

AN ACT

ENTITLED, An Act to revise certain provisions regarding the collection and storage of sexual assault kit evidence.

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

Section 1. That § 23-5C-2 be amended to read:

23-5C-2. A health care facility examining or treating a victim of rape or sexual assault shall give the victim, or a victim or witness assistant, the option of reporting the rape or sexual assault to an appropriate law enforcement agency. A health care facility may not require the victim to report the rape or sexual assault in order to receive an examination or treatment for the rape or sexual assault.

A health care facility that examines or treats a victim of rape or sexual assault with a sexual assault kit shall release the sexual assault kit to the investigating law enforcement agency, if known, or the law enforcement agency of the jurisdiction where the examination or treatment occurs in accordance with § 23-5C-3. The health care facility shall inform the victim that the sexual assault kit will be preserved by law enforcement for a period of at least one year from the date of the examination or treatment before it is destroyed. Any examination or treatment under this section shall include the preservation of confidentiality of any test, procedure, or sample that may serve as evidence in the prosecution for the rape or sexual assault.

Section 2. That § 23-5C-3 be amended to read:

23-5C-3. A health care facility shall assign a code number to a sexual assault kit, and provide the code number to the victim as well as information identifying the law enforcement agency where the kit will be stored. The health care facility shall maintain the code record for at least one year from the date the health care facility examined or treated the victim. The health care facility may not affix to the sexual assault kit any information of the victim's identity other than the code number under this section. The law enforcement agency to which the health care facility releases the sexual assault

kit under § 23-5C-3 shall retrieve the sexual assault kit, containing no identifying information of the victim other than the code number affixed by the health care facility, within seventy-two hours following the date on which the sexual assault kit is assigned a code number under this section. The health care facility shall coordinate the transfer of the sexual assault kit to the law enforcement agency in a manner designed to protect the victim's confidentiality and preserve the evidentiary integrity of the sexual assault kit. If a victim, or a victim or witness assistant, exercises the option of reporting the rape or sexual assault to a law enforcement agency, the code number under this section shall be provided by the victim to the law enforcement agency where the kit is being stored and used to identify the appropriate sexual assault kit.

Section 3. That § 23-5C-4 be amended to read:

23-5C-4. For any rape or sexual assault that is reported by a victim under § 23-5C-2, the law enforcement agency that receives a sexual assault kit from the health care facility in accordance with §§ 23-5C-2 and 23-5C-3 shall submit the evidence to the Division of Criminal Investigation or another accredited laboratory for analysis no more than fourteen days following the agency's receipt of the sexual assault kit. Any sexual assault kit that is submitted to the Division of Criminal Investigation or another accredited laboratory shall be analyzed within ninety days.

Any DNA record for a sexual assault kit analyzed under this section shall be uploaded into a database specified by the Division of Criminal Investigation. Any failure to comply with this chapter does not constitute grounds for challenging the validity of a DNA database match or of any database information in a criminal proceeding. A DNA record may not be excluded as evidence by a court solely on the grounds of failure to comply with this chapter.

Section 4. That § 23-5C-5 be repealed.

Section 5. That § 23-5C-6 be repealed.

Section 6. That § 23-5C-7 be repealed.

An Act to revise certain provisions regarding the collection and storage of sexual assault kit evidence.

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I certify that the attached Act originated in the

HOUSE as Bill No. 1180

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

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

Attest:

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

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

Attest:

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

House Bill No. 1180  
File No. \_\_\_\_\_  
Chapter No. \_\_\_\_\_

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

20\_\_\_\_ at \_\_\_\_\_ M.

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

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The attached Act is hereby approved this \_\_\_\_ day of \_\_\_\_\_ , A.D., 20\_\_\_\_

\_\_\_\_\_  
Governor

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STATE OF SOUTH DAKOTA,  
ss.

Office of the Secretary of State

Filed \_\_\_\_\_ , 20\_\_\_\_  
at \_\_\_\_\_ o'clock \_\_ M.

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

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