

State of South Dakota

SEVENTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 1998

400B0369

SENATE BILL NO. 36

Introduced by: The Committee on Judiciary at the request of the Attorney General

1 FOR AN ACT ENTITLED, An Act to revise the crime of indecent exposure.

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

3 Section 1. That § 22-24-1 be repealed.

4 ~~—22-24-1. Any person who intentionally and with an immoral purpose exposes his or her~~
5 ~~genitalia in any place where there is present any person, other than the spouse of the exposor,~~
6 ~~to be offended or annoyed thereby, is guilty of a Class 1 misdemeanor. However, if such person~~
7 ~~has been previously convicted of a felony violation of § 22-22-1, 22-22-7, 22-22-19.1, or~~
8 ~~22-22-23, that person is guilty of a Class 6 felony. Any person convicted of a third or subsequent~~
9 ~~violation of this section is guilty of a Class 6 felony.~~

10 Section 2. That chapter 22-24 be amended by adding thereto a NEW SECTION to read as
11 follows:

12 A person commits the crime of public indecency if the person exposes his or her anus or
13 genitals in a public place in a reckless manner where another may be present who will be
14 offended or alarmed by the person's act. A violation of this section is a Class 2 misdemeanor.

15 Section 3. That chapter 22-24 be amended by adding thereto a NEW SECTION to read as
16 follows:

1 A person commits the crime of indecent exposure if, with the intent to arouse or gratify the
2 sexual desire of any person, the person exposes his or her genitals in a public place under
3 circumstances in which that person knows that person's conduct is likely to annoy, offend, or
4 alarm another person. A violation of this section is a Class 1 misdemeanor. However, if such
5 person has been previously convicted of a felony violation of § 22-22-1, 22-22-7, 22-22-19.1,
6 or 22-22-23, that person is guilty of a Class 6 felony. Any person convicted of a third or
7 subsequent violation of either this section or of § 22-24-1 is guilty of a Class 6 felony.

8 Section 4. That § 22-22-30 be amended to read as follows:

9 22-22-30. For the purposes of §§ 22-22-31 to 22-22-39, inclusive, a sex crime is any of the
10 following crimes regardless of the date of the commission of the offense or the date of
11 conviction:

- 12 (1) Rape as set forth in § 22-22-1;
- 13 (2) Sexual contact with a minor under sixteen as set forth in § 22-22-7 if committed by
14 an adult and the adult is convicted of a felony;
- 15 (3) Sexual contact with a person incapable of consenting as set forth in § 22-22-7.2 if
16 committed by an adult;
- 17 (4) Incest as set forth in § 22-22-19.1 if committed by an adult;
- 18 (5) Photographing a child in an obscene act as set forth in § 22-22-23;
- 19 (6) Possession of child pornography as set forth in § 22-22-23.1;
- 20 (7) Sale of obscene pictures of a child as set forth in § 22-22-24;
- 21 (8) Kidnapping, as set forth in § 22-19-1, if the victim of the criminal act is a minor;
- 22 (9) Promotion of prostitution of a minor as set forth in subdivision 22-23-2(2);
- 23 (10) Criminal pedophilia as set forth in § 22-22-30.1;
- 24 (11) Felony indecent exposure as set forth in § 22-24-1 or indecent exposure as set forth
25 in section 3 of this Act;

- 1 (12) An attempt to commit any of the crimes listed in this section; or
- 2 (13) Any crime committed in a place other than this state which would constitute a sex
- 3 crime under this section if committed in this state.