

State of South Dakota

NINETIETH SESSION
LEGISLATIVE ASSEMBLY, 2015

733W0545

SENATE BILL NO. 122

Introduced by: Senators Hunhoff (Bernie), Bradford, Haverly, Holien, Parsley, Rampelberg, Rusch, and Sutton and Representatives Hickey, Gibson, Hawks, and Schoenfish

1 FOR AN ACT ENTITLED, An Act to revise provisions related to the death penalty.

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

3 Section 1. That § 23A-27A-4 be amended to read as follows:

4 23A-27A-4. If, upon a trial by jury, a person is convicted of a Class A felony, a sentence of
5 death ~~shall~~ may not be imposed unless the jury verdict at the presentence hearing includes ~~a~~:

6 (1) A finding of at least one aggravating circumstance ~~and a~~;

7 (2) A recommendation that such sentence be imposed; ~~and~~

8 (3) A finding that the defendant is too dangerous to be incarcerated and is an ongoing
9 danger to the public and the prison community.

10 If an aggravating circumstance is found and a recommendation of death is made, the court
11 shall sentence the defendant to death. If a sentence of death is not recommended by the jury, the
12 court shall sentence the defendant to life imprisonment. The provisions of this section ~~shall do~~
13 not affect a sentence when the case is tried without a jury or when a court accepts a plea of
14 guilty.

