

# State of South Dakota

EIGHTY-SEVENTH SESSION  
LEGISLATIVE ASSEMBLY, 2012

400T0430

## SENATE BILL NO. 39

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

1 FOR AN ACT ENTITLED, An Act to expand the definition of victim for the purposes of  
2 certain written victim impact statements.

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

4 Section 1. That § 23A-27-1.1 be amended to read as follows:

5 23A-27-1.1. Upon request to the court by a victim and before imposing sentence on a  
6 defendant, the victim, in the discretion of the court, may orally address the court concerning the  
7 emotional, physical, and monetary impact of the defendant's crime upon the victim and the  
8 victim's family, and may comment upon the sentence which may be imposed upon the  
9 defendant.

10 The defendant shall be permitted to respond to such statements orally or by presentation of  
11 evidence and shall be granted a reasonable continuance to refute any inaccurate or false charges  
12 or statements.

13 For the purpose of this section, the term, victim, ~~shall be construed to mean~~ means the actual  
14 victim or the parent, spouse, next of kin, legal or physical custodian, guardian, foster parent,  
15 case worker, victim advocate, or mental health counselor of any actual victim who is



1 incompetent by reason of age or physical condition, who is deceased, or whom the court finds  
2 otherwise unable to comment.

3 Section 2. That chapter 23A-27 be amended by adding thereto a NEW SECTION to read  
4 as follows:

5 Upon request to the court by a victim and before imposing sentence on a defendant, a victim,  
6 in the discretion of the court, may address the court in writing concerning the emotional,  
7 physical, and monetary impact of the defendant's crime upon the victim and the victim's family,  
8 and may comment upon the sentence which may be imposed upon the defendant.

9 The defendant shall be permitted to respond to such statements and shall be granted a  
10 reasonable continuance to refute any inaccurate or false charges or statements.

11 For the purpose of this section, the term, victim, means anyone adversely impacted  
12 emotionally, physically, or monetarily by the defendant's crime.