

# State of South Dakota

EIGHTY-SEVENTH SESSION  
LEGISLATIVE ASSEMBLY, 2012

637T0119

## SENATE JUDICIARY ENGROSSED NO. **SB 68** - 1/31/2012

Introduced by: Senators Johnston, Buhl, and Cutler and Representatives Haggar, Abdallah, Deelstra, Hickey, Kopp, Magstadt, and Turbiville

1 FOR AN ACT ENTITLED, An Act to provide that no statute of limitations applies to certain  
2 rape offenses.

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

4 Section 1. That § 22-22-1 be amended to read as follows:

5 22-22-1. Rape is an act of sexual penetration accomplished with any person under any of  
6 the following circumstances:

7 (1) If the victim is less than thirteen years of age; or

8 (2) Through the use of force, coercion, or threats of immediate and great bodily harm  
9 against the victim or other persons within the victim's presence, accompanied by  
10 apparent power of execution; or

11 (3) If the victim is incapable, because of physical or mental incapacity, of giving consent  
12 to such act; or

13 (4) If the victim is incapable of giving consent because of any intoxicating, narcotic, or  
14 anesthetic agent or hypnosis; or



1       (5)    If the victim is thirteen years of age, but less than sixteen years of age, and the  
2               perpetrator is at least three years older than the victim.

3       A violation of subdivision (1) of this section is rape in the first degree, which is a Class C  
4   felony. A violation of subdivision (2) of this section is rape in the second degree which is a  
5   Class 1 felony. A violation of subdivision (3) or (4) of this section is rape in the third degree,  
6   which is a Class 2 felony. A violation of subdivision (5) of this section is rape in the fourth  
7   degree, which is a Class 3 felony. Notwithstanding the provisions of § 23A-42-2-a, no statute  
8   of limitations applies to any charge brought pursuant to subdivisions (1) or (2) of this section  
9   ~~may be commenced at any time prior to the time the victim becomes age twenty-five or within~~  
10   ~~seven years of the commission of the crime, whichever is longer. Otherwise a charge brought~~  
11   pursuant to this section may be commenced at any time prior to the time the victim becomes of  
12   age twenty-five or within seven years of the commission of the crime, whichever is longer.