

2024 South Dakota Legislature

House Bill 1192**AMENDMENT 1192E
FOR THE INTRODUCED BILL**

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

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;
- 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;
- 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;
- 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;
- 17 (5) If the victim is thirteen years of age, but less than sixteen years of age, and the
18 perpetrator is at least three years older than the victim; or
- 19 (6) Without the victim's consent and the perpetrator knows or reasonably should know
20 the victim is not consenting.

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

AMENDED