

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

457M0504

HOUSE BILL NO. 1073

Introduced by: Representatives Cutler, Dykstra, Haley, Hennies, and Murschel and Senators Duniphan, Kelly, Koetzle, Moore, and Olson (Ed)

1 FOR AN ACT ENTITLED, An Act to revise the circumstances under which certain arrests may
2 be effected without warrant.

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

4 Section 1. That § 23A-3-2.1 be amended to read as follows:

5 23A-3-2.1. Unless the provisions of § 22-18-5 apply, a law enforcement officer shall arrest
6 and take into custody, pending release on bail, personal recognizance, or court order, a any
7 person, without a warrant, at any time that the opportunity presents itself, if the officer has
8 probable cause to believe that:

9 (1) An order has been issued under chapter 25-10 protecting the victim and the terms of
10 the order prohibiting acts or threats of abuse or excluding the person from a residence
11 have been violated; or

12 (2) An order has been issued under chapter 22-19A protecting the victim and the terms
13 of the order prohibiting acts of stalking or physical injury have been violated; or

14 (3) The person is eighteen years or older and within the preceding ~~twenty-four~~ forty-eight
15 hours has assaulted:



- 1 (a) That person's spouse;
- 2 (b) That person's former spouse;
- 3 (c) The mother or father of that person's child; or
- 4 (d) Any person eighteen years of age or older with whom that person resides or
- 5 has formerly resided;

6 and the officer believes:

- 7 (a) An aggravated assault has occurred;
- 8 (b) An assault has occurred which has resulted in bodily injury to the victim, whether the
- 9 injury is observable by the responding officer or not; or
- 10 (c) An attempt by physical menace has been made to put another in fear of imminent
- 11 serious bodily harm.