



2021 South Dakota Legislature

Senate Bill 7

SENATE ENGROSSED

Introduced by: The Committee on Health and Human Services at the request of the Department of Social Services

1 **An Act to permit a government agency to qualify as a victim for purposes of**
 2 **restitution in criminal cases.**

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

4 **Section 1.** That § 23A-28-2 be AMENDED.

5 **23A-28-2. Definition of terms.**

6 Terms used by this chapter mean:

- 7 (1) "Community service restitution," public service work provided under court order
 8 that benefits the general public which includes: charitable agencies, governmental
 9 agencies, educational institutions, the handicapped, the elderly, the ecology, the
 10 church of the offender's choice, and any other agencies that the sentencing judge
 11 deems reasonably rehabilitative to the offender. No work service may result in gain
 12 to any private individual or to a private corporation;
- 13 (2) "Criminal activities," includes any crime for which there is a plea of guilty or verdict
 14 of guilty upon which a judgment of conviction may be rendered and any other crime
 15 committed after June 30, 1979, which is admitted by the defendant, whether or not
 16 prosecuted. However, the term does not include petty offenses;
- 17 (3) "Pecuniary damages," all damages which a victim could recover against the
 18 defendant in a civil action arising out of the same facts or event, except punitive
 19 damages and damages for pain, suffering, mental anguish, and loss of consortium.
 20 Without limitation, the term includes damages for wrongful death;
- 21 (4) "Restitution," full or partial payment of pecuniary damages to a victim;
- 22 (5) "Victim," any person, as defined in subdivision 22-1-2(31), who has suffered
 23 pecuniary damages as a result of the defendant's criminal activities, including any
 24 person or government agency who has by contract or by statute undertaken to
 25 indemnify another or to pay or provide a specified or determinable amount or
 26 benefit upon determinable contingencies. Any victim who has suffered pecuniary

1 damages has priority of claim as opposed to any person or government agency who
2 has a claim to indemnity or subrogation as a result of the same defendant's criminal
3 activity.