

AN ACT

ENTITLED, An Act to update outdated language related to domestic abuse.

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

Section 1. That § 23A-3-2.1 be amended to read as follows:

23A-3-2.1. Unless the provisions of § 22-18-5 apply, a law enforcement officer shall arrest and take into custody, pending release on bail, personal recognizance, or court order, any person, without a warrant, at any time that the opportunity presents itself, if the officer has probable cause to believe that:

- (1) An order has been issued under chapter 25-10 protecting the victim and the terms of the order prohibiting acts or threats of abuse or excluding the person from a residence have been violated; or
- (2) An order has been issued under chapter 22-19A protecting the victim and the terms of the order prohibiting acts of stalking or physical injury have been violated; or
- (3) The person is eighteen years or older and within the preceding forty-eight hours has assaulted a person in a relationship as defined in § 25-10-3.1;

and the officer believes that an aggravated assault has occurred; an assault has occurred which has resulted in bodily injury to the victim, whether the injury is observable by the responding officer or not; or an attempt by physical menace has been made to put another in fear of imminent serious bodily harm.

Section 2. That § 25-10-35 be amended to read as follows:

25-10-35. If the officer has probable cause to believe that persons in a relationship as defined in § 25-10-3.1 have assaulted each other, the officer is not required to arrest both persons. The officer shall arrest the person whom the officer believes to be the predominant physical aggressor. In making this determination, the officer shall make every reasonable effort to consider:

- (1) The intent to protect victims of domestic abuse under this chapter;
- (2) The comparative extent of injuries inflicted or serious threats creating fear of physical injury; and
- (3) The history of domestic abuse between the persons involved.

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I certify that the attached Act  
originated in the

SENATE as Bill No. 82

\_\_\_\_\_  
Secretary of the Senate

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\_\_\_\_\_  
President of the Senate

Attest:

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_  
Speaker of the House

Attest:

\_\_\_\_\_  
Chief Clerk

Senate Bill No. 82

File No. \_\_\_\_\_

Chapter No. \_\_\_\_\_

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Received at this Executive Office  
this \_\_\_\_\_ day of \_\_\_\_\_ ,

20\_\_\_\_ at \_\_\_\_\_ M.

By \_\_\_\_\_  
for the Governor

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The attached Act is hereby  
approved this \_\_\_\_\_ day of  
\_\_\_\_\_, A.D., 20\_\_\_\_

\_\_\_\_\_  
Governor

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STATE OF SOUTH DAKOTA,  
ss.

Office of the Secretary of State

Filed \_\_\_\_\_, 20\_\_\_\_  
at \_\_\_\_\_ o'clock \_\_ M.

\_\_\_\_\_  
Secretary of State

By \_\_\_\_\_  
Asst. Secretary of State