



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:

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

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~~ seven years from the date the health care facility examined or treated the victim or until the victim reaches the age of twenty-five, whichever is later. 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~~ § 23-5C-2 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. A law enforcement agency in possession of a sexual assault kit shall preserve the kit for at least seven years from the date of examination or treatment or until the victim reaches the age of twenty-five, whichever is later, before it is destroyed. 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.