



## 2023 South Dakota Legislature

# House Bill 1077

Introduced by: **Representative Fitzgerald**

1 **An Act to prohibit eligibility for a suspended imposition of sentence for certain rape**  
 2 **offenses.**

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

4 **Section 1. That § 23A-27-13 be AMENDED:**

5 **23A-27-13.** ~~Upon~~Except as provided in section 2 of this Act, upon receiving a  
 6 verdict or plea of guilty for a felony not punishable by death or life imprisonment by a  
 7 person never before convicted of a crime ~~which~~ that at the time of conviction thereof  
 8 would constitute a felony in this state, a court having jurisdiction of the defendant, if  
 9 satisfied that the ends of justice and the best interest of the public as well as the defendant  
 10 will be served thereby, may, without entering a judgment of guilt, and with the consent  
 11 of the defendant, suspend the imposition of sentence and place the defendant on probation  
 12 for such period and upon such terms and conditions as the court may deem best. No  
 13 person who has previously been granted, whether in this state or any other, a suspended  
 14 imposition of sentence for a felony, is eligible to be granted a second suspended imposition  
 15 of sentence for a felony. A court may revoke ~~such~~ the suspension at any time during the  
 16 probationary period and impose and execute sentence without diminishment or credit for  
 17 any of the probationary period.

18 **Section 2. That chapter 23A-27 be amended with a NEW SECTION:**

19 No person who has been convicted of, or pled guilty or nolo contendere to, rape  
 20 under subdivisions 22-22-1(1), (2), or (3), may be granted a suspended imposition of  
 21 sentence under § 23A-27-13.