

State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

907Q0102

HOUSE JUDICIARY ENGROSSED NO. **HB 1088** - 1/21/2009

Introduced by: The Committee on Judiciary at the request of the Chief Justice

1 FOR AN ACT ENTITLED, An Act to provide for the continuance of certain ex parte temporary
2 protection orders.

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

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

5 25-10-7. An ex parte temporary protection order is effective for a period of thirty days
6 except as provided in § 25-10-7.1 unless for good cause the court grants a continuance. No
7 continuance may exceed thirty days. If a continuance is granted, the court by order shall extend
8 the ex parte temporary protection order until the rescheduled hearing date. The respondent shall
9 be personally served forthwith with a copy of the ex parte order along with a copy of the
10 petition, affidavit, and notice of the date set for the hearing. The ex parte order shall be served
11 without delay under the circumstances of the case including service of the ex parte order on a
12 Sunday or holiday. The law enforcement agency serving the order shall notify the petitioner by
13 telephone or written correspondence when the order is served if the petitioner has provided to
14 the law enforcement agency either a telephone number or address, or both, where the petitioner
15 may be contacted. The law enforcement agency and any officer of the law enforcement agency



1 is immune from civil and criminal liability if the agency or any such officer makes a good faith
2 attempt to notify the petitioner in a manner consistent with the provisions of this section.

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

4 22-19A-12. If an affidavit filed with an application under § 22-19A-8 alleges that immediate
5 and irreparable injury, loss, or damage is likely to result before an adverse party or the party's
6 attorney can be heard in opposition, the court may grant an ex parte temporary protection order
7 pending a full hearing and granting relief as the court deems proper, including an order
8 restraining any person from committing acts of stalking or physical injury as a result of an
9 assault or a crime of violence as defined in subdivision 22-1-2(9). An ex parte temporary
10 protection order is effective for a period of thirty days unless for good cause the court grants a
11 continuance. No continuance may exceed thirty days. If a continuance is granted, the court by
12 order shall extend the ex parte temporary protection order until the rescheduled hearing date.
13 The respondent shall be personally served forthwith with a copy of the ex parte order along with
14 a copy of the petition, affidavit, and notice of the date set for the hearing.