

2021 South Dakota Legislature

House Bill 1080**AMENDMENT 1080C FOR THE HOUSE JUDICIARY BILL**

1 **An Act to increase the enhanced penalty for the crime of simple assault.**

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

3 **Section 1.** That § 22-18-1 be AMENDED.

4 **22-18-1. Simple assault--Violation as misdemeanor--Third or subsequent**
5 **offense a felony.**

6 A person is guilty of simple assault, a Class 1 misdemeanor, if the person:

- 7 (1) Attempts to cause bodily injury to another and has the actual ability to cause the
8 injury;
- 9 (2) Recklessly causes bodily injury to another;
- 10 (3) Negligently causes bodily injury to another with a dangerous weapon;
- 11 (4) Attempts by physical menace or credible threat to put another in fear of imminent
12 bodily harm, with or without the actual ability to harm the other person; or
- 13 (5) Intentionally causes bodily injury to another which does not result in serious bodily
14 injury.

15 If the defendant has been convicted of, or entered a plea of guilty to, two or more
16 violations of simple assault under this section ~~or under the comparable law of any other~~
17 ~~state~~, simple assault or aggravated assault under § 22-18-1.05 ~~or under the comparable~~
18 ~~law of any other state~~, aggravated assault under § 22-18-1.1 ~~or under the comparable~~
19 ~~law of any other state~~, assault under § 22-18-26 ~~or under the comparable law of any other~~
20 ~~state~~, intentional contact with bodily fluids under § 22-18-26.1 ~~or under the comparable~~
21 ~~law of any other state~~, or assault under § 22-18-29 ~~or under the comparable law of any~~
22 ~~other state~~, within ten years of committing the current offense, the defendant is guilty of
23 a Class 6 felony for any third offense, a Class 5 felony for a fourth offense, and a Class 4
24 felony for a fifth or subsequent offense.

25 Any conviction for, or plea of guilty to, an offense in another state which, if committed
26 in this state, would be a violation of a crime described in this section and occurring within

- 1 ten years prior to the date of the violation being charged, shall be used to determine if
- 2 the violation being charged is a subsequent offense.

AMENDED