



2020 South Dakota Legislature

House Bill 1244

HOUSE JUDICIARY ENGROSSED

Introduced by: **Representative Reed**

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 of a protected person, as
 8 defined under § 29A-5-102, to any protected person who provides informed consent. If a
 9 patient has a guardian, the physician, hospital, or clinic shall make a good faith effort to
 10 notify the guardian before the forensic medical examination that the patient provided
 11 informed consent for the examination and the examination will take place, unless the
 12 guardian is the suspected perpetrator.

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

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

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