

# State of South Dakota

NINETY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2018

853Z0348

## HOUSE BILL NO. 1162

Introduced by: Representatives Reed, Anderson, Bartels, Barthel, Chase, DiSanto, Duvall, Glanzer, Goodwin, Gosch, Greenfield (Lana), Hawley, Heinemann, Holmes, Jensen (Kevin), Johnson, Kaiser, Kettwig, Lake, Livermont, Lust, Mickelson, Peterson (Kent), Pischke, Qualm, Rasmussen, Schaefer, Schoenfish, Steinhauer, Stevens, Wiese, Willadsen, and Zikmund and Senators Bolin, Cammack, Cronin, Curd, Greenfield (Brock), Haverly, Klumb, Kolbeck, Maher, Monroe, Novstrup, Partridge, Peters, Rusch, Solano, and Tidemann

1 FOR AN ACT ENTITLED, An Act to increase a surcharge to increase revenues to the crime  
2 victims' compensation fund and to revise certain provisions of the crime victim  
3 compensation program fund.

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

5 Section 1. That § 23A-28B-42 be amended to read:

6 23A-28B-42. In any criminal action for a violation of state law or county or municipal  
7 ordinance, in addition to any other liquidated cost, penalty, assessment, surcharge, or fine  
8 provided by law, there shall be levied a crime victims' compensation surcharge on each Class  
9 2 misdemeanor, Class 1 misdemeanor, or felony conviction of ~~two~~ five dollars ~~and fifty cents~~.

10 However, the surcharge imposed by this section does not apply to violations relating to  
11 parking of vehicles. In a case of clear financial hardship when a fine is suspended in whole or  
12 in part, the surcharge provided for in this section may be waived.



1 Section 2. That § 23A-28B-43 be amended to read:

2 23A-28B-43. The clerk of courts of each county shall collect any surcharge levied under  
3 § 23A-28B-42 and shall transmit ~~such the~~ collected surcharges within thirty days to the state  
4 treasurer who shall place ~~such the~~ money received in the crime victims' compensation fund. For  
5 administration of surcharge collection, the Unified Judicial System shall receive ~~three one and~~  
6 one half percent of the surcharge funds collected, to be deposited in the court automation fund.  
7 The department shall receive ~~twenty-seven~~ thirteen and one half percent of surcharge funds  
8 collected for costs associated with administering claims and for providing administrative  
9 services to the commission. ~~Such~~ Any expenditures authorized from the fund shall be paid on  
10 warrants drawn by the state auditor on vouchers approved by the secretary of the department.

11 Section 3. That § 23A-28B-25 be amended to read:

12 23A-28B-25. No claim for compensation may be awarded:

13 (1) Unless an application for compensation is filed with the department within one year  
14 after the date of the personal injury or death and the personal injury or death was the  
15 result of a crime which had been reported to a law enforcement officer or agency  
16 within five days of its occurrence or, if the crime could not reasonably have been  
17 reported within such period, within five days of the date when a report could  
18 reasonably have been made. The department may waive the one year application  
19 requirement for good cause shown;

20 (2) If the victim:

21 (a) Engaged in conduct which substantially contributed to the infliction of the  
22 victim's injury or death or engaged in conduct which the victim should  
23 reasonably have foreseen could lead to the injury or death. However, this  
24 subsection does not apply to any victim defined in subsections 23A-28B-

1                   1(12)(b) and (c) or to any victim of: a sex offense under chapter 22-22; human  
2                   trafficking under chapter 22-49; domestic abuse under § 25-10-1; child abuse,  
3                   neglect, or exploitation under § 26-8A-2; or abuse, neglect, or exploitation of  
4                   an elder or an adult with a disability under chapter 22-46;

5                   (b) Committed or otherwise participated in a crime which caused or contributed  
6                   to the victim's injury or death;

7                   (c) Fails or refuses to cooperate fully with any appropriate law enforcement  
8                   officer or agency or with the department in the administration of this chapter.

9                   If a claimant other than a victim fails or refuses to cooperate pursuant to this  
10                  subsection, no compensation may be awarded to that claimant; or

11               (3) To any claimant, if the award would unjustly benefit an offender or an accomplice.