AN ACT

ENTITLED, An Act to give the court discretion to grant a continuance of a protection order in certain situations.

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

Section 1. That § 25-10-7 be amended to read as follows:

25-10-7. An ex parte temporary protection order is effective for a period of thirty days except as provided in § 25-10-7.1 unless for good cause the court grants a continuance. No continuance may exceed thirty days unless the court finds good cause for the additional continuance and:

(1) The parties stipulate to an additional continuance; or

(2) The court finds that law enforcement is unable to locate the respondent for purposes of service of the ex parte protection order.

If a continuance is granted, the court by order shall extend the ex parte temporary protection order until the rescheduled hearing date. The respondent shall be personally served without delay with a copy of the ex parte order along with a copy of the petition, affidavit, and notice of the date set for the hearing. The ex parte order shall be served without delay under the circumstances of the case including service of the ex parte order on a Sunday or holiday. The law enforcement agency serving the order shall notify the petitioner by telephone or written correspondence when the order is served if the petitioner has provided to the law enforcement agency either a telephone number or address, or both, where the petitioner may be contacted. The law enforcement agency and any officer of the law enforcement agency is immune from civil and criminal liability if the agency or the officer makes a good faith attempt to notify the petitioner in a manner consistent with the provisions of this section.

Section 2. That § 22-19A-12 be amended to read:

22-19A-12. If an affidavit filed with an application under § 22-19A-8 alleges that immediate and

irreparable injury, loss, or damage is likely to result before an adverse party or the party's attorney can be heard in opposition, the court may grant an ex parte temporary protection order pending a full hearing and granting relief as the court deems proper, including an order restraining any person from committing acts of stalking or physical injury as a result of an assault or a crime of violence as defined in subdivision 22-1-2(9). An ex parte temporary protection order is effective for a period of thirty days unless for good cause the court grants a continuance. No continuance may exceed thirty days unless the court finds good cause for the additional continuance and:

(1) The parties stipulate to an additional continuance; or

(2) The court finds that law enforcement is unable to locate the respondent for purposes of service of the ex parte protection order.

If a continuance is granted, the court by order shall extend the ex parte temporary protection order until the rescheduled hearing date. The respondent shall be personally served without delay with a copy of the ex parte order along with a copy of the petition, affidavit, and notice of the date set for the hearing.

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I certify that the attached Act originated in the

HOUSE as Bill No. 1105

_____
Chief Clerk

_____
Speaker of the House

Attest:

_____
Chief Clerk

_____
President of the Senate

Attest:

_____
Secretary of the Senate

House Bill No. 1105
File No. ____
Chapter No. _____

Received at this Executive Office this _____ day of _____ ,

20____ at _____ M.

By _____
for the Governor

The attached Act is hereby approved this _____ day of _____ , A.D., 20___

_____
Governor

STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed _____ , 20___
at _____ o'clock __ M.

_____
Secretary of State

By _____
Asst. Secretary of State