



## 2022 South Dakota Legislature

# House Bill 1217

Introduced by: **Representative Hansen**

1 **An Act to expand criminal provisions regarding the protection of minors from certain**  
 2 **forms of sexual exploitation.**

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

4 **Section 1. That § 22-49-1 be AMENDED:**

5 **22-49-1.** No person may recruit, harbor, transport, provide, receive, purchase, or  
 6 obtain, by any means, another person knowing that force, fraud, or coercion will be used  
 7 to cause the person to engage in prostitution, the production of pornography, sexual  
 8 exploitation as defined in § 22-22-24.3, forced labor, or involuntary servitude. No person  
 9 may benefit financially or by receiving anything of value from participation in a venture  
 10 that has engaged in acts set forth in this section. Any violation of this section constitutes  
 11 the crime of human trafficking. If the victim is under eighteen years of age, the crime of  
 12 human trafficking need not involve force, fraud, or coercion.

13 For purposes of this section and § 22-49-3, the term, coercion, may include:

- 14 (1) The use of a plan, statement, or pattern of behavior, with the intent of causing a  
 15 person to believe that failure to perform an act will result in the use of physical  
 16 force or violence against the person or will result in the person's restraint, isolation,  
 17 confinement, or abduction;
- 18 (2) Inducing a person to provide commercial sexual activity as payment toward or in  
 19 satisfaction of a real or purported debt; and
- 20 (3) The use of a person's physical or mental impairment, if that impairment has a  
 21 substantial adverse effect on the person's cognitive or volitional function.

22 **Section 2. That § 22-49-2 be AMENDED:**

23 **22-49-2.** If a person is guilty of human trafficking under § 22-49-1, and the act:

- 24 (1) Involves committing or attempting to commit kidnapping;
- 25 (2) Involves a victim under the age of eighteen years;

1 (3) Involves prostitution~~—or~~, procurement for prostitution, the production of  
 2 pornography, or sexual exploitation as defined under § 22-22-24.3; or

3 (4) Results in the death of a victim;

4 the person has committed human trafficking in the first degree. A violation of the  
 5 provisions of this section is a Class 2 felony. Consent to performing any act prescribed in  
 6 § 22-49-1 by a minor or a minor's parent, guardian, or custodian, or any mistake as to  
 7 the minor's age is not a defense to a charge of violating this section.

8 Notwithstanding the provisions of § 22-4-1, any attempt to commit a violation of  
 9 this section against a victim who is a minor is punishable in the same manner as the  
 10 completed violation.

11 **Section 3. That § 22-49-3 be AMENDED:**

12 **22-49-3.** A person is guilty of human trafficking in the second degree if that  
 13 person:

14 (1) Recruits, harbors, transports, provides, receives, purchases, or obtains, by any  
 15 means, another person knowing that force, fraud, or coercion, as defined in § 22-  
 16 49-1, will be used to cause the person to engage in prostitution, the production of  
 17 pornography, sexual exploitation as defined under § 22-22-24.3, forced labor, or  
 18 involuntary servitude; or

19 (2) Benefits financially or by receiving anything of value from participation in a venture  
 20 that has engaged in acts set forth in this section.

21 Human trafficking in the second degree is a Class 4 felony.

22 **Section 4. That chapter 22-22 be amended with a NEW SECTION:**

23 A person is guilty of grooming if the person knowingly:

24 (1) Contacts or attempts to contact a minor with the intent to gain the trust of the  
 25 minor or establish a relationship for the purpose of making it more likely that the  
 26 minor can later be enticed, induced, or encouraged into conduct amount to sexual  
 27 exploitation as defined under § 22-22-24.3;

28 (2) Develops a relationship or initiates communications with a minor for the purpose  
 29 of having the minor engage in conduct amounting to sexual exploitation as defined  
 30 under § 22-22-24.3; or

31 (3) Exposes a minor to sexually explicit language or visual imagery for the purpose of  
 32 encouraging or making it more likely that the minor will engage in conduct  
 33 amounting to sexual exploitation as defined under § 22-22-24.3.

1

A violation of this section is a Class 6 felony.