

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

276P0213

SENATE BILL NO. 77

Introduced by: Senators Knudson, Dempster, Gant, Gray, Heidepriem, and Turbak Berry and
Representatives Cutler, Deadrick, and Gillespie

1 FOR AN ACT ENTITLED, An Act to repeal the provision that prohibits radio or television
2 broadcasting or taking of photographs of judicial proceedings from courtrooms.

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

4 Section 1. That § 23A-44-16 be repealed.

5 ~~23A-44-16. The taking of photographs in a courtroom during the progress of judicial~~
6 ~~proceedings or radio or television broadcasting of judicial proceedings from a courtroom shall~~
7 ~~not be permitted by a court.~~

8 Section 2. That § 23A-12-9 be amended to read as follows:

9 23A-12-9. ~~Notwithstanding the provisions of § 23A-44-16, if~~ If a defendant has been
10 charged with a violation of subdivision 22-22-1(1), (5), or (6) or § 22-22-7, where the victim
11 is less than sixteen years of age, the prosecuting attorney or defense attorney may apply for an
12 order that the victim's testimony at the preliminary hearing or at a deposition, in addition to
13 being stenographically recorded, be recorded and preserved on videotape. The scope and manner
14 of the examination and cross-examination shall be such as would be allowed at the trial. Notice
15 of any such deposition pursuant to this section shall conform in all respects to the notice



1 requirements contained in § 23A-12-2.

2 The application for the order shall be in writing and made at least three days before the
3 preliminary hearing or deposition.

4 Upon timely receipt of the application, the court may order that the testimony of the victim
5 given at the preliminary hearing or deposition be taken and preserved on videotape. The
6 videotape shall be transmitted to the clerk of the court in which the action is pending.

7 If at the time of trial the court finds that the victim is otherwise unavailable within the
8 meaning of § 19-16-29, or that such testimony would in the opinion of the court be substantially
9 detrimental to the well-being of the victim, the court may admit the videotape of the victim's
10 testimony at the preliminary hearing or deposition as former testimony under § 19-16-30.