



## 2020 South Dakota Legislature

# House Bill 1074

Introduced by: **Representative Reed**

1 **An Act to revise certain provisions regarding the required time that sexual assault**  
 2 **kits be preserved.**

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

4 **Section 1.** That § 23-5C-2 be AMENDED:

5 **23-5C-2. Report of rape or sexual assault--Option of reporting--Requirement**  
 6 **of reporting prohibited--Release of sexual assault kit--Preservation of sexual**  
 7 **assault kit.**

8 A health care facility examining or treating a victim of rape or sexual assault shall  
 9 give the victim, or a victim or witness assistant, the option of reporting the rape or sexual  
 10 assault to an appropriate law enforcement agency. A health care facility may not require  
 11 the victim to report the rape or sexual assault in order to receive an examination or  
 12 treatment for the rape or sexual assault.

13 A health care facility that examines or treats a victim of rape or sexual assault with  
 14 a sexual assault kit shall release the sexual assault kit to the investigating law enforcement  
 15 agency, if known, or the law enforcement agency of the jurisdiction where the examination  
 16 or treatment occurs in accordance with § 23-5C-3. The health care facility shall inform the  
 17 victim that the sexual assault kit will be preserved by law enforcement for a period of at  
 18 least one year ~~seven years~~ from the date of the examination or treatment or until the  
 19 victim reaches the age of twenty-five, whichever is later, before it is destroyed. Any  
 20 examination or treatment under this section shall include the preservation of  
 21 confidentiality of any test, procedure, or sample that may serve as evidence in the  
 22 prosecution for the rape or sexual assault.

23 **Section 2.** That § 23-5C-3 be AMENDED:

1           **23-5C-3. Code number assigned--Period code number maintained--Retrieval**  
2           **and transfer of sexual assault kit--Preservation of kit.**

3           A health care facility shall assign a code number to a sexual assault kit, and provide  
4           the code number to the victim as well as information identifying the law enforcement  
5           agency where the kit will be stored. The health care facility shall maintain the code record  
6           for at least ~~one year~~ seven years from the date the health care facility examined or treated  
7           the victim or until the victim reaches the age of twenty-five, whichever is later. The health  
8           care facility may not affix to the sexual assault kit any information of the victim's identity  
9           other than the code number under this section. The law enforcement agency to which the  
10          health care facility releases the sexual assault kit under ~~§ 23-5C-3~~ § 23-5C-2 shall retrieve  
11          the sexual assault kit, containing no identifying information of the victim other than the  
12          code number affixed by the health care facility, within seventy-two hours following the  
13          date on which the sexual assault kit is assigned a code number under this section. The  
14          health care facility shall coordinate the transfer of the sexual assault kit to the law  
15          enforcement agency in a manner designed to protect the victim's confidentiality and  
16          preserve the evidentiary integrity of the sexual assault kit. A law enforcement agency in  
17          possession of a sexual assault kit shall preserve the kit for at least seven years from the  
18          date of examination or treatment or until the victim reaches the age of twenty-five,  
19          whichever is later, before it is destroyed. If a victim, or a victim or witness assistant,  
20          exercises the option of reporting the rape or sexual assault to a law enforcement agency,  
21          the code number under this section shall be provided by the victim to the law enforcement  
22          agency where the kit is being stored and used to identify the appropriate sexual assault  
23          kit.