State of South Dakota

NINETY-THIRD SESSION
LEGISLATIVE ASSEMBLY, **2018**

814Z0231

HOUSE BILL NO. 1104

Introduced by: Representatives Kaiser, Ahlers, Barthel, Bartling, Beal, Brunner, Campbell, Clark, Dennert, DiSanto, Duvall, Frye-Mueller, Glanzer, Goodwin, Gosch, Greenfield (Lana), Haugaard, Hawley, Heinemann, Holmes, Howard, Jamison, Jensen (Kevin), Johns, Johnson, Karr, Latterell, Lesmeister, Livermont, Marty, May, McCleerey, Mickelson, Mills, Otten (Herman), Peterson (Kent), Peterson (Sue), Pischke, Rasmussen, Reed, Rhoden, Ring, Rounds, Schoenfish, Smith, Tulson, Wiese, Willadsen, Wismer, York, and Zikmund and Senators Soholt, Bolin, Cronin, Ewing, Greenfield (Brock), Haverly, Jensen (Phil), Kennedy, Klumb, Kolbeck, Maher, Monroe, Nelson, Novstrup, Peters, Rusch, Russell, Solano, Wiik, and Youngberg

1   FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the arrest of certain

2   victims of domestic abuse.

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

4   Section 1. That § 25-10-36.1 be amended to read:

5   25-10-36.1. No law enforcement officer~~,~~ who is called to the scene of a domestic abuse

6   complaint~~,~~ is required to arrest any victim of domestic abuse for an outstanding warrant if:

7   (1)   The victim is not otherwise liable to arrest for any action arising out of the present

8   incidence of domestic abuse; and

9   (2)   The outstanding warrant is for a nonviolent misdemeanor offense~~; and~~

10   ~~(3)   The victim is the custodial parent or immediate caregiver of a minor child.~~

11   ~~However, the~~ The victim is subject to arrest on ~~any~~ an outstanding warrant after seventy-two

1   hours have passed since the incidence of the domestic abuse call <u>under this section</u>.

2   The decision of an officer to arrest or not to arrest a victim on an outstanding warrant ~~does~~

3   <u>under this section may</u> not constitute a cause of action against the officer, the law enforcement

4   agency, the employing entity, or any of the employing entity's employees.