



2022 South Dakota Legislature

House Bill 1270

HOUSE JUDICIARY ENGROSSED

Introduced by: **Representative Pourier**

1 **An Act to require a defendant in a criminal proceeding to be physically present**
 2 **during the reading of victim impact statements.**

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

4 **Section 1. That § 23A-27-1.1 be AMENDED:**

5 **23A-27-1.1.** If a defendant has been convicted of an A, B, or C felony, upon
 6 request to the court by a victim and before imposing sentence on a defendant, the victim
 7 has the right to orally address the court concerning the emotional, physical, and monetary
 8 impact of the defendant's crime upon the victim and the victim's family, and may comment
 9 upon the sentence which may be imposed upon the defendant.

10 If a defendant has been convicted of any other felony or misdemeanor, upon
 11 request to the court by a victim and before imposing sentence on a defendant, the victim,
 12 in the discretion of the court, may orally address the court concerning the emotional,
 13 physical, and monetary impact of the defendant's crime upon the victim and the victim's
 14 family, and may comment upon the sentence which may be imposed upon the defendant.

15 Unless the court has determined, in its discretion, that the defendant is behaving
 16 in a disruptive manner or presents a threat to the safety of any individual present in the
 17 courtroom, the defendant must be physically present in the courtroom, or appear by
 18 interactive audio technology that allows sight and sound interaction, at the time a victim
 19 makes an oral address. The defendant shall be permitted to respond to such statements
 20 orally or by presentation of evidence and shall be granted a reasonable continuance to
 21 refute any inaccurate or false charges or statements.

22 For the purpose of this section, the term, victim, means the actual victim or the
 23 parent, spouse, next of kin, legal or physical custodian, guardian, foster parent, case
 24 worker, victim advocate, or mental health counselor of any actual victim who is
 25 incompetent by reason of age or physical condition, who is deceased, or whom the court
 26 finds otherwise unable to comment.

1 **Section 2. That § 23A-27-1.3 be AMENDED:**

2 **23A-27-1.3.** If a defendant has been convicted of an A, B, or C felony, upon
3 request to the court by a victim and before imposing sentence on a defendant, a victim
4 has a right to address the court in writing concerning the emotional, physical, and
5 monetary impact of the defendant's crime upon the victim and the victim's family, and
6 may comment upon the sentence which may be imposed upon the defendant.

7 If a defendant has been convicted of any other felony or misdemeanor, upon
8 request to the court by a victim and before imposing sentence on a defendant, the victim,
9 in the discretion of the court, may address the court in writing concerning the emotional,
10 physical, and monetary impact of the defendant's crime upon the victim and the victim's
11 family, and may comment upon the sentence which may be imposed upon the defendant.

12 Unless the court has determined, in its discretion, that the defendant is behaving
13 in a disruptive manner or presents a threat to the safety of any individual present in the
14 courtroom, the defendant must be physically present in the courtroom, or appear by
15 interactive audio technology that allows sight and sound interaction, during the victim's
16 written address. The defendant shall be permitted to respond to such statements and shall
17 be granted a reasonable continuance to refute any inaccurate or false charges or
18 statements.

19 For the purpose of this section, the term, victim, means anyone adversely impacted
20 emotionally, physically, or monetarily by the defendant's crime.