

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

400J0194

HOUSE BILL NO. 1012

Introduced by: The Committee on Judiciary at the request of the Department of Social Services

1 FOR AN ACT ENTITLED, An Act to revise the definition of a victim for purposes of
2 determining who is permitted to speak on behalf of a victim at the time of sentencing.

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

4 Section 1. That § 23A-27-1.1 be amended to read as follows:

5 23A-27-1.1. Upon request to the court by a victim and before imposing sentence on a
6 defendant, the victim, in the discretion of the court, may address the court concerning the
7 emotional, physical, and monetary impact of the defendant's crime upon ~~him or her~~ the victim
8 and the victim's family, and may comment upon the sentence which may be imposed upon the
9 defendant.

10 The defendant shall be permitted to respond to such statements orally or by presentation of
11 evidence; and shall be granted a reasonable continuance to refute any inaccurate or false charges
12 or statements.

13 For the purpose of this section, the ~~word "victim"~~ term, victim, shall be construed to mean
14 the actual victim or the parent, spouse, ~~or~~ next of kin, legal or physical custodian, guardian,
15 foster parent, case worker, or mental health counselor of any actual victim who is ~~deceased,~~



- 1 incompetent by reason of age or physical condition, who is deceased, or whom the court ~~shall~~
- 2 ~~find~~ finds otherwise unable to comment.