

State of South Dakota

SEVENTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 1997

664A0168

SENATE BILL NO. 91

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

1 FOR AN ACT ENTITLED, An Act to clarify certain provisions concerning the enhancement
2 of penalties for habitual criminals.

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

4 Section 1. That § 22-7-7 be amended to read as follows:

5 22-7-7. ~~When~~ If a defendant has been convicted of one or two prior felonies under the laws
6 of this state or any other state or the United States, in addition to the principal felony, the
7 sentence for the principal felony shall be enhanced by changing the class of the principal felony
8 to the next class which is more severe. The determination of whether a prior offense is a felony
9 for purposes of this chapter shall be determined by whether it is a felony under the laws of this
10 state or under the laws of the United States at the time of conviction of such prior offense. For
11 the purpose of this section, if the principal felony is not classified, it shall be enhanced to the class
12 which has an equal maximum imprisonment. For the purposes of this section, if the maximum
13 imprisonment for the principal felony falls between two classifications, the principal felony shall
14 be enhanced to the class which has the less severe maximum authorized imprisonment. The
15 maximum enhancement permissible under this section is to a Class B felony.

16 Section 2. That § 22-7-8 be amended to read as follows:

1 22-7-8. ~~If~~ Notwithstanding § 22-7-7, if a defendant has been convicted of three or more
2 felonies in addition to the principal felony and one or more of the prior felony convictions was
3 for a crime of violence as defined in subdivision 22-1-2 (9), the sentence for the principal felony
4 shall be enhanced to the sentence ~~for~~ of life imprisonment in a~~Class~~ Class A felony.