

AN ACT

ENTITLED, An Act to revise certain provisions regarding forensic medical examinations for victims of rape or sexual offense.

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

Section 1. That § 22-22-26 be amended to read:

22-22-26. The county where an alleged rape or sexual offense occurred shall pay the cost of any forensic medical examination performed by a physician, hospital, or clinic on the victim of the alleged rape or sexual offense. For purposes of the provisions of this Act, the term, forensic medical examination, includes:

- (1) Examination of physical trauma;
- (2) Patient interview, including medical history, triage, and consultation; and
- (3) Collection and evaluation of evidence, including any photographic documentation; preservation and maintenance of the chain of custody of evidence; medical specimen collection; and any alcohol- or drug-facilitated sexual assault assessment and toxicology screening deemed necessary by the physician, hospital, or clinic.

Section 2. That chapter 22-22 be amended by adding a NEW SECTION to read:

A person who is convicted of a rape or sexual offense shall be required as part of the sentence imposed by the court to reimburse the county for the cost of any forensic medical examination performed under § 22-22-26 resulting from the rape or sexual offense for which the defendant is convicted. The cost of a forensic medical examination to be paid by the county under § 22-22-26 and reimbursed to the county under this section shall include:

- (1) Physician, hospital, or clinic services and fees directly related to the forensic medical examination, including integral forensic supplies;
- (2) Scope procedures directly related to the forensic medical examination, including anoscopy

and colposcopy;

- (3) Laboratory testing directly related to the forensic medical examination, including drug screening, urinalysis, pregnancy screening, syphilis screening, chlamydia culture, gonorrhea coverage culture, blood test for HIV screening, hepatitis B and C, herpes culture, and any other sexually-transmitted disease testing directly related to the examination;
- (4) Any medication provided during the forensic medical examination; and
- (5) Any radiology service directly related to the forensic medical examination.

Section 3. That chapter 22-22 be amended by adding a NEW SECTION to read:

Each physician, hospital, and clinic conducting an examination under § 22-22-26 shall coordinate with the county to establish a payment process by which the county shall pay for the cost of any forensic medical examination performed under § 22-22-26 and to notify any victim of rape or sexual offense of the availability of a forensic medical examination at no cost to the victim. A victim of rape or sexual offense is not required to participate in the criminal justice system or to cooperate with law enforcement to be provided with a forensic medical examination without cost to the victim.

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

hospital, or clinic is located at a cost less than the amount provided for in this section, the physician, hospital, or clinic shall furnish the forensic medical examination, or any applicable portion of the forensic medical examination, at the lower cost.

An Act to revise certain provisions regarding forensic medical examinations for victims of rape or sexual offense.

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I certify that the attached Act originated in the

HOUSE as Bill No. 1126

\_\_\_\_\_  
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. 1126  
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