

State of South Dakota

NINETY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2018

481Z0654

SENATE BILL NO. 182

Introduced by: Senators Nelson, Bolin, Cronin, Curd, Frerichs, Greenfield (Brock), Haverly, Heinert, Jensen (Phil), Killer, Klumb, Monroe, Netherton, Partridge, Russell, Soholt, Stalzer, Tapio, Tidemann, Wiik, and Youngberg and Representatives Latterell, Ahlers, Barthel, Beal, Brunner, Campbell, Clark, DiSanto, Frye-Mueller, Glanzer, Goodwin, Gosch, Greenfield (Lana), Howard, Johnson, Kaiser, Karr, Lake, Livermont, Marty, May, Mills, Peterson (Sue), Pischke, Rasmussen, Rhoden, Ring, Rounds, Schaefer, Schoenfish, Steinhauer, Turbiville, and Wismer

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the crime of rape.

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

3 Section 1. That § 22-22-1 be amended to read:

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

6 (1) If the victim is less than thirteen years of age; or

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; or

10 (3) If the victim is incapable, because of physical or mental incapacity, of giving consent
11 to such act; or

12 (4) If the victim is incapable of giving consent because of any intoxicating, narcotic, or



1 anesthetic agent or hypnosis; or

2 (5) If the victim is thirteen years of age, but less than sixteen years of age, and the
3 perpetrator is at least three years older than the victim.

4 A violation of subdivision (1) of this section is rape in the first degree, which is a Class C
5 felony. A violation of subdivision (2) of this section is rape in the second degree which is a
6 Class 1 felony. A violation of subdivision (3) or (4) of this section is rape in the third degree,
7 which is a Class 2 felony. A violation of subdivision (5) of this section is rape in the fourth
8 degree, which is a Class 3 felony. No violation under this section includes as an element that
9 the defendant knew or should have known the victim's age or that the defendant knew or should
10 have known that the victim was incapable of giving consent. Notwithstanding the provisions
11 of § 23A-42-2, no statute of limitations applies to any charge brought pursuant to subdivisions
12 (1) or (2) of this section. Otherwise a charge brought pursuant to this section may be
13 commenced at any time prior to the time the victim becomes of age twenty-five or within seven
14 years of the commission of the crime, whichever is longer.