

2020 South Dakota Legislature
House Bill 1244

AMENDMENT 1244A FOR THE INTRODUCED BILL

1 **An Act to authorize forensic medical examinations for certain persons.**

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

3 **Section 1.** That a NEW SECTION be added:

4 **22-22-26.3. Forensic medical examination--Informed Consent--Liability or**
5 **discipline.**

6 A physician, hospital, or clinic may provide a forensic medical examination, as
7 defined under § 22-22-26, without the consent of a guardian ~~or conservator~~ of a protected
8 person, as defined under § 29A-5-102, to any protected person who provides informed
9 consent. If a patient has a guardian ~~or conservator~~, the physician, hospital, or clinic shall
10 ~~take reasonable steps make a good faith effort~~ to notify the guardian ~~or conservator that~~
11 ~~an examination has taken place before the forensic medical examination that the patient~~
12 ~~provided informed consent for the examination and the examination will take place, unless~~
13 the guardian ~~or conservator~~ is the suspected perpetrator.

14 A physician, hospital, or clinic who in good faith believes that a patient is incapable
15 of giving informed consent under this section may not be subject to criminal prosecution,
16 civil liability, or professional discipline for failing to follow the patient's direction or for
17 making the determination.

18 A physician, hospital, or clinic who in good faith believes that a patient is capable
19 of giving informed consent under this section may not be subject to criminal prosecution,
20 civil liability, or professional discipline for following a patient's direction or for making the
21 determination.

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