

# State of South Dakota

NINETY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2018

625Z0186

## SENATE JUDICIARY ENGROSSED NO. **HB 1126** 3/1/2018

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 and fees 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.

5 The amount paid to a physician, hospital, or clinic for a forensic medical exam performed  
6 under § 22-22-26 may not exceed the actual cost of the forensic medical examination or an  
7 amount established by the secretary of the Department of Social Services, whichever is less. The  
8 amount established by the secretary under this section shall be based on Medicaid payment  
9 methodology. A physician, hospital, or clinic may not maintain a claim against a county for any  
10 amount that exceeds the usual ordinary and reasonable charge for a forensic medical  
11 examination, including an amount that is less than the actual cost of the forensic medical  
12 examination. If the physician, hospital, or clinic performs forensic medical examinations, or any  
13 portion of a forensic medical examination, to persons who are medically indigent residing in the  
14 county in which the physician, hospital, or clinic is located at a cost less than the amount  
15 provided for in this section, the physician, hospital, or clinic shall furnish the forensic medical  
16 examination, or any applicable portion of the forensic medical examination, at the lower cost.