

HOUSE BILL NO. HB0028

Sexual assault examinations.

Sponsored by: Representative(s) Petersen, Gingery, Lubnau
and Quarberg and Senator(s) Barraso, Burns
and Decaria

A BILL

for

1 AN ACT relating to sexual assault examinations; providing
2 for consent of the victim to examinations; providing a
3 procedure for consent to examination of minor victims;
4 providing for sexual assault examinations by licensed
5 health care professionals; repealing a requirement that a
6 sexual assault victim waive the doctor-patient privilege;
7 repealing a requirement that a sexual assault examination
8 is mandatory; repealing a provision allowing for the victim
9 of sexual assault to choose which physician may perform a
10 forensic sexual assault examination; providing for
11 confidentiality of medical records; and providing for an
12 effective date.

13

14 *Be It Enacted by the Legislature of the State of Wyoming:*

15

16 **Section 1.** W.S. 6-2-309(a), (e), (g)(intro), (i),

1 (h), (k) and by creating a new subsection (m) is amended to
2 read:

3
4 **6-2-309. Medical examination of victim; costs; use of**
5 **report; minors; rights of victims; reimbursement.**

6
7 (a) ~~Promptly after~~ A law enforcement agency receiving
8 a report of ~~any alleged~~ a sexual assault ~~of the first,~~
9 ~~second or third degree, the peace officer to whom the~~
10 ~~incident is reported shall take the victim to a licensed~~
11 ~~physician for examination, unless the victim refuses the~~
12 ~~examination. If a licensed physician is unavailable, the~~
13 ~~medical examination may be made by a person qualified to~~
14 ~~conduct the examination. One (1) witness of the same sex as~~
15 ~~the victim shall be present during the examination. The~~
16 ~~examiner shall deliver a written report disclosing the~~
17 ~~results of his examination to the peace officer or his~~
18 ~~designee.~~ may, with the victim's consent, arrange for an
19 examination of the victim by a licensed health care
20 provider acting within the scope of the provider's
21 practice. The examination may include a medical
22 examination and treatment, evidence collection and
23 evaluation, and appropriate referrals for follow-up
24 treatment and services. Upon consent of the victim to

1 release of the results of the examination, the evidence,
2 record and reports shall be delivered to the law
3 enforcement agency.

4
5 (e) If a report of ~~an alleged~~ a sexual assault is
6 received from a minor victim, and the parents or guardian
7 of the minor cannot be located promptly with diligent
8 effort, ~~then the medical examination required~~ provided for

9 by subsection (a) of this section may be conducted with the
10 minor's consent. If a report of a sexual assault is

11 received alleging a minor as the victim and a parent or
12 guardian is the suspected perpetrator, the parent or
13 guardian who is the suspected perpetrator shall not be
14 notified pursuant to this section. If a parent or guardian

15 is not the suspected perpetrator, reasonable efforts shall
16 be taken to notify that parent or guardian, unless the
17 minor victim specifically requests that the parent or
18 guardian not be notified. If a report of a sexual assault

19 is received alleging a minor victim twelve (12) years of
20 age or older and the victim has been placed in protective
21 custody pursuant to W.S. 14-3-208 or 14-3-405, the
22 examination may be conducted with the consent of the minor

23 and the department of family services. If a report of
24 sexual assault is received alleging a minor victim younger

1 than twelve (12) years of age and the victim has been
2 placed in protective custody pursuant to W.S. 14-3-208 or
3 14-3-405, the examination may be conducted with the consent
4 of the department of family services.

5
6 (g) Except as provided by subsection (j) of this
7 section, ~~any victim of an alleged sexual assault that is~~
8 ~~reported to law enforcement shall be reimbursed for medical~~
9 ~~examination costs directly resulting from the sexual~~
10 ~~assault.~~ the costs of any examination relating to the
11 investigation or prosecution of a sexual assault shall be
12 billed to and paid by the investigating law enforcement
13 agency. ~~shall be liable for any medical examination costs~~
14 ~~relating to the investigation or prosecution of the sexual~~
15 ~~assault.~~ These ~~investigation~~ examination costs shall
16 include the following:

17
18 (i) The cost of gathering evidence; ~~as outlined~~
19 ~~in the Wyoming sexual assault evidence kit;~~ and

20
21 (h) Except as provided by subsection (j) of this
22 section, any ~~medical~~ examination costs directly incurred by
23 a sexual assault victim that are not covered by subsection
24 (g) of this section, or other collateral source, shall be

1 submitted to the victim services division within the office
2 of the attorney general for determination of eligibility
3 for payment from the crime victims compensation account
4 established by W.S. 1-40-114. All requests for
5 compensation from the account shall be subject to the
6 eligibility guidelines set forth in the Crime Victims
7 Compensation Act, W.S. 1-40-101 through 1-40-119.

8
9 (k) Each ~~reported~~ victim ~~of~~ reporting a sexual
10 assault shall be informed of the rights enumerated in this
11 section, the victim's rights to informed consent and the
12 victim's rights as a victim of crime. The victim shall
13 also be informed of available medical, legal and advocacy
14 services.

15
16 (m) The examinations authorized by this section shall
17 remain confidential healthcare information unless the
18 victim or the victim's parent or legal guardian executes a
19 release of medical information for the purpose of
20 prosecution to the county attorney, the state of Wyoming,
21 any relevant court, the defendant or the defendant's
22 counsel.

23
24 **Section 2.** W.S. 6-2-309(b), (d) and (f) is repealed.

1

2 **Section 3.** This act is effective July 1, 2006.

3

4 (END)