

Sixty-eighth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1518

Introduced by

Representatives Richter, Brandenburg, Ista, Meier, Roers Jones, Rohr, Steiner, Weisz

Senators Davison, Kannianen, Myrdal

- 1 A BILL for an Act to create and enact a new section to chapter 12.1-34 of the North Dakota
2 Century Code, relating to rights of a sexual assault survivor.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

- 4 **SECTION 1.** A new section to chapter 12.1-34 of the North Dakota Century Code is created
5 and enacted as follows:

6 **Sexual assault survivor rights.**

7 1. As used in this section:

- 8 a. "Sexual assault ~~counselor~~advocate" has the same meaning as "counselor" as
9 ~~defined in section 43-47-01. The term includes~~means a victim witness advocate
10 ~~or a domestic violence sexual assault advocate certified under rule 34 of the~~
11 ~~North Dakota Supreme Court Administrative Rules.~~
12 b. "Sexual assault survivor" means an individual who is a victim of a crime ~~defined~~
13 ~~under chapter 12.1-20 and, if the survivor is incompetent, deceased, or a minor~~
14 ~~who is unable to consent to counseling services, the parent, guardian, spouse, or~~
15 ~~any other individual related to the survivor by consanguinity or affinity to the~~
16 ~~second degree, or any other lawful representative of the survivor, unless the~~
17 ~~individual is the alleged assailant~~section 12.1-20-03, 12.1-20-03.1, 12.1-20-04,
18 ~~12.1-20-05, 12.1-20-05.1, 12.1-20-06, 12.1-20-06.1, 12.1-20-07, 12.1-20-11,~~
19 ~~12.1-20-12, 12.1-20-12.2, or 12.1-20-12.3.~~

20 2. In addition to the rights provided under section 12.1-34-02, a sexual assault survivor
21 must be afforded the following rights where applicable:

- 22 a. Preservation of evidence. A prosecuting attorney, law enforcement authority,
23 criminal laboratory, or evidentiary storage facility may not destroy or dispose of

1 any evidence to a criminal offense before the limitation period for prosecution for
2 the offense has ended or the offense has been adjudicated.

3 b. Services available. To be informed by the prosecuting attorney and arresting law
4 enforcement agency of all appropriate and available public or private programs
5 that provide sexual assault counseling, treatment, or support for sexual assault
6 survivors, including rape crisis centers, assistance programs, victim assistance
7 hotlines, and social service agencies.

8 c. Notice. To be informed by the prosecuting attorney of their rights provided under
9 this chapter.

10 d. Acute forensic medical examination. When an acute forensic medical
11 examination is performed, the costs incurred by a health care facility or health
12 care professional for performing the acute forensic medical examination or any
13 preliminary medical screening examination may not be charged, either directly or
14 through a third-party payer, to the alleged sexual assault survivor.

15 (1) If the sexual assault survivor is a child, the costs incurred by a health care
16 facility or health care professional for performing the child forensic medical
17 examination or any preliminary medical screening examination may not be
18 charged, either directly or through a third-party payer, to the alleged child
19 sexual assault survivor or the child's parent, guardian, or custodian.

20 (2) Upon submission of appropriate documentation, the attorney general, within
21 the limits of legislative appropriations, shall reimburse the health care facility
22 or a health care professional for the reasonable costs incurred in performing
23 the medical screening and acute forensic medical examination.

24 e. Access to report and record. Upon request of the sexual assault survivor over the
25 age of eighteen, the prosecuting attorney, law enforcement authority, or health
26 care facility shall provide the survivor with a copy of the law enforcement report
27 corresponding with the victim's case number and the survivor's acute forensic
28 medical examination record.

29 f. Counsel. To have an attorney or sexual assault counselor/advocate present when
30 speaking with law enforcement about the assault.

- 1 3. If the sexual assault survivor is deceased, incompetent, incapacitated, or a minor, the
- 2 sexual assault survivor's spouse, parent, grandparent, child, sibling, grandchild, or
- 3 guardian, may exercise the rights granted to the sexual assault survivor under this
- 4 chapter unless that individual is the alleged assailant.