

# State of South Dakota

NINETY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2018

625Z0186

## HOUSE JUDICIARY ENGROSSED NO. **HB 1126** 2/5/2018

Introduced by: Representatives Reed, Bartling, DiSanto, Hawley, Holmes, Jensen (Kevin), Kettwig, Latterell, Mills, Qualm, Smith, and Steinhauer and Senators Soholt, Haverly, Kolbeck, Nelson, Peters, Rusch, Solano, and Tidemann

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding forensic medical  
2 examinations for victims of rape or sexual offense.

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

4 Section 1. That § 22-22-26 be amended to read:

5 22-22-26. ~~If a physician, hospital, or clinic examines the victim of an alleged rape or sexual~~  
6 ~~offense the examination shall be provided without cost to the victim. The county where an~~  
7 ~~alleged rape or sexual offense occurred shall pay the cost of any forensic medical examination~~  
8 ~~performed by a physician, hospital, or clinic shall be paid for the cost of the examination by the~~  
9 ~~county where the alleged rape or sexual offense occurred, which shall be reimbursed by any~~  
10 ~~defendant if convicted on the victim of the alleged rape or sexual offense. For purposes of the~~  
11 ~~provisions of this Act, the term, forensic medical examination, includes:~~

12 (1) Examination of physical trauma;

13 (2) Patient interview, including medical history, triage, and consultation; and

14 (3) Collection and evaluation of evidence, including any photographic documentation;



1           preservation and maintenance of the chain of custody of evidence; medical specimen  
2           collection; and any alcohol- or drug-facilitated sexual assault assessment and  
3           toxicology screening deemed necessary by the physician, hospital, or clinic.

4           Section 2. That chapter 22-22 be amended by adding a NEW SECTION to read:

5           A person who is convicted of a rape or sexual offense shall be required as part of the  
6           sentence imposed by the court to reimburse the county for the cost of any forensic medical  
7           examination performed under § 22-22-26 resulting from the rape or sexual offense for which  
8           the defendant is convicted. The cost of a forensic medical examination to be paid by the county  
9           under § 22-22-26 and reimbursed to the county under this section shall include:

- 10           (1)   Physician, hospital, or clinic services directly related to the forensic medical  
11           examination, including integral forensic supplies;
- 12           (2)   Scope procedures directly related to the forensic medical examination, including  
13           anoscopy and colposcopy;
- 14           (3)   Laboratory testing directly related to the forensic medical examination, including  
15           drug screening, urinalysis, pregnancy screening, syphilis screening, chlamydia  
16           culture, gonorrhea coverage culture, blood test for HIV screening, hepatitis B and C,  
17           herpes culture, and any other sexually-transmitted disease testing directly related to  
18           the examination;
- 19           (4)   Any medication provided during the forensic medical examination; and
- 20           (5)   Any radiology service directly related to the forensic medical examination.

21           Section 3. That chapter 22-22 be amended by adding a NEW SECTION to read:

22           Each physician, hospital, and clinic conducting an examination under § 22-22-26 shall  
23           coordinate with the county to establish a payment process by which the county shall pay for the  
24           cost of any forensic medical examination performed under § 22-22-26 and to notify any victim

1 of rape or sexual offense of the availability of a forensic medical examination at no cost to the  
2 victim. A victim of rape or sexual offense is not required to participate in the criminal justice  
3 system or to cooperate with law enforcement to be provided with a forensic medical  
4 examination without cost to the victim.