



2023 South Dakota Legislature

Senate Bill 91

Introduced by: **Senator Reed**

1 **An Act to revise certain provisions regarding the crime of rape and provide a penalty**
 2 **therefor.**

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

4 **Section 1. That § 22-22-1 be AMENDED:**

5 **22-22-1.** Rape is an act of sexual penetration accomplished with any person under
 6 any of the following circumstances:

- 7 (1) If the victim is less than thirteen years of age;~~or~~
 8 (2) Through the use of force, coercion, or threats of immediate and great bodily harm
 9 against the victim or other persons within the victim's presence, accompanied by
 10 apparent power of execution;~~or~~
 11 (3) If the victim is incapable, because of physical or mental incapacity, of giving
 12 consent to such act and the perpetrator knows or reasonably should know of the
 13 victim's incapacity;~~or~~
 14 (4) If the victim is incapable of giving consent because of any intoxicating, narcotic, or
 15 anesthetic agent or hypnosis and the perpetrator knows or reasonably should know
 16 the victim is incapable of giving consent;~~or~~
 17 (5) Without the victim's consent; or
 18 ~~(5)~~(6) If the victim is thirteen years of age, but less than sixteen years of age, and the
 19 perpetrator is at least three years older than the victim.

20 A violation of subdivision (1)~~of this section~~ is rape in the first degree, which is a
 21 Class C felony. A violation of subdivision (2)~~of this section~~ is rape in the second degree
 22 which is a Class 1 felony. A violation of subdivision (3) or (4) ~~of this section~~ is rape in the
 23 third degree, which is a Class 2 felony. A violation of subdivision (5)~~of this section~~ or (6)
 24 is rape in the fourth degree, which is a Class 3 felony.

25 Notwithstanding the provisions of § 23A-42-2, no statute of limitations applies to
 26 any charge brought pursuant to subdivisions subdivision (1) or (2)~~of this section~~.

- 1 Otherwise, a charge brought pursuant to this section may be commenced at any time ~~prior~~
- 2 ~~to the time~~ before the victim ~~becomes of~~ reaches age twenty-five or within seven years
- 3 ~~of~~ from the commission of the crime, whichever is longer.