described in paragraph (b) or (c) of subsection (2) of this section is a class 1 misdemeanor. Commission of a bias-motivated crime as described in paragraph (a) of subsection (2) of this section is a class 5 felony; except that commission of a bias-motivated crime as described in said paragraph (a) is a class 4 felony if the offender is physically aided or abetted by one or more other persons during the commission of the offense.

(3.5) (a) In determining the sentence for a first-time offender convicted of a bias-motivated crime, the court shall consider the following alternatives, which shall be in addition to and not in lieu of any other sentence received by the offender:

(I) Sentencing the offender to pay for and complete a period of useful community service intended to benefit the public and enhance the offender's understanding of the impact of the offense upon the victim;

(II) At the request of the victim, referring the case to a restorative justice or other suitable alternative dispute resolution program established in the judicial district pursuant to section 13-22-313, C.R.S.

(b) In considering whether to impose the alternatives described in paragraph (a) of this subsection (3.5), the court shall consider the criminal history of the offender, the impact of the offense on the victim, the availability of the alternatives, and the nature of the offense. Nothing in this section shall be construed to require the court to impose the alternatives specified in paragraph (a) of this subsection (3.5).

(4) The criminal penalty provided in this section for commission of a bias-motivated crime does not preclude the victim of such action from seeking any other remedies otherwise available under law.

(5) For purposes of this section:

(a) "Physical or mental disability" refers to a disability as used in the definition of the term "person with a disability" in section 18-6.5-102 (11).

(b) "Sexual orientation" means a person's actual or perceived orientation toward heterosexuality, homosexuality, bisexuality, or transgender status.

3.2 Does the hate crimes law require data collection on hate crimes?

Yes. C.R.S. § 24-33.5-412 (5)(b) (2019) requires the Colorado Bureau of Investigation to make annual report to the General Assembly regarding bias-motivated crimes:

Beginning in 2018, and every year thereafter, the department shall include as part of its "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act" hearing required by section 2-7-203 information concerning the reports submitted by law enforcement agencies pursuant to subsection (5)(a) of this section, including but not limited to information concerning reports of bias-motivated crimes, as described in section 18-9-121.

3.3 Does the state criminalize interference with religious worship?

No but it does criminalize desecration of venerated objects. C.R.S. § 18-9-113 (2019) provides for the crime of "Desecration of venerated objects":

(1) (a) A person commits a class 3 misdemeanor if he knowingly desecrates any public monument or structure or desecrates in a public place any other object of veneration by the public.

(b) Except as otherwise provided in section 24-80-1305, C.R.S., with respect to the disturbance of an unmarked human burial, a person commits a class 1 misdemeanor if he knowingly desecrates any place of worship or burial of human remains.

(c) The court shall order that any person convicted pursuant to this section make restitution to cover the costs of repairing any damages to any monument, headstone, memorial marker, structure, or place that are the result of such person's conduct. Such restitution shall be paid to any person or entity that repairs such damages, as required in article 18.5 of title 16, C.R.S.

(2) The term "desecrate" means defacing, damaging, polluting, or otherwise physically mistreating in a way that the defendant knows will outrage the sensibilities of persons likely to observe or discover his action or its result.

3.4 Does the state have a criminal penalty enhancement for crimes or have a separate crime for crimes motivated by race, religion, or ethnicity?

Yes, see above. Additionally, C.R.S. § 13-21-106.5 (2019) provides for "civil damages for destruction or bodily injury caused by a bias-motivated crime."

(1) The victim, or a member of the victim's immediate family, is entitled to recover damages from any person, organization, or association that commits or incites others to commit the offense of a bias-motivated crime as described in section 18-9-121 (2), C.R.S. Such person, organization, or association shall be civilly liable to the victim or a member of the victim's immediate family for the actual damages, costs, and expenses incurred in connection with said action. For purposes of this section, "immediate family" includes the victim's spouse and the victim's parent, sibling, or child who is living with the victim.

(2) A conviction for a criminal bias-motivated crime pursuant to section 18-9-121, C.R.S., shall not be a condition precedent to maintaining a civil action pursuant to the provisions of this section.

(3) In any civil action brought pursuant to this section in which damages are assessed by a jury, upon proof of the knowledge and intent described in section 18-9-121 (2), C.R.S., in addition to the actual damages, the jury may award punitive damages. Said punitive damages shall not be subject to the limitations in section 13-21-102 or section 13-21-102.5.

3.5 Do criminal penalty enhancements exist for crimes motivated by sexual orientation?

Yes. See above.

3.6 Do criminal penalty enhancements exist for crimes motivated by gender?

No.

3.7 Do criminal penalty enhancements exist for crimes motivated by gender identity?

Yes. See above.

3.8 Do criminal penalty enhancements exist for crimes motivated by disability?

Yes. See above.

3.8 Do criminal penalty enhancements exist for crimes motivated by political affiliation?

No.

3.9 Do criminal penalty enhancements exist for crimes motivated by age?

No.

ISSUE IV: SEXUAL ASSAULT KIT TESTING IN COLORADO

4.1 Has the state conducted an inventory of untested rape kits (also called sexual assault evidence kits)?

4.2 Has the state conducted testing of the backlog of untested sexual assault kits?

4.3 Is there mandatory testing of all new sexual assault kits?

4.4 Has a sexual assault kit tracking system been implemented?

4.5 Does the state have a Survivors' Right to Notice?

4.6 Has the State provided funding for rape kit reform?

4.1 Has the state conducted an inventory of untested rape kits (also called sexual assault evidence kits)?

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Yes. C.R.S. § 24-33.5-113 (2019) provides guidance for “forensic medical evidence in sexual assault cases”:

- (1) Rules. (a) On or before thirty days after June 5, 2013, the executive director shall begin the process of promulgating rules for forensic medical evidence collected in connection with an alleged sexual assault. Not less than ninety days prior to the promulgation of the rules, the division shall convene a representative group of participants as defined in section 24-4-102 (14.5) to solicit input into the development of the rules. The representative group must include persons affected by the rules and persons responsible for implementation of the rules. The division may convene as many meetings of the representative group as is necessary.
- (b) On or before six months after June 5, 2013, the executive director shall promulgate the rules. The rules must include:
 - (I) A requirement that forensic evidence must be collected if a victim of an alleged sexual assault requests it to be collected;
 - (II) Standards for what evidence must be submitted to the Colorado bureau of investigation or another accredited crime laboratory;
 - (III) Time frames for when the evidence must be submitted, analyzed, and compared to DNA databases. The rules on time frames must indicate that, once the backlog described in subsection (4) of this section is resolved, evidence that meets the criteria for mandatory submission must be submitted within twenty-one days after receipt by a law enforcement agency.
 - (IV) Standards for consent for the collection, testing, and release of test results of the forensic medical evidence, including but not limited to:
 - (A) Information to be contained in consent forms that notify persons of the potential effects of each step of the process, including collection, testing, and release of test results and require acknowledgment of consent for each step of the process;
 - (B) Who may give consent and when is it required;
 - (C) Who may withdraw consent and when it may be withdrawn; and
 - (D) When and how results of tests may be released and for what purposes;
 - (V) A plan for prioritizing the testing of the backlog of forensic medical evidence to be forwarded to the Colorado bureau of investigation pursuant to subsection (4) of this section and a plan for testing newly collected forensic medical evidence once the backlog is resolved; and
 - (VI) The date, as soon as practicable, by which a law enforcement agency must analyze its backlog of forensic medical evidence if it does not forward such evidence to the Colorado bureau of investigation for analysis.

(2) Law enforcement and medical personnel shall not, for any reason, discourage a victim of an alleged sexual assault from receiving a forensic medical examination.

(3) Compliance. (a) (I) On and after ninety days after the promulgation of the rules authorized by paragraph (b) of subsection (1) of this section, all law enforcement agencies in the state shall comply with the promulgated rules.

(II) The failure of a law enforcement agency to comply with the rules promulgated pursuant to paragraph (b) of subsection (1) of this section does not affect:

(A) The authority of the agency to submit the evidence to the Colorado bureau of investigation or other accredited crime laboratory;

(B) The authority of the Colorado bureau of investigation or other accredited crime laboratory to analyze the evidence or provide results of the analysis to appropriate persons; or

(C) The admissibility of the evidence in any court.

(b) On and after ninety days after the promulgation of the rules described in paragraph (b) of subsection (1) of this section, all personnel at a medical facility performing a forensic medical examination and all other persons having custody of forensic medical evidence collected in connection with an alleged sexual assault or the results of tests conducted on the evidence shall comply with the promulgated rules.

(c) A person who receives evidence or results of tests under this section shall not disclose the evidence or test results except to the extent that disclosure is consistent with the authorized purpose for which the person obtained the evidence.

(4) Repealed.

(5) The department of public safety shall include within its budget requests and supplemental budget requests submitted to the joint budget committee funding requests to analyze as soon as practicable the backlog of forensic medical evidence of any alleged sexual assaults forwarded to the Colorado bureau of investigation pursuant to subsection (4) of this section and to analyze newly collected forensic medical evidence as soon as practicable.

Higher education has a Memorandum of Understanding regarding sexual assault victim care. C.R.S. § 23-5-143 (2019) provides:

(1) The general assembly finds and declares:

(a) College-aged students are at a high risk of being victims of sexual assault;

(b) It is important for a victim of a sexual assault to receive time-sensitive medical care following the assault whether or not medical forensic evidence is collected;

(c) The medical professionals best equipped to provide this care have specialized sexual assault training, including sexual assault nurse examiner training, sexual assault forensic examiner training, or medical forensic exam training;

(d) Few, if any, institutions of higher education have medical professionals on site with the necessary specialized training to care for sexual assault victims; and

(e) Institutions of higher education should have procedures in place to refer and transport sexual assault victims to nearby hospitals or clinics that have medical professionals specifically trained to care for those victims.

(2) As used in this section, unless the context otherwise requires:

(a) "Institution of higher education" means a state institution of higher education as defined in section 23-18-102 or a participating private institution of higher education as defined in section 23-18-102.

(b) "Medical forensic exam program" means a healthcare program with licensed medical professionals, such as registered nurses, nurse practitioners, physician assistants, or physicians, who have received some specialized training in conducting medical forensic examinations of adults and adolescents according to established Colorado protocols but have not received formal SAFE or SANE training. "Medical forensic exam programs" may be based in hospitals, medical clinics, safe houses, children's advocacy centers, stand-alone medical forensic exam clinics, public health clinics, or another facility where appropriate medical care is provided to sexual assault victims.

(c) "Sexual assault forensic examiner" or "SAFE" means a registered nurse, physician assistant, or physician who has been specifically trained to provide comprehensive sexual assault care, including evidence collection and testimony, pursuant to the International Association of Forensic Nurses' forensic nursing education guidelines.

(d) "Sexual assault nurse examiner" or "SANE" means a registered nurse, including an advanced practice nurse, who has been specifically trained to provide comprehensive sexual assault care, including evidence collection and testimony, pursuant to the International Association of Forensic Nurses' forensic nursing education guidelines.

(3) Within one hundred eighty days after May 4, 2015, each institution of higher education shall enter into and have in effect a memorandum of understanding or other formalized arrangement with at least one nearby medical facility or other facility that has sexual assault nurse examiners, sexual assault forensic examiners, or a medical forensic exam program. Each state-funded institution of higher education shall renew or obtain a new memorandum of understanding within three years after the date of each such memorandum. Each memorandum of understanding or other formalized arrangement must include provisions that the institution of higher education shall refer appropriate patients to the medical facility or other facility for the purposes of providing campus sexual assault victims medical care and evidence collection, if the victim chooses, and assist with or provide transportation to the facility.

(4) Each institution of higher education shall:

(a) Provide easily available information on the website of the institution of higher education on how to access a medical forensic examination following a sexual assault. The information must, at a minimum, inform victims of the medical facility with which the institution has a memorandum of understanding or formalized arrangement; of the methods of transportation available to get to the facility, including public transportation options; and that having a medical forensic examination does not require them, at any time, to participate with a law enforcement investigation or any criminal justice response.

(b) Have a sexual assault training and response policy that includes:

(I) A plan to ensure that campus health center staff is able to provide appropriate resources and referrals to students regarding medical forensic exams and sexual assault care. Within one year after the enactment of this section and at least every two years thereafter, each institution of higher education shall contract or otherwise arrange with a sexual assault nurse examiner and a trained sexual assault advocate to provide relevant campus health center staff with sexual assault response training. Such training must include campus, community, or law enforcement advocates as trainers. At a minimum, training should include content in the following areas:

(A) An overview of medical forensic exams for the purpose of enabling campus health staff to answer a victim's questions about medical forensic exams;

(B) Trauma response;

(C) Victim dynamics;

(D) Short-term and long-term health impact of sexual assault;

(E) Victim compensation eligibility as described in article 4.1 of title 24, C.R.S.; and

(F) Sexual assault victim emergency payment program eligibility as described in section 18-3-407.7, C.R.S.

(II) A referral plan to connect a student who is a victim to the appropriate victim advocates. Confidential victim advocates may be campus advocates or community-based advocates. Victims may also be referred to victim advocates employed by a law enforcement agency with jurisdiction over the crime, if appropriate.

(III) Transportation instructions to inform about, assist with, or provide transport to the hospital, clinic, or other facility performing the medical forensic examination or sexual assault-related medical care.

(5) The general assembly encourages all other institutions of higher education in this state to enter into a similar memorandum of understanding or formalized arrangement as described in this section, to post information on the institution's website, and to have sexual assault training and response policies.

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4.2 Has the state conducted testing of the backlog of untested sexual assault kits?

Yes. 8 CCR 1507-29 (2013) provides the state's guidelines for dealing with the untested sexual assault kit backlog:

AUTHORITY

The Colorado Department of Public Safety Executive Director is mandated to promulgate rules and regulations concerning forensic medical evidence collection in connection with sexual assaults pursuant to CRS § 24-33.5-113.

DEFINITIONS

The following definitions apply to these rules and regulations:

"Accredited Crime Laboratory" means a law enforcement crime laboratory which has received forensic accreditation through ASCLD/LAB (American Society of Crime Laboratory/Laboratory Accreditation Board) Legacy or ISO/IEC (International Organization of Standardization/International Electrotechnical Commission) 17025:2005 by a recognized accrediting body.

"Backlog" as referenced in C.R.S § 24-33.5-113 means all unanalyzed collected forensic medical evidence stored in any law enforcement facility in the State of Colorado. All forensic medical evidence received by law enforcement entities as part of an active investigation shall be considered "backlog" until the date these rules become effective.

"CODIS" (COmbined DNA Index System) means a database system controlled by the Federal Bureau of Investigation (FBI) authorizing individuals within an accredited crime laboratory to utilize the system upon successful completion of a FBI QAS (Quality Assurance Standards) audit.

"Forensic Evidence" as referenced in section 113 (b) (I) of CRS § 24-33.5-113 means forensic medical evidence.

"Forensic Medical Evidence" means evidence collected by medical or law enforcement personnel using a sexual assault evidence collection kit (or components thereof) consistent with state/national collection standards. This excludes any toxicological evidence.

"Forensic evidence analysis/release of results" for the purposes of this law means that any results from the forensic analysis conducted will be released to the submitting agency.

APPLICABILITY

These rules and regulations apply to all personnel who participate in any or all parts of the collection, transportation, storage, forensic analysis, investigation, and the judicial process of forensic medical evidence in connection to alleged sexual assaults occurring in the State of Colorado. These rules must be complied with by March 1, 2014.

CONSENT

Code of Colorado Regulations 1

Forensic medical evidence must be collected if a victim of an alleged sexual assault requests the collection. Law enforcement and medical personnel shall not, for any reason, discourage a victim of an alleged sexual assault from receiving a forensic medical examination.

Any person who receives forensic medical evidence or the results of those tests conducted on the forensic medical evidence shall not disclose that information except for the authorized purpose for which that forensic medical evidence was obtained.

The COLORADO SEXUAL ASSAULT CONSENT AND INFORMATION FORM must be utilized to obtain consent from and provide information to sexual assault victims regarding:

- 1) Evidence collection through a medical forensic exam; 2) Forensic evidence analysis/release of results;
- 3) Reporting options; and
- 4) Victims' ability to withdraw consent.

This form must be used beginning March 1, 2014. This form should be utilized prior to the collection of forensic medical evidence whether collected by medical or law enforcement personnel.

Consent or non-consent must be confirmed through the victim's initials and signature on the form.

Sexual assault victims may withdraw their consent for evidence collection and forensic evidence analysis/release of results. However, consent for analysis/release of results cannot be withdrawn once forensic analysis has been initiated by a qualified employee of an accredited crime laboratory.

Withdrawal of consent becomes effective when the investigating law enforcement agency verifies that the person seeking to withdraw consent is the victim who is acting of her/his own free will. If possible, law enforcement should obtain written confirmation of the withdrawal from the victim.

If the evidence collection kit is in the custody of the accredited crime lab when the withdrawal of consent becomes effective, law enforcement must notify the accredited crime lab about the withdrawal as soon as possible, but no later than the second business day after consent has been withdrawn and victim identification has been verified.

Law enforcement must make a reasonable attempt to verify the identity of the person seeking to withdraw consent. If law enforcement cannot verify the identity of the person seeking to withdraw consent, or does not believe the victim is acting of her/his own free will, consent cannot be withdrawn.

FORENSIC ANALYSIS

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Beginning on March 1, 2014, all forensic medical evidence received by a law enforcement entity must be submitted to the Colorado Bureau of Investigation or an accredited crime laboratory for analysis within 21 days of receipt of such evidence except under the following circumstances:

- 1) The victim has not consented or has withdrawn consent to have the forensic analysis conducted;
- 2) A law enforcement investigation has corroborating evidence that the alleged sexual assault never occurred; or

Code of Colorado Regulations 2

- 3) The law enforcement entity is not the investigating agency and must forward the forensic medical evidence to the appropriate agency of jurisdiction for submission as soon as possible.

Upon submission to an accredited crime laboratory, that laboratory must strive to analyze and, when appropriate, upload the information into CODIS within six (6) months of receipt of the forensic medical evidence being submitted, assuming the laboratory has sufficient resources.

The appropriate accredited crime laboratory must report the results of the forensic analysis upon completion of the analysis to the submitting agency.

LAW ENFORCEMENT

Law enforcement agencies must submit their backlog of untested forensic medical evidence for analysis to the Colorado Bureau of Investigation or another accredited crime laboratory no later than March 1, 2014.

These rules apply whether the forensic medical evidence is submitted to the Colorado Bureau of Investigation or to another accredited crime laboratory.

...

4.3 Is there mandatory testing of all new sexual assault kits?

Yes. See above.

4.4 Has a sexual assault kit tracking system been implemented?

No.

4.5 Does the state have a Survivors' Right to Notice?

No.

4.6 Has the State provided funding for rape kit reform?

Yes.

ISSUE V: SPOUSAL RAPE IN COLORADO

5.1 *Is spousal rape, when a spouse rapes a partner who is unconscious, drugged, or otherwise incapacitated, treated differently than if the individuals are not spouses?*

5.2 *Does an exception for spousal rape exist under laws criminalizing statutory rape?*

5.3 *Does an exception for sexual contact under laws criminalize certain sexual contact between people with a supervisory relationship?*

5.1 Is spousal rape, when a spouse rapes a partner who is unconscious, drugged, or otherwise incapacitated, treated differently than if the individuals are not spouses?

No.

5.2 Does an exception for spousal rape exist under laws criminalizing statutory rape?

Yes. C.R.S. § 18-3-402 provides for an exception in “sexual assault”:

(1) Any actor who knowingly inflicts sexual intrusion or sexual penetration on a victim commits sexual assault if: . . .

(d) At the time of the commission of the act, the victim is less than fifteen years of age and the actor is at least four years older than the victim and is not the spouse of the victim; or

(e) At the time of the commission of the act, the victim is at least fifteen years of age but less than seventeen years of age and the actor is at least ten years older than the victim and is not the spouse of the victim[.]

C.R.S. § 18-3-405 provides for an exception in “sexual assault on a child”: “(1) Any actor who knowingly subjects another not his or her spouse to any sexual contact commits sexual assault on a child if the victim is less than fifteen years of age and the actor is at least four years older than the victim.”

C.R.S. § 18-3-409 provides: “Any marital relationship, whether established statutorily, putatively, or by common law, between an actor and a victim shall not be a defense to any offense under this part 4 unless such defense is specifically set forth in the applicable statutory section by having the elements of the offense specifically exclude a spouse.”

5.3 Does an exception for spousal rape exist under laws criminalizing certain sexual contact between people with a supervisory relationship exist?

Yes. C.R.S. § 18-3-405.3 provides that for “sexual assault on a child by one in a position of trust”: “(1) Any actor who knowingly subjects another not his or her spouse to any sexual contact commits sexual assault on a child by one in a position of trust if the victim is a child less than eighteen years of age and the actor committing the offense is one in a position of trust with respect to the victim.”

ISSUE VI: STATUTE OF LIMITATIONS FOR SEXUAL CRIMES IN COLORADO

- 6.1 *Has this state eliminated the statute of limitations for all felony sex crimes?*
 - 6.2 *In cases when a victim chooses not to report or delays reporting the crime, is the statute of limitations reduced?*
 - 6.3 *Is the statute of limitations impacted by DNA evidence?*
 - 6.4 *What is the state's statute of limitations for its most serious felony sex crimes?*
-

6.1 Has this state eliminated the statute of limitations for all felony sex crimes?

No.

6.2 In cases when a victim chooses not to report or delays reporting the crime, is the statute of limitations reduced?

Yes. A victim must report the crime to law enforcement within 10 years of its occurrence even if DNA evidence from a suspect is recovered in order for the DNA exception to apply.

6.3 Is the statute of limitations impacted by DNA evidence?

Yes. If a victim reports a crime within 10 years of its occurrence and the defendant is identified, no statute of limitations exists for certain crimes.

C.R.S. § 16-5-401(8) (a.5) provides that:

(a.5) Except as otherwise provided in paragraph (a) of subsection (1) of this section concerning sex offenses against children or felony sexual assault in violation of section 18-3-402, C.R.S., in any case in which the identity of the defendant or juvenile is determined, in whole or in part, by patterned chemical structure of genetic information, and in which the offense has been reported to a law enforcement agency, as defined in section 26-1-114 (3)(a)(III)(B), C.R.S., within ten years after the commission of the offense, there shall be no limit on the period of time during which a person may be prosecuted after the commission of the offense as to any offense or delinquent act charged:

(I) (Deleted by amendment, L. 2016.)

(II) Under section 18-3-403, C.R.S., as said section existed prior to July 1, 2000;
or

(III) (Deleted by amendment, L. 2016.)

(IV) As criminal attempt, conspiracy, or solicitation to commit any of the offenses specified in subparagraph (II) of this paragraph (a.5).

6.4 What is the state's statute of limitations for its most serious felony sex crimes?

11 - 20 years. C.R.S. § 16-5-401 provides the time limitations for commencing criminal proceedings:

(1) (a) Except as otherwise provided by statute applicable to specific offenses, delinquent acts, or circumstances, no adult person or juvenile shall be prosecuted, tried, or punished for any offense or delinquent act unless the

indictment, information, complaint, or petition in delinquency is filed in a court of competent jurisdiction or a summons and complaint or penalty assessment notice is served upon the defendant or juvenile within the period of time after the commission of the offense or delinquent act as specified below:

Murder, kidnapping, treason, any sex offense against a child, and any forgery regardless of the penalty provided: No limit

Attempt, conspiracy, or solicitation to commit murder; attempt, conspiracy, or solicitation to commit kidnapping; attempt, conspiracy, or solicitation to commit treason; attempt, conspiracy, or solicitation to commit any sex offense against a child; and attempt, conspiracy, or solicitation to commit any forgery regardless of the penalty provided: No limit

Vehicular homicide, except as described in paragraph (a.5) of this subsection (1); leaving the scene of an accident that resulted in the death of a person: Five years

Other felonies: Three years

Misdemeanors: Eighteen months

Class 1 and 2 misdemeanor traffic offenses: One year

Petty offenses: Six months

(a.5) The period of time during which an adult person or juvenile may be prosecuted for the offense of vehicular homicide, as described in section 18-3-106, C.R.S., and leaving the scene of an accident that resulted in the death of a person, as described in section 42-4-1601 (2)(c), C.R.S., when both offenses are alleged to have occurred as part of the same criminal episode in the same indictment, information, complaint, or petition in delinquency filed in a court of competent jurisdiction is ten years.

(b) Repealed.

(c) For purposes of this section:

(I) "Delinquent act" has the same meaning as defined in section 19-1-103 (36), C.R.S.

(II) "Juvenile" means a child as defined in section 19-1-103 (18), C.R.S.

(III) "Petition in delinquency" means any petition filed by a district attorney pursuant to section 19-2-512, C.R.S.

(IV) "Sex offense against a child" means any "unlawful sexual offense", as defined in section 18-3-411 (1), C.R.S., that is a felony.

(1.5) (a) Except as otherwise provided in paragraph (b) of this subsection (1.5), the provisions of paragraph (a) of subsection (1) of this section concerning sex offenses against children shall apply to offenses and delinquent acts committed on or after July 1, 1996.

(b) The provisions of paragraph (a) of subsection (1) of this section concerning sex offenses against children shall apply to an offense or delinquent act committed before July 1, 1996, if the applicable statute of limitations, as it existed prior to July 1, 2006, has not yet run on July 1, 2006.

(c) It is the intent of the general assembly in enacting the provisions of paragraph (a) of subsection (1) of this section concerning sex offenses against children to apply an unlimited statute of limitations to sex offenses against children committed on or after July 1, 1996, and to sex offenses against children committed before July 1, 1996, for which the applicable statute of limitations in effect prior to July 1, 2006, has not yet run on July 1, 2006.

(2) The time limitations imposed by this section shall be tolled if the adult offender or juvenile is absent from the state of Colorado, and the duration of such absence, not to exceed five years, shall be excluded from the computation of the time within which any complaint, information, indictment, or petition in delinquency must otherwise be filed or returned.

(3) (a) The period within which a prosecution must be commenced does not include any period in which a prosecution is pending against the adult defendant or juvenile for the same conduct, even if the indictment, information, complaint, or petition in delinquency which commences the prosecution is quashed or the proceedings thereon are set aside or are reversed on appeal.

(b) The period within which a prosecution must be commenced does not include any period in which a prosecution is pending against the adult defendant or juvenile for the same conduct, even if filed in a court without jurisdiction, when based on a reasonable belief the court possesses jurisdiction.

(4) When an offense or delinquent act is based on a series of acts performed at different times, the period of limitation prescribed by this code or by the "Colorado Securities Act", article 51 of title 11, C.R.S., starts at the time when the last act in the series of acts is committed.

(4.5) The period within which a prosecution must be commenced begins to run upon discovery of the criminal act or the delinquent act for:

(a) Offenses relating to the "Uniform Commercial Code", pursuant to part 5 of article 5 of title 18, C.R.S.;

(b) Cybercrime, pursuant to article 5.5 of title 18;

(c) Theft, pursuant to section 18-4-401, C.R.S.;

(d) Theft of trade secrets, pursuant to section 18-4-408, C.R.S.;

(e) Defacing or destruction of written instruments, pursuant to section 18-4-507, C.R.S.;

(f) Criminal simulation, pursuant to section 18-5-110, C.R.S.;

(g) Obtaining signature by deception, pursuant to section 18-5-112, C.R.S.;

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- (h) Criminal impersonation, pursuant to section 18-5-113, C.R.S.;
- (i) Offering a false instrument for recording, pursuant to section 18-5-114, C.R.S.;
- (j) Dual contracts to induce loan, pursuant to section 18-5-208, C.R.S.;
- (k) Issuing a false financial statement or obtaining a financial transaction device by false statements, pursuant to section 18-5-209, C.R.S.;
- (l) Unlawful activity concerning the selling of land, pursuant to section 18-5-302, C.R.S.;
- (m) Offenses relating to equity skimming, pursuant to part 8 of article 5 of title 18, C.R.S.;
- (m.5) Offenses relating to identity theft, pursuant to part 9 of article 5 of title 18, C.R.S.;
- (n) Offenses relating to bribery and corrupt influences, pursuant to part 3 of article 8 of title 18, C.R.S.;
- (o) Offenses relating to abuse of public office, pursuant to part 4 of article 8 of title 18, C.R.S.;
- (p) Offenses relating to perjury, pursuant to part 5 of article 8 of title 18, C.R.S.;
- (q) Offenses relating to the "Colorado Organized Crime Control Act", pursuant to article 17 of title 18, C.R.S.;
- (r) Unlawful concealment of transactions, pursuant to section 11-107-105, C.R.S.;
- (s) Embezzlement or misapplication of funds, pursuant to section 11-107-107, C.R.S.;
- (t) Unlawful acts or omissions relating to financial institutions, pursuant to section 11-107-108, C.R.S.;
- (u) Repealed.
- (v) Criminal offenses relating to savings and loan associations, pursuant to section 11-41-127;
- (w) Criminal offenses relating to securities fraud, pursuant to part 5 of article 51 of title 11;
- (x) Insurance fraud, pursuant to section 18-5-211;
- (y) Tampering with a deceased human body, pursuant to section 18-8-610.5;
- (z) Abuse of a corpse, pursuant to section 18-13-101; and
- (aa) Criminal offenses relating to misuse of gametes, pursuant to section 18-13-131.

(5) The period of time during which an adult person or juvenile may be prosecuted shall be extended for an additional three years as to any offense or delinquent act charged under sections 18-8-302, 18-8-303, 18-8-306, 18-8-307, 18-8-402, 18-8-406, 18-8-407, 39-21-118, and 39-22-621 (3), C.R.S.

(6) Except as otherwise provided in paragraph (a) of subsection (1) of this section pertaining to sex offenses against children or felony sexual assault in violation of section 18-3-402, C.R.S., the period of time during which an adult person or juvenile may be prosecuted shall be extended for an additional seven years as to any offense or delinquent act charged under section 18-6-403, C.R.S., or charged as criminal attempt, conspiracy, or solicitation to commit any of the acts specified in said sections.

(7) When the victim at the time of the commission of the offense or delinquent act is a child under fifteen years of age, the period of time during which an adult person or juvenile may be prosecuted shall be extended for an additional three years and six months as to a misdemeanor charged under section 18-3-404, C.R.S., or criminal attempt, conspiracy, or solicitation to commit such a misdemeanor.

(8) (a) Except as otherwise provided in paragraph (a) of subsection (1) of this section pertaining to sex offenses against children or felony sexual assault in violation of section 18-3-402, C.R.S., and except as otherwise provided in paragraphs (a.3) and (a.5) of this subsection (8), the period of time during which an adult person or juvenile may be prosecuted shall be ten years after the commission of the offense or delinquent act as to any offense or delinquent act:

(I) Charged under section 18-3-403, C.R.S., as said section existed prior to July 1, 2000, or section 18-6-403, C.R.S.;

(II) Charged as a felony under section 18-3-404, C.R.S.; or

(III) Charged as criminal attempt, conspiracy, or solicitation to commit any of the offenses specified in subparagraphs (I) and (II) of this paragraph (a).

(a.3) Except as otherwise provided in paragraph (a) of subsection (1) of this section concerning sex offenses against children or felony sexual assault in violation of section 18-3-402, C.R.S., if the victim at the time of the commission of an offense or delinquent act is a child under eighteen years of age, the period of time during which an adult person or juvenile may be prosecuted shall be ten years after such victim reaches the age of eighteen years as to any offense or delinquent act:

(I) Charged as a felony under section 18-3-403, C.R.S., as said section existed prior to July 1, 2000, or section 18-3-404, C.R.S.; or

(II) Charged as criminal attempt, conspiracy, or solicitation to commit any of the offenses specified in subparagraph (I) of this paragraph (a.3).

(a.5) Except as otherwise provided in paragraph (a) of subsection (1) of this section concerning sex offenses against children or felony sexual assault in violation of section 18-3-402, C.R.S., in any case in which the identity of the

defendant or juvenile is determined, in whole or in part, by patterned chemical structure of genetic information, and in which the offense has been reported to a law enforcement agency, as defined in section 26-1-114 (3)(a)(III)(B), C.R.S., within ten years after the commission of the offense, there shall be no limit on the period of time during which a person may be prosecuted after the commission of the offense as to any offense or delinquent act charged:

(I) (Deleted by amendment, L. 2016.)

(II) Under section 18-3-403, C.R.S., as said section existed prior to July 1, 2000; or

(III) (Deleted by amendment, L. 2016.)

(IV) As criminal attempt, conspiracy, or solicitation to commit any of the offenses specified in subparagraph (II) of this paragraph (a.5).

(a.7)

(I) Except as otherwise provided in paragraph (a) of subsection (1) of this section pertaining to sex offenses against children and except as otherwise provided in paragraphs (a.3) and (a.5) of this subsection (8), the period of time during which an adult person or juvenile may be prosecuted shall be twenty years after the commission of the offense or delinquent act as to any offense or delinquent act charged as a felony under section 18-3-402, C.R.S., or as criminal attempt, conspiracy, or solicitation to commit a felony under section 18-3-402, C.R.S.

(II) Except as otherwise provided in paragraph (a) of subsection (1) of this section concerning sex offenses against children, if the victim at the time of the commission of an offense or delinquent act is a child under eighteen years of age, the period of time during which an adult person or juvenile may be prosecuted shall be twenty years after such victim reaches eighteen years of age as to any offense or delinquent act charged as a felony under section 18-3-402, C.R.S., or as criminal attempt, conspiracy, or solicitation to commit a felony under section 18-3-402, C.R.S.

(III) Except as otherwise provided in paragraph (a) of subsection (1) of this section concerning sex offenses against children, in any case in which the identity of the defendant or juvenile is determined, in whole or in part, by patterned chemical structure of genetic information, and in which the offense has been reported to a law enforcement agency, as defined in section 26-1-114 (3)(a)(III)(B), C.R.S., within twenty years after the commission of the offense, there shall be no limit on the period of time during which a person may be prosecuted after the commission of the offense:

(A) As to any offense or delinquent act charged as a felony under section 18-3-402, C.R.S.;

(B) Under any other criminal statute if the offense is a felony or would be a felony if committed by an adult and is based on the same act or series of acts arising from the same criminal episode as the offense or delinquent act charged as a felony under section 18-3-402, C.R.S.; except that this sub-subparagraph (B)

does not apply if the court finds that there is no probable cause for the felony under section 18-3-402, C.R.S.; or

(C) As to criminal attempt, conspiracy, or solicitation to commit any of the offenses in this subparagraph (III).

(b) This subsection (8) shall apply to offenses and delinquent acts committed on or after July 1, 1984; except that subparagraph (III) of paragraph (a.5) of this subsection (8) applies to offenses and delinquent acts committed on or after July 1, 2011.

(9) Notwithstanding the provisions of paragraph (a) of subsection (1) of this section, the period of time during which an adult person or juvenile may be prosecuted shall be five years after the commission of the offense or delinquent act as to a misdemeanor charged under section 18-3-404, C.R.S., or criminal attempt, conspiracy, or solicitation to commit such a misdemeanor. This subsection (9) shall apply to offenses and delinquent acts committed on or after January 1, 1986.

(10) Notwithstanding the provisions of paragraph (a) of subsection (1) of this section, the period of time during which an adult person or juvenile may be prosecuted shall be three years after the date of the affected election as to a charge of any violation of any provision of the "Fair Campaign Practices Act", article 45 of title 1, C.R.S., or any criminal attempt, conspiracy, or solicitation to violate any provision of the "Fair Campaign Practices Act". This subsection (10) shall apply to offenses and delinquent acts committed on or after July 1, 1991.

(11) Notwithstanding the provisions of paragraph (a) of subsection (1) of this section, the period of time during which an adult person or juvenile may be prosecuted shall be three years after the discovery of the offense or delinquent act as to any offense or delinquent act charged under section 18-4-408, C.R.S. This subsection (11) shall apply to offenses and delinquent acts committed on or after July 1, 1998.

(12) The applicable period of limitations specified in subsection (1) of this section shall not apply to charges of offenses or delinquent acts brought to facilitate the disposition of a case, or to lesser included or non-included charges of offenses or delinquent acts given to the court or a jury at a trial on the merits, by the accused.

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