

State of South Dakota

NINETY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2018

952Z0195

HOUSE STATE AFFAIRS ENGROSSED NO. **HB 1174** - 2/14/2018

Introduced by: Representatives Mickelson, Anderson, Bartels, Barthel, Beal, DiSanto, Duvall, Goodwin, Gosch, Greenfield (Lana), Hawley, Heinemann, Howard, Jensen (Kevin), Johns, Johnson, Kaiser, Kettwig, Lake, Livermont, Lust, Marty, Otten (Herman), Peterson (Kent), Peterson (Sue), Pischke, Qualm, Rasmussen, Reed, Rhoden, Rounds, Schaefer, Schoenfish, Steinhauer, Stevens, Wiese, Willadsen, and Zikmund and Senators Bolin, Cammack, Cronin, Curd, Greenfield (Brock), Haverly, Kennedy, Klumb, Kolbeck, Langer, Maher, Monroe, Novstrup, Partridge, Peters, Rusch, Solano, Tidemann, and Youngberg

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding rights for crime
2 victims.

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

4 Section 1. That § 23A-28C-4 be amended to read:

5 23A-28C-4. For the purposes of this chapter, the term, victim, means any person being the
6 direct subject of an alleged act, ~~which~~ that would constitute a crime of violence as defined by
7 subdivision 22-1-2(9), burglary in the second degree, simple assault ~~between persons in a~~
8 ~~relationship described in § 25-10-3.1~~ as defined in §§ 22-18-1 and 22-18-1.5, interference with
9 emergency communication as defined in § 49-31-29.2, violation of a protection order or no
10 contact order as defined in § 25-10-13, disorderly conduct between persons in a relationship
11 described in § 25-10-3.1, stalking as defined in chapter 22-19A, a violation of chapter 22-22,



1 a violation of chapter 22-49, or a driving or boating under the influence vehicle accident, under
2 the laws of South Dakota or the laws of the United States. If the victim does not survive such
3 act, is a minor, or is unable to comment, the term, victim, means the members of the immediate
4 family of the primary victim. The victim may also designate a representative to act on the
5 victim's behalf.

6 Section 2. That § 23A-28C-3 be amended to read:

7 23A-28C-3. A victim may seek a cause of action for injunctive relief to enforce the victim's
8 rights under S.D. Const., Art. VI, § 29 or this chapter. No other cause of action exists against
9 any person for a failure to comply with the terms of this chapter. If a victim as defined in § 23A-
10 28C-4 alleges assert in writing to the court with jurisdiction over the case that a violation of this
11 chapter has occurred and files the same with the court having jurisdiction over the criminal
12 matter, the court, . The court shall act promptly to ensure the victim's rights and interests are
13 protected in a manner no less vigorous than the protections afforded to the defendant. The court,
14 in its discretion, may determine whether if additional hearings or orders are necessary to ensure
15 compliance with the chapter. The court shall clearly enter on the record the reasons for any
16 decision regarding the disposition of a victim's rights. A violation of any right set forth in
17 § 23A-28C-1 does not constitute grounds for an appeal from conviction by a defendant or for
18 any other relief from such conviction.

19 Section 3. That the code be amended by adding a NEW SECTION to read:

20 Nothing in this Act may prevent interagency multidisciplinary teams from sharing
21 information for the purposes of investigating a crime or providing services to victims, as defined
22 in § 23A-28C-4, in the course of the team member's speciality or occupation. Any information
23 regarding a victim that a team member shares with other team members shall remain
24 confidential, pursuant to this title. A team shall consist of law enforcement personnel, a

1 representative of the prosecuting attorney's office, licensed or certified medical professionals,
2 and any victim advocate. Any interagency multidisciplinary team formed to investigate crimes
3 involving child victims shall also include child advocacy center staff where such staff is
4 available in the region, child protection team members, as defined in § 26-8A-17, and licensed
5 or certified mental health professionals. The team may include additional members at the
6 discretion of the team. Each multidisciplinary team shall have written procedures and
7 guidelines. Multidisciplinary team members shall annually sign a memorandum of
8 understanding acknowledging the procedure and guidelines. The memorandum of understanding
9 shall also include an information sharing and confidentiality agreement, approved by the
10 attorney general, assuring compliance with title 23A. The multidisciplinary team shall file a list
11 of team members and the memorandums of understanding with the Office of the Attorney
12 General and the Department of Social Services as required by § 26-8A-17.