

# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

400P0239

CONFERENCE COMMITTEE

ENGROSSED NO. **HB 1064** - 2/25/2008

**This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.**

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

1 FOR AN ACT ENTITLED, An Act to revise the crime of aggravated incest.

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

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

4 22-22A-3. Any person who knowingly engages in an act of sexual penetration with a person  
5 who is less than eighteen years of age and is either:

6 (1) ~~Is at least sixteen but less than eighteen years of age; and~~

7 ~~—(2)—Is either:~~

8 ~~——(a)——The child of the perpetrator or the child of a spouse or former spouse of the~~  
9 perpetrator; or

10 ~~(b)(2)~~ Related to the perpetrator within degrees of consanguinity within which marriages  
11 are, by the laws of this state, declared void pursuant to § 25-1-6;

12 is guilty of aggravated incest. Aggravated incest is a Class 3 felony.

13 Section 2. That chapter 22-22A be amended by adding thereto a NEW SECTION to read  
14 as follows:



1 Any person eighteen years of age or older, who knowingly engages in an act of sexual  
2 penetration with a person who is less than eighteen years of age and who, at the time of the  
3 offense, has been placed, and resides, in a licensed foster home is guilty of aggravated incest if  
4 the perpetrator is:

- 5 (1) The licensed foster care provider; or
- 6 (2) A resident of the licensed foster care provider's home and related to the licensed  
7 foster care provider by blood or marriage.

8 Aggravated incest is a Class 3 felony.