

AN ACT

ENTITLED, An Act to establish certain electronic crime victim notification procedures.

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

Section 1. That chapter 23A-28C be amended by adding thereto a NEW SECTION to read as follows:

For the purposes of this chapter, the term, notice, means either written notification or electronic notification.

Section 2. That chapter 23A-28C be amended by adding thereto a NEW SECTION to read as follows:

For the purposes of this chapter, the term, electronic notification, means any telephonic, electronic mail, text messaging, and facsimile transmittal notification or any notification as produced by the statewide automated notification system as established pursuant to § 23A-28C-10.

Section 3. That chapter 23A-28C be amended by adding thereto a NEW SECTION to read as follows:

Upon the scheduling of a clemency hearing pursuant to chapter 24-14, the Department of Corrections shall provide notice to the victim. Notice of a clemency hearing shall be made at least two weeks prior to the hearing. The notice shall provide the offender's clemency hearing date, time, and location and shall advise the victim that the victim may be present at the hearing and may state an opinion regarding clemency. The victim shall be notified if clemency is recommended.

Section 4. That chapter 23A-28C be amended by adding thereto a NEW SECTION to read as follows:

The Department of Corrections shall provide notice to the victim at least ten days before the date of a discretionary parole hearing. The notice shall provide the inmate's parole eligibility date and the parole hearing date. The notice shall advise the victim that the victim may be present at the hearing

and may state an opinion regarding the possible parole of the inmate.

Section 5. That chapter 23A-28C be amended by adding thereto a NEW SECTION to read as follows:

The victim may request to be notified by the Department of Corrections if:

- (1) An early final discharge or partial early final discharge from parole is considered;
- (2) The offender is placed on or removed from work release, a global positioning system, or a community transition program; or
- (3) An offender on parole absconds supervision.

Section 6. That chapter 23A-28C be amended by adding thereto a NEW SECTION to read as follows:

If the victim is a minor, the victim's parent or guardian may request notification pursuant to this chapter.

Section 7. That § 23A-28C-2 be amended to read as follows:

23A-28C-2. At the commencement of a criminal proceeding subject to the terms of this chapter, the prosecutor, by first class mail or electronic mail notification, shall advise the victim of the rights set forth in this chapter. In order to take advantage of such rights, the victim shall advise the prosecutor of the desire to participate. A victim may choose to participate only in certain enumerated phases of the proceedings. A victim wishing to participate shall advise the prosecutor or the Department of Corrections of the place where notifications, including electronic notification, required under this chapter are to be made, and of any changes in the place of notification. A prosecutor receiving notification of a victim's wish to participate shall keep record of that notification and most recent place of notification through the time of the defendant's final discharge from the criminal justice system. If the defendant is sentenced to the state prison system, the prosecutor shall forward the information to the Department of Corrections and the Department of

Corrections shall keep record of the request for notification and the most recent place of notification until the defendant's final discharge from prison and parole. The request for notification and the place of notification is confidential and may not be disclosed to the defendant.

Section 8. That § 23A-28C-5 be amended to read as follows:

23A-28C-5. Any institution under the control of the Department of Corrections or the Department of Human Services or the Department of Social Services, or any jail or other facility where a person is incarcerated due to the commission of a crime, shall provide notice, as soon as possible, if any of the following occur:

- (1) Upon the person's escape from custody and return to custody following escape;
- (2) Of any release from custody, including placement in an intensive supervision program or other alternative disposition, such notice to include associated conditions of release;
- (3) Upon the granting of parole or revocation of parole;
- (4) Prior to the defendant's release from custody due to expiration of sentence;
- (5) Of any removal from an intensive supervision program or other alternative disposition;
- (6) Of any furlough; and
- (7) Of the offender's death.

Section 9. That § 23A-28C-9 be amended to read as follows:

23A-28C-9. No person, other than in the performance of official duties, may disclose the identity and biographical information concerning a victim of a crime of violence or of a violation of § 22-22-7 until reasonable efforts have been made to provide notice to one of the immediate family.

Section 10. That chapter 24-1 be amended by adding thereto a NEW SECTION to read as follows:

The sentencing judge may request to be notified by the Department of Corrections if the inmate who was convicted of committing a crime escapes, is released from prison, is placed on furlough or

work release pursuant to chapter 24-8, is returned from escape, or is removed from work release. The notice may be by means of written communication, telephonic, electronic mail, text messaging, or facsimile transmittal.

Section 11. That § 24-14-4.1 be repealed.

Section 12. That § 24-15-3 be amended to read as follows:

24-15-3. Whenever any person becomes an inmate of the penitentiary, the director shall immediately establish in the record the date when the inmate will be eligible for consideration for parole. Such consideration for a parole eligibility date is subject to change upon receipt of information regarding a change in the number of prior felony convictions or any subsequent felony convictions. Any inmate who is aggrieved by the established parole consideration eligibility date may apply for a hearing before the Board of Pardons and Paroles for a final determination of the true and correct parole consideration eligibility date. Between the date a person becomes an inmate of the penitentiary and the date on which the person becomes eligible for consideration for parole, the director shall complete the history of the inmate and shall study the life, habits, previous environment, and nature of the inmate to determine the advisability of recommending the inmate for parole when the inmate becomes eligible to be considered. At least ten days before the date of eligibility the director shall submit to the board the findings regarding the inmate.

Section 13. That § 24-15-8.1 be repealed.

Section 14. That § 24-15-8.2 be repealed.

Section 15. That § 24-15-8.3 be repealed.

Section 16. That § 24-15A-22 be repealed.

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I certify that the attached Act  
originated in the

SENATE as Bill No. 26

\_\_\_\_\_  
Secretary of the Senate

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\_\_\_\_\_  
President of the Senate

Attest:

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_  
Speaker of the House

Attest:

\_\_\_\_\_  
Chief Clerk

Senate Bill No. 26

File No. \_\_\_\_\_

Chapter No. \_\_\_\_\_

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Received at this Executive Office  
this \_\_\_\_\_ day of \_\_\_\_\_ ,

20\_\_\_\_ at \_\_\_\_\_ M.

By \_\_\_\_\_  
for the Governor

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The attached Act is hereby  
approved this \_\_\_\_\_ day of  
\_\_\_\_\_, A.D., 20\_\_\_\_

\_\_\_\_\_  
Governor

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STATE OF SOUTH DAKOTA,  
ss.

Office of the Secretary of State

Filed \_\_\_\_\_, 20\_\_\_\_  
at \_\_\_\_\_ o'clock \_\_ M.

\_\_\_\_\_  
Secretary of State

By \_\_\_\_\_  
Asst. Secretary of State