

/\* SOUTH DAKOTA laws address venereal disease control, and the mandatory testing of sex offenders. \*/

23A-35B-1. Definitions. Terms used in this chapter mean:

- (1) "Defendant," a person held over for trial on a charge of sexual assault;
- (2) "HIV," the human immunodeficiency virus or any other identified causative agent of acquired immune deficiency syndrome (AIDS);
- 3 "Test," "testing," any medically recognized test for determining the presence of blood-borne pathogens;
- (4) "Sexual assault," an offense described in chapter 22-22 in which the facts show a possibility of exchange of bodily fluids;
- (5) "Victim," any person who is the direct subject of an alleged act which would constitute a crime of violence as defined by subdivision 22-1-2 (9), a violation of chapter 22-22 an assault as defined by ~ 2-18-1 or a motor vehicle accident which involved a violation of chapter 32-23 or the parent or guardian of such a person if the person is under age eighteen. If a victim is unable to make a request, a member of the victim's immediate family may make such request upon the victim's behalf;
- (6) "Crime of violence," any of the offenses described in subdivision 22-1-2(9);
- 7 "Assault," an offense described in section 22-18-1. in which the facts show a possibility of exchange of bodily fluids;
- (8) "Law enforcement officer," any person described in subdivision 23A-45-9( 9) or 14);
- 9 "Blood-borne pathogens," any of a family of pathogenic micro-organisms that are present in and may be transmitted by human blood. including hepatitis B and HIV; and
- (10) "Juvenile," a minor charged in juvenile court with being a delinquent child as the result of actions that would constitute a sexual assault, an assault or a crime of violence in criminal court.

23A-35B-2. Victim's request for testing of self. A victim may request that the department of health provide counseling, testing for infection by blood-borne pathogens and referral for appropriate health care and support services to the victim through its public health services. Such referral does not include any requirement that the department of health bear any responsibility for provision of such health care or support services to the victim.

34-23-1. Diseases declared dangerous - Exposure of another as misdemeanor. Syphilis, gonorrhea, and chancroid hereinafter

designated as venereal diseases are hereby declared to be contagious, infectious, communicable, and dangerous to the public health. It is a Class 2 misdemeanor for anyone infected with these diseases or any of them to expose another person to infection.

34-23-2. Reports of cases required of physicians and institutions -Information confidential. Any physician or other person who makes a diagnosis in or treats a case of venereal disease and any superintendent or manager of a hospital, dispensary, or charitable or penal institution in which there is a case of venereal disease shall make a report of such case to the health authorities in such form and manner as the state department of health shall direct. The identity of any individual appurtenant to an investigation conducted pursuant to a report of a venereal disease shall be maintained in strictest confidence within the venereal disease control system, and any information obtained from that individual may not be disclosed in any action in any court or before any tribunal, board or agency.

34-23-3. Investigation of sources of infection - Repression of prostitution. It shall be the duty of all local and state health officers to investigate sources of infection of venereal disease, to co-operate with the proper officials whose duty it is to enforce laws directed against prostitution, and otherwise to use every proper means for the repression of prostitution.

34-23-4. Infected persons required to submit to treatment - Isolation or quarantine. State, county, and municipal health officers or their authorized deputies within their respective jurisdiction are hereby directed and empowered to require persons infected with venereal disease to report for treatment to a reputable physician and continue treatment until cured or to submit to treatment provided at public expense until cured, and also, when in their judgment it is necessary to protect the public health, to isolate or quarantine persons infected with venereal disease.

34-23-5. Quarantine or isolation of infected person convicted of moral offense. Any person convicted of being a prostitute or inmate of a disorderly house who may be found to be infected with venereal disease in a stage which, in the opinion of the health officer, is or is apt to become communicable, shall be quarantined or isolated so long as such person is so infected.

34-23.6. Examination and treatment of prisoners. All persons who

shall be imprisoned or confined in any state, county, or city prison in the state shall be examined for and, if infected, treated for venereal diseases by the health authorities or their deputies.

34-23-7. Treatment facilities provided by prison officials - Prisoners required to undergo treatment. The authorities of any state, county, or city prison are directed to make available to the health authorities such portion of any state, county, or city prison as may be necessary for a clinic or hospital wherein all persons who may be confined or imprisoned in any such prison and who are infected with venereal disease, and all such persons who are suffering with venereal disease at the time of the expiration of their term of imprisonment, and in case no other suitable place for isolation or quarantine is available, such other persons as may be isolated or quarantined under the provisions of this chapter shall be isolated and treated at public expense until cured. In lieu of such isolation any of such persons may in the discretion of the department of health be required to report for treatment to a licensed physician or submit to treatment provided at public expense.

34-23-8. Service of criminal sentence not interfered with. Nothing contained in section 34-23-6 or section 34-23-7 shall be construed to interfere with the service of any sentence imposed by a court as a punishment for the commission of crime.

34-23-13. Rules and regulations for venereal disease control. The state department of health is hereby empowered and directed to make, in compliance with chapter 1-26, such rules and regulations as shall in its judgment be necessary for the carrying out of the provisions of this chapter, including rules and regulations provided for the control and treatment of persons isolated or quarantined under the provisions of this chapter and such other rules and regulations not in conflict with the provisions of this chapter concerning the control of venereal diseases and concerning the care, treatment, and quarantine of persons infected therewith, as it may from time to time deem advisable. All such rules and regulations so made shall be of force and binding upon all county and municipal health officers and other persons affected by this chapter.

34-23-14. Violation as misdemeanor. Any person who violates any of the provisions of this chapter or any lawful rule or regulation made by the department of health pursuant to the authority therein granted, or who shall fail or refuse to obey

any lawful order issued by any state, county, or municipal health officer pursuant to the authority granted in this chapter, shall be guilty of a Class 1 misdemeanor.

34-23-15. Treatment of minors - Definition of terms. As used in 34-23-16 to 34-23-18, inclusive, "physician" or "licensed physician" shall mean physicians licensed under chapter 36-4.

34-23-16. Minor's consent to treatment by physician valid - Prophylactic treatment - Disaffirmance prohibited. Any licensed physician, upon consultation by any minor as a patient, may, with the consent of such person who is hereby granted the right of giving such consent, make a diagnostic examination for venereal disease and prescribe for and treat such person for venereal disease including prophylactic treatment for exposure to venereal disease whenever such person is suspected of having a venereal disease or contact with anyone having a venereal disease. Any such consent shall not be subject to later disaffirmance by reason of minority.

34-23-17. Treatment of minors by health departments authorized. Treatment of a minor for venereal disease by a county health department, state health department or doctors attached to such departments shall be offered to a minor, if available, upon the minor's request and without the necessity of consent of parents or notification to the parents.

34-23-18. Immunity of agencies treating minors - Liability for negligence. In any such case arising under the provisions of 34-23-16 and 34-23-17 the hospital, public clinic or licensed physician who provides the care or services or who performs medical or surgical care or services shall incur no civil or criminal liability by reason of having made such diagnostic examination or rendered such treatment, but such immunity shall not apply to any negligent acts or omissions.