



2025 South Dakota Legislature

House Bill 1128

Introduced by: **Representative Healy**

1 **An Act to revise certain provisions related to sexual contact with a child under**
 2 **sixteen.**

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

4 **Section 1. That § 22-22-7 be AMENDED:**

5 **22-22-7.** Any ~~Except as provided below,~~ it is a Class 3 felony for any person,
 6 sixteen years of age or older, ~~who to~~ knowingly ~~engages~~ engage in sexual contact with
 7 another person, ~~other than that person's spouse if the other person is under the age of~~
 8 ~~sixteen years is guilty of a Class 3 felony~~ who is less than sixteen years of age.

9 If the victim is at least thirteen years of age and the actor is less than five years
 10 older than the victim, the actor is guilty of a Class 1 misdemeanor.

11 Notwithstanding § 23A-42-2, a charge ~~brought~~ pursuant to this section may be
 12 ~~commenced~~ brought at any time before the victim ~~becomes~~ reaches the age of twenty-
 13 five or within seven years of the commission of the crime, whichever is longer.

14 **Section 2. That § 22-22-7.1 be AMENDED:**

15 **22-22-7.1.** As used in this chapter, the term, ~~"sexual contact,"~~ means any
 16 touching, not amounting to rape, whether or not through clothing or other covering, of
 17 the breasts of a female or the genitalia or anus of any person with the intent to arouse or
 18 gratify the sexual desire of either party. ~~Practitioners~~ For the purpose of § 22-22-7, "sexual
 19 contact" also includes the touching of the buttocks or upper inner thighs of any person
 20 with the intent to arouse or gratify the sexual desire of either party.

21 A practitioner of the healing arts lawfully practicing within the scope of their
 22 practice, which determination shall be conclusive as against the state and shall be made
 23 by the court prior to trial, ~~are~~ is not included within the provisions of this section.

24 In any pretrial proceeding under this section, the prosecution has the burden of
 25 establishing probable cause.