AN ACT

ENTITLED, An Act to allow specific details of alleged sex crimes against minors be suppressed under certain conditions.

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

Section 1. That § 23A-6-22.1 be amended to read as follows:

23A-6-22.1. Notwithstanding the provisions of § 23A-6-22, upon the request of any minor victim or the minor victim's parent or guardian in a prosecution for rape, incest, or sexual contact, the court shall order that the name of the minor and the specific details of the alleged acts be suppressed if the trial court finds a compelling interest after consideration of the following factors: the minor victim's age, psychological maturity and understanding, the nature of the crime, the desires of the victim, and the interests of the parents and relatives.

Section 2. That § 23A-35-4.1 be amended to read as follows:

23A-35-4.1. If not filed earlier, any affidavit in support of a search warrant shall be filed with the court when the warrant and inventory are returned. Upon filing the warrant and supporting documents, the law enforcement officer may apply by separate affidavit to the court to seal the supporting affidavit from public inspection or disclosure. The court, for reasonable cause shown, may order the contents of the affidavit sealed from public inspection or disclosure but may not prohibit disclosure that a supporting affidavit was filed, the contents of the warrant, the return of the warrant, nor the inventory. The court may order that the supporting affidavit be sealed until the investigation is terminated or an indictment or information is filed. In cases of alleged rape, incest, or sexual contact, if the victim is a minor, the court may limit access to an affidavit pursuant to § 23A-6-22.1. However, a court order sealing a supporting affidavit may not affect the right of any defendant to discover the contents of the affidavit under chapter 23A-13.

Section 3. That § 23A-2-2 be amended to read as follows:

23A-2-2. If it appears from a complaint, or from an affidavit or affidavits filed with a complaint, that there is probable cause to believe that an offense has been committed and that a particular person has committed it, a warrant for the arrest of that person, if requested by the prosecuting attorney, shall be issued to any officer authorized by law to execute it. If circumstances make it reasonable to do so in the absence of a written affidavit, an arrest warrant may be issued upon sworn oral testimony of a person who is not in the physical presence of a committing magistrate if the committing magistrate is satisfied that probable cause exists for the issuance of the warrant. The sworn oral testimony may be communicated to the magistrate by telephone or other appropriate means and shall be recorded and transcribed. After transcription the statement shall be certified by the magistrate and filed with the court. This statement shall be deemed to be an affidavit and complaint for purposes of this section. In cases of alleged rape, incest, or sexual contact, if the victim is a minor, the court may limit access to the affidavit pursuant to § 23A-6-22.1. Upon the request of the prosecuting attorney, a summons instead of a warrant shall be used. More than one warrant or summons may be issued on the same complaint. If a defendant fails to appear in response to a summons, a warrant shall be issued.

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I certify that the attached Act originated in the

SENATE as Bill No. 173

_____
Secretary of the Senate

_____
President of the Senate

Attest:

_____
Secretary of the Senate

_____
Speaker of the House

Attest:

_____
Chief Clerk

Senate Bill No. 173
File No. ____
Chapter No. _____

Received at this Executive Office this _____ day of _____ ,

20____ at _____ M.

By _____
for the Governor

The attached Act is hereby approved this _____ day of _____ , A.D., 20___

_____
Governor

STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed _____ , 20___
at _____ o'clock __ M.

_____
Secretary of State

By _____
Asst. Secretary of State