

AN ACT

ENTITLED, An Act to revise certain provisions regarding the rights of victims of crime.

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

Section 1. That § 24-15A-43 be repealed.

Section 2. That § 23A-28C-1 be amended to read as follows:

23A-28C-1. Consistent with § 23A-28C-4, victims of the crime, including victims of driving under the influence vehicle accidents, have the following rights:

- (1) To be notified of scheduled bail hearings and release from custody, to be notified by the prosecutor's office when the case is received and to whom the case is assigned, and to be notified in advance of the date of preliminary hearing and trial;
- (2) To be informed of what the charges mean and the elements necessary for conviction;
- (3) To testify at scheduled bail or bond hearings regarding any evidence indicating whether the offender represents a danger to the victim or the community if released;
- (4) To be protected from intimidation by the defendant, including enforcement of orders of protection;
- (5) To offer written input into whether plea bargaining or sentencing bargaining agreements should be entered into;
- (6) To be present during all scheduled phases of the trial or hearings, except where otherwise ordered by the judge hearing the case or by contrary policy of the presiding circuit judge;
- (7) To be prepared as a witness, including information about basic rules of evidence, cross-examination, objections, and hearsay;
- (8) To provide to the court a written or oral victim impact statement prior to sentencing regarding the financial and emotional impact of the crime on the victim and his or her family as well as recommendations for restitution and sentencing and § 23A-28-8

notwithstanding, the right to appear at any hearing during which a change in the plan of restitution is to be considered;

- (9) To receive restitution, whether the convicted criminal is probated or incarcerated, unless the court or parole board provides to the victim on the record specific reasons for choosing not to require it;
- (10) To provide written input at parole and clemency hearings or with respect to clemency by the Governor, should those options be considered;
- (11) In a case in which the death penalty may be authorized, to provide to the court or to the jury, as appropriate, testimony about the victim and the impact of the crime on the victim's family;
- (12) To be notified of the defendant's release from custody, which notice includes:
  - (a) Notice of the defendant's escape from custody and return to custody following escape;
  - (b) Notice of any other release from custody, including placement in an intensive supervision program or other alternative disposition, and any associated conditions of release;
  - (c) Notice of parole; and
  - (d) Notice of pending release of an inmate due to expiration of sentence;
- (13) To be notified of the victim's right to request testing for infection by blood-borne pathogens pursuant to § 23A-35B-2;
- (14) To be provided a copy of any report of law enforcement that is related to the crime, at the discretion of the state's attorney, or upon motion and order of the court. However, no victim may be given the criminal history of any defendant or any witness; and
- (15) To be notified of a petition by the sex offender for removal from the sex offender registry

and to provide written input with respect to the removal request.

Section 3. That § 24-15A-3 be amended to read as follows:

24-15A-3. The provisions of §§ 24-2-9, 24-2-12, 24-2-12.1, 24-2-12.2, 24-2-17, 24-2-18, 24-5-1, 24-5-2, 24-5-7, 24-13-4.2, 24-13-4.3, 24-13-4.5, 24-13-6, 24-13-7, 24-13-10, 24-15-1, 24-15-1.1, 24-15-1.2, 24-15-2, 24-15-3, 24-15-5, 24-15-6, 24-15-7, 24-15-7.1, 24-15-8, 24-15-10, 24-15-11, 24-15-12, 24-15-15, 24-15-20, 24-15-24, and 24-15-25 do not apply to any person sentenced to prison for a crime committed after July 1, 1996.

An Act to revise certain provisions regarding the rights of victims of crime.

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I certify that the attached Act  
originated in the

HOUSE as Bill No. 1021

\_\_\_\_\_  
Chief Clerk

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\_\_\_\_\_  
Speaker of the House

Attest:

\_\_\_\_\_  
Chief Clerk

\_\_\_\_\_  
President of the Senate

Attest:

\_\_\_\_\_  
Secretary of the Senate

House Bill No. 1021

File No. \_\_\_\_\_

Chapter No. \_\_\_\_\_

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Received at this Executive Office  
this \_\_\_\_\_ day of \_\_\_\_\_ ,

20\_\_\_\_ at \_\_\_\_\_ M.

By \_\_\_\_\_  
for the Governor

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The attached Act is hereby  
approved this \_\_\_\_\_ day of  
\_\_\_\_\_, A.D., 20\_\_\_\_

\_\_\_\_\_  
Governor

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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