

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

547M0547

HOUSE BILL NO. 1132

Introduced by: Representatives Hanks, Boomgarden, Brunner, Buckingham, Davis, Garnos, Glenski, Howie, Kraus, Krebs, McCoy, Novstrup, Rausch, Rhoden, Turbiville, Van Etten, and Weems and Senators Adelstein, Abdallah, Broderick, Koskan, McCracken, and Schoenbeck

1 FOR AN ACT ENTITLED, An Act to provide for the termination of certain parental rights of
2 persons convicted of rape or incest, to provide for restitution in lieu of child support in those
3 cases, to restrict contact with the child, and to provide penalties for violations thereof.

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

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

7 Whenever any person is convicted of rape pursuant to the provisions of this chapter, the
8 court shall, in any case in which a child was conceived as a result of the sexual intercourse
9 constituting the rape, terminate forthwith, at the time of sentencing, all of the parental rights of
10 the convicted defendant, unless, for good cause shown, by clear and convincing evidence, the
11 court, in its discretion, finds that such termination of parental rights is not in the best interests
12 of the child.

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



1 Whenever the court terminates the parental rights of a convicted defendant pursuant to
2 section 1 of this Act, the court may, as part of the sentence, order restitution to the victim,
3 including payments in lieu of child support to the victim if the victim elects to raise the child
4 as her own.

5 Section 3. That chapter 22-22 be amended by adding thereto a NEW SECTION to read as
6 follows:

7 No person may, because of blood kinship to a convicted rapist whose parental rights to a
8 child conceived as a result of the sexual intercourse constituting the rape have been terminated
9 pursuant to section 1 of this Act, petition the court for custody, visitation, or any other right in
10 relation to the child.

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

13 No person, whose parental rights have been terminated pursuant to section 1 of this Act, nor
14 any person of blood kinship to the person, may intentionally contact the child, the child's
15 biological mother, or either of the child's adoptive parents, concerning the child. A violation of
16 this section is a Class 1 misdemeanor.

17 Section 5. That chapter 22-22A be amended by adding thereto a NEW SECTION to read
18 as follows:

19 Whenever any person is convicted of incest pursuant to the provisions of this chapter, the
20 court shall, in any case in which a child was conceived as a result of the sexual intercourse
21 constituting the incest, terminate forthwith, at the time of sentencing, all of the parental rights
22 of the convicted defendant, unless, for good cause shown, by clear and convincing evidence, the
23 court, in its discretion, finds that such termination of parental rights is not in the best interests
24 of the child.

1 Section 6. That chapter 22-22A be amended by adding thereto a NEW SECTION to read
2 as follows:

3 Whenever the court terminates the parental rights of a convicted defendant pursuant to
4 section 5 of this Act, the court may, as part of the sentence, order restitution to the victim,
5 including payments in lieu of child support to the victim if the victim elects to raise the child
6 as her own.