



2020 South Dakota Legislature

House Bill 1244

Introduced by: **Representative** Reed

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

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

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

4 **22-22-26.3. Forensic medical examination--Informed Consent--Liability or**
5 **discipline.**

6 A physician, hospital, or clinic may provide a forensic medical examination, as
7 defined under § 22-22-26, without the consent of a guardian or conservator of a protected
8 person, as defined under § 29A-5-102, to any protected person who provides informed
9 consent. If a patient has a guardian or conservator, the physician, hospital, or clinic shall
10 take reasonable steps to notify the guardian or conservator that an examination has taken
11 place, unless the guardian or conservator is the suspected perpetrator.

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

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

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