



2020 South Dakota Legislature
Senate Bill 89
ENROLLED

AN ACT

ENTITLED An Act to revise provisions regarding victim's rights.

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

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

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

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

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

her family as well as recommendations for restitution and sentencing and § 23A-28-8 notwithstanding, the right to appear at any hearing during which a change in the plan of restitution is to be considered;

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

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I certify that the attached Act originated in the:

Received at this Executive Office this ____ day of _____,

Senate as Bill No. 89

2020 at _____ M.

Secretary of the Senate

By _____
for the Governor

President of the Senate

The attached Act is hereby approved this _____ day of _____, A.D., 2020

Attest:

Secretary of the Senate

Governor

STATE OF SOUTH DAKOTA,

ss.

Office of the Secretary of State

Speaker of the House

Attest:

Filed _____, 2020
at _____ o'clock __ M.

Chief Clerk

Secretary of State

Senate Bill No. 89
File No. _____
Chapter No. _____

By _____
Asst. Secretary of State