



## 2024 South Dakota Legislature

# House Bill 1192

Introduced by: **Representative** Krohmer

1 **An Act to allow for the death penalty for rape of a child twelve years of age or under.**

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

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

4 **22-22-1.** Rape is an act of sexual penetration accomplished with any person under  
5 any of the following circumstances:

- 6 (1) If the victim is less than thirteen years of age;
- 7 (2) Through the use of force, coercion, or threats of immediate and great bodily harm  
8 against the victim or other persons within the victim's presence, accompanied by  
9 apparent power of execution;
- 10 (3) If the victim is incapable, because of physical or mental incapacity, of giving  
11 consent to such act and the perpetrator knows or reasonably should know of the  
12 victim's incapacity;
- 13 (4) If the victim is incapable of giving consent because of any intoxicating, narcotic, or  
14 anesthetic agent or hypnosis and the perpetrator knows or reasonably should know  
15 the victim is incapable of giving consent;
- 16 (5) If the victim is thirteen years of age, but less than sixteen years of age, and the  
17 perpetrator is at least three years older than the victim; or
- 18 (6) Without the victim's consent and the perpetrator knows or reasonably should know  
19 the victim is not consenting.

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

24 Notwithstanding the provisions of § 23A-42-2, no statute of limitations applies to  
25 any charge brought pursuant to subdivision (1) or (2). Otherwise, a charge brought

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