

# State of South Dakota

EIGHTY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 2009

538Q0629

SENATE ENGROSSED NO. **HB 1153** - 3/9/2009

Introduced by: Representatives Cutler, Bolin, Fargen, Frerichs, Krebs, Lust, Peters, Steele, Thompson, and Turbiville and Senators Gillespie, Dempster, Gray, and Novstrup (Al)

1 FOR AN ACT ENTITLED, An Act to revise the elements of the crime of indecent exposure  
2 involving a child and to broaden the application of the public indecency and indecent  
3 exposure statutes.

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

5 Section 1. That § 22-24-1.3 be amended to read as follows:

6 22-24-1.3. If any person, eighteen years of age or older, with the intent to arouse or gratify  
7 the sexual desire of any person, intentionally exposes his or her genitals ~~under circumstances~~  
8 ~~in which that person knows that his or her conduct is likely to annoy, offend, or alarm some to~~  
9 a child, thirteen years of age or younger, that person is guilty of the crime of indecent exposure  
10 involving a child. Indecent exposure involving a child is a Class 6 felony. A second or  
11 subsequent conviction for indecent exposure involving a child is a Class 5 felony.

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

14 It is not a defense to the crimes of public indecency as defined in § 22-24-1.1 or indecent



1 exposure as defined in § 22-24-1.2 that the place where the act of exposure occurs is a private  
2 place rather than a public place if:

- 3 (1) The perpetrator and the victim have no interpersonal relationship;
- 4 (2) The perpetrator has no right to be in the private place where the act of exposure  
5 occurs other than the permission, invitation, acquiescence, or sufferance of the  
6 property owner or the property owner's agent;
- 7 (3) The perpetrator and the property owner or property owner's agent have no  
8 interpersonal relationship; and
- 9 (4) The perpetrator and the victim are not related, by blood, marriage, or adoption, within  
10 the fourth degree of kinship.

11 For the purposes of this section, the term, interpersonal relationship, does not extend to any  
12 casual relationship arising primarily out of any business, professional, commercial, service, or  
13 similar social interaction.