



2022 South Dakota Legislature
House Bill 1068
ENROLLED

AN ACT

ENTITLED An Act to clarify the processing of sexual assault kits performed on individuals ages sixteen and seventeen.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 23-5C-2 be AMENDED:

23-5C-2. A health care facility examining or treating a victim of rape or sexual assault shall give the victim, or a victim or witness assistant, the option of reporting the rape or sexual assault to an appropriate law enforcement agency. A health care facility may not require the victim to report the rape or sexual assault in order to receive an examination or treatment for the rape or sexual assault.

A minor age sixteen or older may consent to a sexual assault kit. This consent is not subject to disaffirmance because of minority or disaffirmance of a parent or guardian, and consent of a parent or guardian is not required under this section. A minor's refusal to consent has no impact on any applicable mandatory reporting obligation in law.

A health care facility that examines or treats a victim of rape or sexual assault with a sexual assault kit shall release the sexual assault kit to the investigating law enforcement agency, if known, or the law enforcement agency of the jurisdiction where the examination or treatment occurs in accordance with § 23-5C-3. The health care facility shall inform the victim that the sexual assault kit will be preserved by law enforcement for a period of at least seven years from the date of the examination or treatment or until the victim reaches the age of twenty-five, whichever is later, before it is destroyed. Any examination or treatment under this section shall include the preservation of confidentiality of any test, procedure, or sample that may serve as evidence in the prosecution for the rape or sexual assault.

Section 2. That § 23-5C-3 be AMENDED:

23-5C-3. A health care facility shall assign a code number to a sexual assault kit, and provide the code number to the victim as well as information identifying the law enforcement agency where the kit will be stored. The health care facility shall maintain the code record for at least seven years from the date the health care facility examined or treated the victim or until the victim reaches the age of twenty-five, whichever is later. The health care facility may not affix to the sexual assault kit any information of the victim's identity other than the code number under this section. The law enforcement agency to which the health care facility releases the sexual assault kit under § 23-5C-2 shall retrieve the sexual assault kit, containing no identifying information of the victim other than the code number affixed by the health care facility, within seventy-two hours following the date on which the sexual assault kit is assigned a code number under this section. The health care facility shall coordinate the transfer of the sexual assault kit to the law enforcement agency in a manner designed to protect the victim's confidentiality and preserve the evidentiary integrity of the sexual assault kit. A law enforcement agency in possession of a sexual assault kit shall preserve the kit for at least seven years from the date of examination or treatment or until the victim reaches the age of twenty-five, whichever is later, before it is destroyed. If a victim, or a victim or witness assistant, exercises the option of reporting the rape or sexual assault to a law enforcement agency, the code number under this section shall be provided by the victim to the law enforcement agency where the kit is being stored and used to identify the appropriate sexual assault kit.

The confidentiality requirements under this section do not impact any applicable mandatory reporting obligation in law associated with abused or neglected minors.

An Act to clarify the processing of sexual assault kits performed on individuals ages sixteen and seventeen.

I certify that the attached Act originated in
the:
House as Bill No. 1068

Received at this Executive Office
this ____ day of _____,
2022 at _____ M.

Chief Clerk

By _____
for the Governor

Speaker of the House

The attached Act is hereby
approved this ____ day of
_____, A.D., 2022

Attest:

Chief Clerk

Governor

STATE OF SOUTH DAKOTA,

ss.

Office of the Secretary of State

President of the Senate

Attest:

Filed _____, 2022
at _____ o'clock __ M.

Secretary of the Senate

Secretary of State

House Bill No. 1068
File No. _____
Chapter No. _____

By _____
Asst. Secretary of State