



2023 South Dakota Legislature

Senate Bill 90

Introduced by: **Senator Reed**

1 **An Act to provide certain definitions related to the crime of rape.**

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

3 **Section 1. That chapter 22-22 be amended with a NEW SECTION:**

4 Terms used in this chapter mean:

5 (1) "Consent," a person's positive cooperation in act or attitude pursuant to the
6 person's exercise of free will;

7 (2) "Force," the use of physical effort sufficient to overcome, restrain, injure, or
8 prevent escape;

9 (3) "Mental incapacity," a mental or developmental disease or disability that renders a
10 person incapable of appraising the nature of the person's conduct; and

11 (4) "Physical incapacity," a person's incapability of resisting because the person is
12 unconscious, asleep, or is subject to another physical condition that prevents the
13 person from giving consent or resisting.