

# State of South Dakota

NINETY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2016

517X0164

## HOUSE BILL NO. 1105

Introduced by: Representatives Johns, Gibson, Haugaard, Romkema, Rounds, Sly, Stevens,  
and Zikmund and Senator Rusch

1 FOR AN ACT ENTITLED, An Act to give the court discretion to grant a continuance of a  
2 protection order in certain situations.

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

4 Section 1. That § 25-10-7 be amended to read as follows:

5 25-10-7. An ex parte temporary protection order is effective for a period of thirty days  
6 except as provided in § 25-10-7.1 unless for good cause the court grants a continuance. No  
7 continuance may exceed thirty days unless the court finds good cause for the additional  
8 continuance and:

9 (1) The parties stipulate to an additional continuance; or

10 (2) The court finds that law enforcement is unable to locate the respondent for purposes  
11 of service of the ex parte protection order.

12 If a continuance is granted, the court by order shall extend the ex parte temporary protection  
13 order until the rescheduled hearing date. The respondent shall be personally served ~~forthwith~~  
14 without delay with a copy of the ex parte order along with a copy of the petition, affidavit, and  
15 notice of the date set for the hearing. The ex parte order shall be served without delay under the



1 circumstances of the case including service of the ex parte order on a Sunday or holiday. The  
2 law enforcement agency serving the order shall notify the petitioner by telephone or written  
3 correspondence when the order is served if the petitioner has provided to the law enforcement  
4 agency either a telephone number or address, or both, where the petitioner may be contacted.  
5 The law enforcement agency and any officer of the law enforcement agency is immune from  
6 civil and criminal liability if the agency or ~~any such~~ the officer makes a good faith attempt to  
7 notify the petitioner in a manner consistent with the provisions of this section.

8 Section 2. That § 22-19A-12 be amended to read:

9 22-19A-12. If an affidavit filed with an application under § 22-19A-8 alleges that immediate  
10 and irreparable injury, loss, or damage is likely to result before an adverse party or the party's  
11 attorney can be heard in opposition, the court may grant an ex parte temporary protection order  
12 pending a full hearing and granting relief as the court deems proper, including an order  
13 restraining any person from committing acts of stalking or physical injury as a result of an  
14 assault or a crime of violence as defined in subdivision 22-1-2(9). An ex parte temporary  
15 protection order is effective for a period of thirty days unless for good cause the court grants a  
16 continuance. No continuance may exceed thirty days unless the court finds good cause for the  
17 additional continuance and:

18 (1) The parties stipulate to an additional continuance; or

19 (2) The court finds that law enforcement is unable to locate the respondent for purposes  
20 of service of the ex parte protection order.

21 If a continuance is granted, the court by order shall extend the ex parte temporary protection  
22 order until the rescheduled hearing date. The respondent shall be personally served ~~forthwith~~  
23 without delay with a copy of the ex parte order along with a copy of the petition, affidavit, and  
24 notice of the date set for the hearing.