



## 2020 South Dakota Legislature

# Senate Bill 89

SENATE JUDICIARY ENGROSSED

Introduced by: **Senator Rusch**

1 **An Act to revise provisions regarding victim's rights.**

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

3 **Section 1.** That § 23A-28C-1 be AMENDED:

4 **23A-28C-1. Rights of crime victim.**

5 Consistent with § 23A-28C-4, victims of the crime, including victims of driving  
6 under the influence vehicle accidents and victims of any vehicle accident resulting in death,  
7 have the following rights:

- 8 (1) To be notified of scheduled bail hearings and release from custody, to be notified  
9 by the prosecutor's office when the case is received and to whom the case is  
10 assigned, and to be notified in advance of the date of preliminary hearing and trial;
- 11 (2) To be informed of what the charges mean and the elements necessary for  
12 conviction;
- 13 (3) To testify at scheduled bail or bond hearings regarding any evidence indicating  
14 whether the offender represents a danger to the victim or the community if  
15 released;
- 16 (4) To be protected from intimidation by the defendant, including enforcement of orders  
17 of protection;
- 18 (5) To offer written input into whether plea bargaining or sentencing bargaining  
19 agreements should be entered into;
- 20 (6) To be present during all scheduled phases of the trial or hearings, except where  
21 otherwise ordered by the judge hearing the case or by contrary policy of the  
22 presiding circuit judge;
- 23 (7) To be prepared as a witness, including information about basic rules of evidence,  
24 cross-examination, objections, and hearsay;
- 25 (8) To provide to the court a written or oral victim impact statement prior to sentencing  
26 regarding the financial and emotional impact of the crime on the victim and his or

- 1 her family as well as recommendations for restitution and sentencing and § 23A-  
2 28-8 notwithstanding, the right to appear at any hearing during which a change in  
3 the plan of restitution is to be considered;
- 4 (9) To receive restitution, whether the convicted criminal is probated or incarcerated,  
5 unless the court or parole board provides to the victim on the record specific reasons  
6 for choosing not to require it;
- 7 (10) To provide written input at parole and clemency hearings or with respect to  
8 clemency by the Governor, should those options be considered;
- 9 (11) In a case in which the death penalty may be authorized, to provide to the court or  
10 to the jury, as appropriate, testimony about the victim and the impact of the crime  
11 on the victim's family;
- 12 (12) To be notified of the defendant's release from custody, which notice includes:
- 13 (a) Notice of the defendant's escape from custody and return to custody following  
14 escape;
- 15 (b) Notice of any other release from custody, including placement in an intensive  
16 supervision program or other alternative disposition, and any associated  
17 conditions of release;
- 18 (c) Notice of parole; and
- 19 (d) Notice of pending release of an inmate due to expiration of sentence;
- 20 (13) To be notified of the victim's right to request testing for infection by blood-borne  
21 pathogens pursuant to § 23A-35B-2;
- 22 (14) To be provided a copy of any report of law enforcement that is related to the crime,  
23 at the discretion of the state's attorney, or upon motion and order of the court.  
24 However, no victim may be given the criminal history of any defendant or any  
25 witness; and
- 26 (15) To be notified of a petition by the sex offender for removal from the sex offender  
27 registry and to provide written input with respect to the removal request.