

Sexual Assault Kits

What You Should Know

A Sexual Assault Kit is a set of swabs, slides, envelopes, instructions, and forms specifically designed to collect and preserve physical evidence that can be used in a criminal sexual assault investigation.

- *When should I have an exam?*
 - **The sooner you have an exam, the better. A sexual assault kit is best completed within 6 hours of the assault, but can be completed up to 96 hours (4 days) after.**
- *Who pays for the exam?*
 - **The exam is required by law to be paid for by the County in which the crime was committed. The exam will be completed at no cost to you, the Victim. SDCL 22-22-26.**
- *Do I need to decide whether or not I'm going to press charges at the time of the kit's completion?*
 - **No. You, the Victim, can decide at a later time whether or not to release your kit to law enforcement. You can also choose to have the kit completed anonymously as a "Jane Doe Kit". The important thing is to have the kit completed as soon as possible to keep your options open.**
- *If a signed consent form is released to law enforcement...*
 - **The health care facility notifies law enforcement, who has 24 hours to retrieve the kit.**
- *If you do NOT give consent...*
 - **The kit is required to store be stored for at least 1 year.**
 - The health care facility is required to have a policy for the storage of the kit.
 - The health care facility may work with law enforcement to develop a policy for storing and securing the kit to ensure its reliability in court.
 - All policies should ensure victim privacy.
 - The time frame the kit will be held should be clearly stated.
 - This information/policy should be given to the survivor and be easy to understand.
 - Information on how the survivor can request the kit's release to law enforcement should also be given.
 - The health care facility should answer questions regarding the storage policy.
- *When the kit is released to law enforcement...*
 - **Law enforcement has 14 days to obtain the kit and send for analysis per standard practices.**
- *When the kit is submitted to the lab...*
 - **The lab has 90 days to process the kit.**

23-5C-2. Health care facility notice to law enforcement agency of consent to release kit evidence. Any health care facility administering a sexual assault kit that has obtained written consent to release the kit evidence shall notify the investigating law enforcement agency, if known, or the law enforcement agency with local jurisdiction, within twenty-four hours after obtaining the consent.

23-5C-3. Kit evidence storage where consent to release not obtained--Information to person from whom evidence collected. Any health care facility that has not obtained consent to release any sexual assault kit evidence shall inform the person from which the evidence was collected of its sexual assault kit evidence storage policy. Any information provided under this section shall include the period of time for which that evidence shall be stored before it is destroyed, and how the person may have the evidence released to the investigating law enforcement agency at a later point. Any evidence not released to a law enforcement agency shall be stored for a minimum of one year before it is destroyed.

23-5C-4. Submission of kit evidence to Division of Criminal Investigation or other laboratory for analysis. A law enforcement agency that receives notice that sexual assault kit evidence has been released shall take possession of the evidence from the health care facility within fourteen days of receiving the notice. The agency that takes possession of the evidence shall follow standard protocol to submit the evidence to the Division of Criminal Investigation or another accredited laboratory for analysis within fourteen days of receiving the evidence.

23-5C-5. Time for analysis of kit evidence. Any sexual assault kit evidence that is submitted to the Division of Criminal Investigation or another accredited laboratory shall be analyzed within ninety days after all necessary evidence is received by the division or the laboratory.

23-5C-6. DNA records in state and national databases. The DNA records for any sexual assault kit evidence analyzed under this chapter shall be uploaded only into those databases at the state and national levels specified by the Division of Criminal Investigation.

23-5C-1. Definitions. Terms used in this chapter mean:

(1) "Accredited laboratory," a DNA laboratory that has received formal recognition that it meets or exceeds a list of standards, including the FBI director's quality assurance standards, to perform specific tests;

(2) "DNA," deoxyribonucleic acid;

(3) "DNA record," the DNA identification information stored in the state DNA database or CODIS for the purpose of generating investigative leads or supporting statistical interpretation of DNA test results. The DNA record is the result obtained from the DNA analysis. The DNA record is comprised of the characteristics of a DNA sample which are of value in establishing the identity of individuals. The results of all DNA identification analyses on an individual's DNA sample are also collectively referred to as the DNA profile of an individual;

(4) "Health care facility," any institution, sanitarium, birth center, ambulatory surgery center, chemical dependency treatment facility, hospital, nursing facility, assisted living center, rural primary care hospital, adult foster care home, inpatient hospice, residential hospice, place, building, or agency in which any accommodation is maintained, furnished, or offered for the hospitalization, nursing care, or supervised care of the sick or injured; and

(5) "Sexual assault kit," a set of swabs, slides, envelopes, instructions, and forms specifically designed to collect and preserve physical evidence that can be used in a criminal sexual assault investigation.

22-22-26. Payment for rape or sexual offense examinations--Reimbursement by convicted defendant. If a physician, hospital, or clinic examines the victim of an alleged rape or sexual offense the examination shall be provided without cost to the victim. The physician, hospital, or clinic shall be paid for the cost of the examination by the county where the alleged rape or sexual offense occurred, which shall be reimbursed by any defendant if convicted.