

State of South Dakota

SEVENTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 1998

529B0353

HOUSE BILL NO. 1065

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

1 FOR AN ACT ENTITLED, An Act to revise the penalties for certain felony convictions.

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

3 Section 1. That § 22-6-1 be amended to read as follows:

4 22-6-1. Except as otherwise provided by law, felonies are divided into the following eight
5 classes which are distinguished from each other by the following maximum penalties which are
6 authorized upon conviction:

7 (1) Class A felony: death or life imprisonment in the state penitentiary. In addition, a fine
8 of two hundred fifty thousand dollars may be imposed. A lesser sentence than death
9 or life imprisonment may not be given for a Class A felony;

10 (2) Class B felony: life imprisonment in the state penitentiary. ~~A lesser sentence may not~~
11 ~~be given for a Class B felony~~ In addition, a fine of one hundred thousand dollars may
12 be imposed;

13 (3) Class 1 felony: ~~life~~ seventy-five years imprisonment in the state penitentiary. In
14 addition, a fine of ~~twenty-five~~ seventy-five thousand dollars may be imposed;

15 (4) Class 2 felony: twenty-five years imprisonment in the state penitentiary. In addition,
16 a fine of twenty-five thousand dollars may be imposed;

1 (5) Class 3 felony: fifteen years imprisonment in the state penitentiary. In addition, a fine
2 of fifteen thousand dollars may be imposed;

3 (6) Class 4 felony: ten years imprisonment in the state penitentiary. In addition, a fine of
4 ten thousand dollars may be imposed;

5 (7) Class 5 felony: five years imprisonment in the state penitentiary. In addition, a fine of
6 five thousand dollars may be imposed; and

7 (8) Class 6 felony: two years imprisonment in the state penitentiary or a fine of two
8 thousand dollars, or both.

9 The court, in imposing sentence on a defendant who has been found guilty of a felony, shall
10 order in addition to the sentence that is imposed pursuant to the provisions of this section, that
11 the defendant make restitution to any victim in accordance with the provisions of chapter
12 23A-28.

13 Nothing in this section ~~shall limit~~ limits increased sentences for habitual criminals under
14 §§ 22-7-7 and 22-7-8.

15 Except in cases where punishment is prescribed by law, every offense declared to be a felony
16 and not otherwise classified is a Class 6 felony.

17 Section 2. That § 23A-20-20 be amended to read as follows:

18 23A-20-20. If an offense charged is ~~a Class A, Class B or Class 1 felony~~ punishable by death
19 or life imprisonment, the prosecution and the defense each have twenty peremptory challenges.

20 In all other felony cases, the prosecution and the defense each have ten peremptory challenges.

21 In misdemeanor cases, the prosecution and the defense each have three peremptory challenges.

22 Section 3. That § 22-7-7 be amended to read as follows:

23 22-7-7. ~~When~~ If a defendant has been convicted of one or two prior felonies under the laws
24 of this state or any other state or the United States, in addition to the principal felony, the
25 sentence for the principal felony shall be enhanced by changing the class of the principal felony

1 to the next class which is more severe. The determination of whether a prior offense is a felony
2 for purposes of this chapter shall be determined by whether it is a felony under the laws of this
3 state or under the laws of the United States at the time of conviction of such prior offense. For
4 the purpose of this section, if the principal felony is not classified, it shall be enhanced to the class
5 which has an equal maximum imprisonment. For the purposes of this section, if the maximum
6 imprisonment for the principal felony falls between two classifications, the principal felony shall
7 be enhanced to the class which has the less severe maximum authorized imprisonment. The
8 maximum enhancement permissible under this section is to a Class 1 felony.

9 Section 4. That § 22-7-8 be amended to read as follows:

10 22-7-8. If Notwithstanding § 22-7-7, if a defendant has been convicted of three or more
11 felonies in addition to the principal felony and one or more of the prior felony convictions was
12 for a crime of violence as defined in subdivision 22-1-2(9), the sentence for the principal felony
13 ~~shall~~ may be enhanced to the sentence for a Class 1 felony. The maximum enhancement
14 permissible under this section is to a Class B felony.