

# State of South Dakota

## EIGHTIETH LEGISLATIVE ASSEMBLY, 2005

178L0305

## HOUSE BILL NO. **1071**

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

1 FOR AN ACT ENTITLED, An Act to expand the time within which a judge may extend  
2 clemency or reduce a sentence.

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

4 Section 1. That § 23A-27-19 be amended to read as follows:

5 23A-27-19. A court which may suspend sentence under § 23A-27-18 retains jurisdiction for  
6 the purpose of suspending any such sentence for a period of ~~one year~~ two years from the  
7 effective date of the judgment of conviction, notwithstanding the fact that the time for an appeal  
8 from such judgment is limited to a shorter period of time. The court shall notify the attorney  
9 who prosecuted such person or shall notify the successor in office of such attorney at least  
10 fourteen days in advance of such suspension. Such notice shall be provided any victim by such  
11 attorney pursuant to the provisions of § 23A-27-1.2. Any person whose sentence is suspended  
12 pursuant to this section is under the supervision of the Board of Pardons and Paroles, except as  
13 provided in § 23A-27-18.2. The board is charged with the responsibility for enforcing the  
14 conditions imposed by the sentencing judge, and the board retains jurisdiction to revoke the  
15 suspended portion of the sentence for violation of the terms of the suspension.

16 Section 2. That § 23A-31-1 be amended to read as follows:



1       23A-31-1. A court may correct an illegal sentence at any time and may correct a sentence  
2 imposed in an illegal manner within the time provided in this section for the reduction of  
3 sentence. A court may reduce a sentence:

- 4       (1)    Within ~~one year~~ two years after the sentence is imposed;
- 5       (2)    Within one hundred twenty days after receipt by the court of a remittitur issued upon  
6            affirmance of the judgment or dismissal of the appeal; or
- 7       (3)    Within one hundred twenty days after entry of any order or judgment of the Supreme  
8            Court denying review of, or having the effect of upholding, a judgment of conviction;  
9        whichever is later. A court may also reduce a sentence upon revocation of probation or  
10       suspension of sentence as provided by law. The remedies provided by this section are not a  
11       substitute for nor do they affect any remedies incident to post-conviction proceedings.