



2022 South Dakota Legislature  
**House Bill 1100**  
**ENROLLED**

AN ACT

**ENTITLED An Act to revise provisions related to the video recording of certain victim testimony at a preliminary hearing or deposition.**

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

**Section 1. That § 23A-12-9 be AMENDED:**

**23A-12-9.** If a victim is less than sixteen years of age at the time of a preliminary hearing or deposition, a prosecuting or defense attorney may apply for an order that the victim's testimony at the preliminary hearing or deposition, in addition to being stenographically recorded, be recorded and preserved on video, if a defendant has been charged with a violation of:

- (1) Subdivision 22-22-1(1) or (5);
- (2) § 22-22-7; or
- (3) § 22-49-2.

The scope and manner of the examination and cross-examination must be such as would be allowed at the trial. Notice of any such deposition pursuant to this section must conform in all respects to the notice requirements contained in § 23A-12-2.

The application for the order must be in writing and made at least three days before the preliminary hearing or deposition.

Upon timely receipt of the application, the court may order that the testimony of the victim given at the preliminary hearing or deposition be taken and preserved on video. The video must be transmitted to the clerk of the court in which the action is pending.

If, at the time of trial, the court finds that the victim is otherwise unavailable within the meaning of subdivision 19-19-804(a), or that such testimony would in the opinion of the court be substantially detrimental to the well-being of the victim, the court may admit the video of the victim's testimony at the preliminary hearing or deposition as former testimony under subsection 19-19-804(b)(1).

**Section 2. That § 23A-12-10 be AMENDED:**

**23A-12-10.** Upon timely receipt of a notice that additional evidence has been newly discovered and for good cause shown, the court may order an additional hearing to record the victim's testimony relevant to the newly discovered evidence on video.

**Section 3. That § 23A-28C-8 be AMENDED:**

**23A-28C-8.** The victim or witness assistant shall:

- (1) Advise the victim about the legal proceedings in which the victim will be involved;
- (2) Advise the victim concerning any required appearance at any proceeding and if the proceeding is continued or postponed;
- (3) Assist the state's attorney, court services officer, and the victim to determine the amount of monetary damages suffered by the victim and advise the victim about restitution;
- (4) Advise, if the requirements of § 23A-12-9 are met, the victim and one of the victim's immediate family that the preliminary hearing or deposition testimony of the victim may be video recorded; and
- (5) Advise the victim or one of the victim's immediate family if the defendant is released from custody and the defendant's bail conditions.

The victim or witness assistant may accompany the victim in any criminal proceeding.

An Act to revise provisions related to the video recording of certain victim testimony at a preliminary hearing or deposition.

\_\_\_\_\_  
I certify that the attached Act originated in  
the:  
House as Bill No. 1100

\_\_\_\_\_  
Received at this Executive Office  
this \_\_\_\_ day of \_\_\_\_\_,  
2022 at \_\_\_\_\_ M.

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

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

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

The attached Act is hereby  
approved this \_\_\_\_\_ day of  
\_\_\_\_\_, A.D., 2022

Attest:

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

\_\_\_\_\_  
Governor

**STATE OF SOUTH DAKOTA,**

ss.

Office of the Secretary of State

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

Attest:

Filed \_\_\_\_\_, 2022  
at \_\_\_\_\_ o'clock \_\_ M.

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

\_\_\_\_\_  
Secretary of State

House Bill No. 1100  
File No. \_\_\_\_\_  
Chapter No. \_\_\_\_\_

By \_\_\_\_\_  
Asst. Secretary of State