

State of South Dakota

SEVENTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 1998

628B0392

SENATE BILL NO. 106

Introduced by: Senators Whiting, Aker, Albers, Dunn (Rebecca), Ham, Hunhoff, Lawler, Stagers, and Vitter and Representatives Duniphan, Apa, Eccarius, Matthews, Napoli, and Wetz

1 FOR AN ACT ENTITLED, An Act to permit evidence of similar crimes in prosecutions for
2 sexual assault.

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

4 Section 1. That chapter 19-12 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 In a criminal case in which the defendant is accused of sexual assault, evidence of the
7 defendant's commission of any other act of sexual assault is admissible and may be considered
8 for its bearing on any matter to which it is relevant. If the state intends to offer evidence under
9 this provision, the attorney for the state shall disclose the evidence to the defendant, including
10 statements of witnesses or a summary of the substance of any testimony that is expected to be
11 offered, at least fifteen days before the scheduled date of trial or at such later time as the court
12 may allow for good cause.

13 Section 2. That chapter 19-12 be amended by adding thereto a NEW SECTION to read as
14 follows:

15 For purposes of section 1 of this Act, the term, sexual assault, means a crime under the law

1 of this state that involved:

- 2 (1) Any conduct proscribed by §§ 22-22-1, 22-22-1.1, 22-22-7, 22-22-7.2, 22-22-7.3,
3 22-22-7.4, 22-22-19.1, 22-22-28, 22-22-29, and 22-22-30.1;
- 4 (2) Contact, without consent, between any part of the defendant's body or an object in the
5 defendant's physical possession and the genitals or anus of another person;
- 6 (3) Contact, without consent, between the genitals or anus of the defendant and any part
7 of another person's body;
- 8 (4) Deriving sexual pleasure or gratification from the infliction of death, bodily injury, or
9 physical pain on another person; or
- 10 (5) An attempt or conspiracy to engage in conduct described in subdivisions (1) to (4),
11 inclusive.

12 Section 3. That § 19-12-5 be amended to read as follows:

13 19-12-5. Evidence of other crimes, wrongs, or acts, except as provided in this Act, is not
14 admissible to prove the character of a person in order to show that ~~he~~ that person acted in
15 conformity therewith. It may, however, be admissible for other purposes, such as proof of
16 motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or
17 accident.