

State of South Dakota

EIGHTIETH LEGISLATIVE ASSEMBLY, 2005

916L0138

SENATE BILL NO. _____

Introduced by: _____

1 FOR AN ACT ENTITLED, An Act to STANLEY–LESSER INCLUDED HOMICIDES.

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

3 Section 1. That chapter 22-16 be amended by adding thereto a NEW SECTION to read as
4 follows:

5 Murder in the second degree is a lesser included offense of murder in the first degree.
6 Manslaughter in the first degree is a lesser included offense of murder in the first degree and
7 murder in the second degree. Manslaughter in the second degree is a lesser included offense of
8 murder in the first degree, murder in the second degree, and manslaughter in the first degree.

9 Section 2. That chapter 22-16 be amended by adding thereto a NEW SECTION to read as
10 follows:

11 A lesser included offense instruction shall be given at any homicide trial whenever any facts
12 are submitted to the trier of fact which would support such an offense pursuant to this chapter.
13 The state and the defendant each have the separate right to request a lesser included offense
14 instruction. The failure to request a lesser included offense instruction constitutes a waiver of
15 the right to such an instruction.

