

State of South Dakota

EIGHTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2010

349R0169

HOUSE JUDICIARY ENGROSSED NO. **HB 1076** 2/1/2010

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

1 FOR AN ACT ENTITLED, An Act to repeal certain statutes related to the testimony of sex
2 offense victims and to evidence of a victim's prior sexual conduct in coordination with the
3 adoption of certain evidentiary rules by the Supreme Court.

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

5 Section 1. That § 23A-22-15 be repealed.

6 ~~—23A-22-15. In prosecutions for a sex offense under chapter 22-22, evidence of specific~~
7 ~~instances of a victim's prior sexual conduct shall not be admitted nor reference made thereto~~
8 ~~before the jury or jury panel, except as provided in this section. Whenever a party proposes to~~
9 ~~offer evidence concerning a victim's prior sexual conduct, the court shall first conduct a hearing~~
10 ~~in the absence of the jury and the public to consider and rule upon the relevancy and materiality~~
11 ~~of the evidence.~~

12 Section 2. That § 23A-22-15.1 be repealed.

13 ~~—23A-22-15.1. The testimony of the complaining witness in a trial for a charge of a sex~~
14 ~~offense under chapter 22-22 may not, merely because of the nature of that charge, be treated in~~
15 ~~any different manner than the testimony of a complaining witness in any other criminal case.~~



1 Section 3. The provisions of this Act are not effective unless, prior to the effective date of
2 this Act, the Supreme Court adopts a new rule substantially equivalent to federal rule of
3 evidence 412 and provides that the rule becomes effective upon the legislative repeal of §§ 23A-
4 22-15 and 23A-22-15.1.