



2025 South Dakota Legislature

**Senate Bill 123**

**ENROLLED**

AN ACT

**ENTITLED An Act to revise provisions related to forensic medical examinations.**

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

**Section 1. That § 22-22-26 be AMENDED:**

**22-22-26.** The county where an alleged rape or sexual offense occurred must pay the cost of any forensic medical examination performed by a physician, hospital, or clinic on the victim of the alleged rape or sexual offense.

The cost of a forensic medical examination includes:

- (1) Physician, hospital, or clinic services directly related to the forensic medical examination;
- (2) Necessary forensic supplies;
- (3) Scope procedures directly related to the forensic medical examination, including anoscopy and colposcopy;
- (4) Laboratory testing directly related to the forensic medical examination, including drug screening, urinalysis, pregnancy screening, syphilis screening, chlamydia culture, gonorrhea coverage culture, HIV screening, hepatitis B and C screening, herpes culture, and any other sexually transmitted disease testing directly related to the examination;
- (5) Any medication provided during the forensic medical examination; and
- (6) Any radiology service directly related to the forensic medical examination.

**Section 2. That § 22-22-26.1 be AMENDED:**

**22-22-26.1.** A person who is convicted of a rape or sexual offense is required, as part of the sentence imposed by the court, to reimburse the county for the cost of any forensic medical examination, pursuant to § 22-22-26, that was conducted as a result of the rape or sexual offense for which the defendant is convicted.

**Section 3. That § 22-22-26.3 be AMENDED:**

**22-22-26.3.** A minor age sixteen or older may consent to a forensic medical examination, as defined under section 5 of this Act. The minor's consent is not subject to disaffirmance because of minority, and consent of a parent or guardian is not required under this section. The physician, hospital, or clinic shall take reasonable steps to notify a minor's parent or guardian that an examination has taken place, unless the parent or guardian is the suspected perpetrator.

**Section 4. That § 22-22-26.4 be AMENDED:**

**22-22-26.4.** A physician, hospital, or clinic may provide a forensic medical examination, as defined under section 5 of this Act, without the consent of a guardian of a protected person, as defined under § 29A-5-102, to any protected person who provides informed consent. If a patient has a guardian, the physician, hospital, or clinic must make a good faith effort to notify the guardian, before the forensic medical examination, that the patient provided informed consent for the examination and the examination will take place, unless the guardian is the suspected perpetrator.

If the attending physician, physician assistant, nurse practitioner, or sexual assault nurse examiner makes a good faith determination that a patient is incapable of giving informed consent under this section, neither the physician, physician assistant, nurse practitioner, or nurse examiner, nor the hospital or clinic, may be subject to criminal prosecution, civil liability, or professional discipline for failing to follow the patient's direction or for making the determination.

If the attending physician, physician assistant, nurse practitioner, or sexual assault nurse examiner makes a good faith determination that a patient is capable of giving informed consent under this section, neither the physician, physician assistant, nurse practitioner, or nurse examiner, nor the hospital or clinic, may be subject to criminal prosecution, civil liability, or professional discipline for following a patient's direction or for making the determination.

For purposes of this section, the term "informed consent" means consent voluntarily, knowingly, and competently given without any element of force, fraud, deceit, duress, threat, or other form of coercion after conscientious explanation of all information that a reasonable person would consider significant to the decision in a manner reasonably comprehensible to general lay understanding.

**Section 5. That a NEW SECTION be added to chapter 22-22:**

For the purposes of §§ 22-22-26 to 22-22-26.4, inclusive, the term "forensic medical examination" includes:

- (1) Examination of physical trauma;
- (2) Patient interview, determination of medical history, triage, and consultation; and
- (3) Collection and evaluation of any evidence, including any photographic documentation; preservation and maintenance of the chain of custody of evidence; medical specimen collection; and any assessment of whether an alcohol-facilitated sexual assault or a drug-facilitated sexual assault occurred and any toxicology screening deemed necessary by the attending physician, physician assistant, nurse practitioner, or sexual assault nurse examiner.

An Act to revise provisions related to forensic medical examinations.

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I certify that the attached Act originated in the:

Senate as Bill No. 123

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_  
President of the Senate

Attest:

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_  
Speaker of the House

Attest:

\_\_\_\_\_  
Chief Clerk

Senate Bill No. 123  
File No. \_\_\_\_\_  
Chapter No. \_\_\_\_\_

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Received at this Executive Office  
this \_\_\_\_\_ day of \_\_\_\_\_,

2025 at \_\_\_\_\_ M.

By \_\_\_\_\_  
for the Governor

The attached Act is hereby  
approved this \_\_\_\_\_ day of  
\_\_\_\_\_, A.D., 2025

\_\_\_\_\_  
Governor

**STATE OF SOUTH DAKOTA,**

ss.

Office of the Secretary of State

Filed \_\_\_\_\_, 2025  
at \_\_\_\_\_ o'clock \_\_\_\_ M.

\_\_\_\_\_  
Secretary of State

By \_\_\_\_\_  
Asst. Secretary of State