

# State of South Dakota

EIGHTY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2006

645M0107

## HOUSE BILL NO. 1108

Introduced by: Representatives McCoy, Davis, Halverson, Hunt, Lange, McLaughlin, Novstrup, Schafer, Sebert, Street, Valandra, and Willadsen and Senators Peterson (Jim), Abdallah, Adelstein, Broderick, Duniphan, Gray, Hanson (Gary), Koetzle, Moore, Olson (Ed), and Sutton (Duane)

1 FOR AN ACT ENTITLED, An Act to define negligent homicide and to provide a penalty  
2 therefor.

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

4 Section 1. That chapter 22-16 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 If a person caused the death of another person by the act which, under the provisions of this  
7 chapter, is neither murder nor manslaughter in the first or second degree, nor excusable nor  
8 justifiable homicide, it is negligent homicide. A person is guilty of negligent homicide if that  
9 person causes the death of another person in a manner which is simple negligence as provided  
10 in section 2 of this Act. This section does not apply to the operation of a motor vehicle.  
11 Negligent homicide is a Class 6 felony.

12 Section 2. That chapter 22-16 be amended by adding thereto a NEW SECTION to read as  
13 follows:

14 The term, simple negligence, is when:



- 1 (1) A person acts with simple negligence with respect to the person's conduct when the  
2 person should be aware of a risk that the person engages in that conduct;
- 3 (2) A person acts with simple negligence with respect to attendant circumstances when  
4 the person should be aware of a risk that those circumstances exist; or
- 5 (3) A person acts with simple negligence with respect to a result of the person's conduct  
6 when the person should be aware of a risk that the person's conduct will cause that  
7 result.

8 For the purposes of this section, it is a risk if the person's failure to perceive the risk involves  
9 a deviation from the standard of care that a law-abiding person would observe in the same  
10 situation considering the nature and purpose of the person's conduct and the circumstances  
11 known to the person.

12 Section 3. That § 22-16-1 be amended to read as follows:

13 22-16-1. Homicide is the killing of one human being, including an unborn child, by another.

14 Homicide is either:

- 15 (1) Murder;
- 16 (2) Manslaughter;
- 17 (3) Excusable homicide;
- 18 (4) Justifiable homicide;~~or~~
- 19 (5) Vehicular homicide;or
- 20 (6) Negligent homicide.