

# State of South Dakota

NINETIETH SESSION  
LEGISLATIVE ASSEMBLY, 2015

643W0233

## HOUSE BILL NO. 1158

Introduced by: Representatives Hickey, Bolin, Heinemann (Leslie), Killer, Kirschman, Qualm, Schoenbeck, and Willadsen and Senators Sutton, Heinert, and Hunhoff (Bernie)

1 FOR AN ACT ENTITLED, An Act to require that a victim's opposition to the death penalty be  
2 presented at a presentence hearing.

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

4 Section 1. That § 23A-27A-2 be amended to read as follows:

5 23A-27A-2. In all cases in which the death penalty may be imposed and which are tried by  
6 a jury, upon a return of a verdict of guilty by the jury, the court shall resume the trial and  
7 conduct a presentence hearing before the jury. Such hearing shall be conducted to hear  
8 additional evidence in mitigation and aggravation of punishment. At such hearing the jury shall  
9 receive all relevant evidence, including:

- 10 (1) Evidence supporting any of the aggravating circumstances listed under § 23A-27A-1;
- 11 (2) Testimony regarding the impact of the crime on the victim's family;
- 12 (3) Any prior criminal or juvenile record of the defendant and such information about the  
13 defendant's characteristics, the defendant's financial condition, and the circumstances  
14 of the defendant's behavior as may be helpful in imposing sentence;



- 1       (4) All evidence concerning any mitigating circumstances, including documented  
2       evidence of the victim's opposition to the death penalty and testimony from the  
3       victim's family that the defendant's life be spared.