



# 2020 South Dakota Legislature

## House Bill 1244

### ENROLLED

AN ACT

**ENTITLED An Act to authorize forensic medical examinations for certain persons.**

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

**Section 1.** That a NEW SECTION be added:

**22-22-26.3. Forensic medical examination--Informed Consent--Liability or discipline.**

A physician, hospital, or clinic may provide a forensic medical examination, as defined under § 22-22-26, without the consent of a guardian of a protected person, as defined under § 29A-5-102, to any protected person who provides informed consent. If a patient has a guardian, the physician, hospital, or clinic shall make a good faith effort to notify the guardian before the forensic medical examination that the patient provided informed consent for the examination and the examination will take place, unless the guardian is the suspected perpetrator.

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

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

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

An Act to authorize forensic medical examinations for certain persons.

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I certify that the attached Act originated in the:

House as Bill No. 1244

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

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

Attest:

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

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

Attest:

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

House Bill No. 1244

File No. \_\_\_\_\_

Chapter No. \_\_\_\_\_

\_\_\_\_\_

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

2020 at \_\_\_\_\_ M.

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

The attached Act is hereby  
approved this \_\_\_\_\_ day of  
\_\_\_\_\_, A.D., 2020

\_\_\_\_\_  
Governor

**STATE OF SOUTH DAKOTA,**

ss.

Office of the Secretary of State

Filed \_\_\_\_\_, 2020  
at \_\_\_\_\_ o'clock \_\_ M.

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

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