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JAN 22 2018

S.D. SEC. OF STATE

January 19, 2018

Levi Breyfogle  
Coming Freedom  
508 7<sup>th</sup> St, Suite 101  
Rapid City, SD 57701

Dear Mr. Breyfogle:

Pursuant to SDCL 12-13-25, this office is required to review each initiated amendment to the South Dakota Constitution. Further, this office is required by SDCL 12-13-24 to determine if each initiated amendment is written in clear and coherent manner in the style and form of other legislation and that it is worded so that the effect of the initiated amendment is not misleading or likely to cause confusion among voters. You are under no obligation to accept any of the suggestions contained in this letter, but please keep in mind the legal standards established in SDCL 12-13-24.

Attached is a copy of your proposed constitutional amendment with our suggested style and form changes.

If you have any questions regarding our suggested changes, please feel free to contact me.

It has been determined during this review that this proposed initiated amendment to the Constitution may have an impact on revenues, expenditures, or fiscal liability of the state and its agencies and political subdivisions. Please provide the Legislative Research Council a copy of the amendment as submitted in final form to the Attorney General, so we can develop the required fiscal note.

This letter constitutes neither an endorsement of your initiated measure nor a guarantee of its sufficiency. It does constitute fulfillment of your responsibility pursuant to SDCL 12-13-25 to submit your draft to this office for review and comment. If you proceed with your initiated measure, please take care to ensure that your statements or advertising do not imply that this office endorses or approves your proposal.

Sincerely,

A handwritten signature in black ink, appearing to read "Jason Hancock". The signature is fluid and cursive, with a large initial "J" and "H".

Jason Hancock  
Director

JH:DO:ct

Enclosure

CC: The Honorable Shantel Krebs, Secretary of State  
The Honorable Marty Jackley, Attorney General

As edited by LRC

BE IT ENACTED BY THE PEOPLE OF SOUTH DAKOTA:

That Article VI of the Constitution of the State of South Dakota be amended by adding NEW SECTIONS to read as follows:

§ 30. In order for a violation of the law to have been committed each of the following shall occur:

- (1) A charge of a violation may only be filed by a victim whose person or property has been physically damaged by the defendant. If the victim is incapable of filing a charge of a violation, a family member may, but only if the victim does not object; and
- (2) The damages must be physical, quantifiable, and have already occurred.

§ 31. Each known victim in any pending case on July 1, 2021, in the law enforcement, judicial, or correctional systems shall be notified and the victim may file a charge of a violation. If no victim files a charge of a violation, the case, sentence, or outstanding fine shall be dropped by October 1, 2021. If a charge is filed, the charge shall be initially reviewed within two months to verify the person filing the charge was a probable victim of a willful, direct physical action of the defendant. No restitution shall be paid for time or fines already paid by any person currently or previously incarcerated or paying fines even if a charge of a violation is dropped pursuant to this section.

§ 32. No public funds of this state, or any political subdivision of this state, may be expended for the implementation, regulation, or enforcement of any federal law, executive order, rule, or regulation regulating any case that is in violation of this amendment. No personnel or property of this state, or any political subdivision of this state, may be utilized for the implementation, regulation, or enforcement of any federal law, executive order, rule, or regulation that is in violation of this amendment.

# Original Submission

## State of South Dakota

FOR AN ACT ENTITLED, An Act to define crime as one person physically harming another.

BE IT ENACTED BY THE PEOPLE OF SOUTH DAKOTA:

### Section 1. Definition of a Violation

In order for a violation of the law to have been committed all of these points must have occurred.

- (a) Charges may only be pressed by an individual victim whose person or property has been physically damaged by the defendant. In cases where the individual victim is incapable of pressing charges a family member may, but only if the individual victim doesn't object.
- (b) The damages must be physical, quantifiable, and have already occurred.

Section 2. All known victims in cases currently in the law enforcement, judicial, and correctional systems must be notified and they may press charges.

- (a) If no individual victim is willing to press charges all cases, sentences, and outstanding fines must be dropped within 3 months of this constitutional amendment passing.
- (b) If charges are pressed they must be initially reviewed within 2 months to verify the individual pressing charges was a probable victim of a willful direct physical action of the defendant.
- (c) No restitution will be paid for time or fines already paid any person currently or previously incarcerated or paying fines even if charges are dropped by the passage of this amendment.

### Section 3. Funding and Property

- (a) No public funds of this state, or any political subdivision of this state, shall be allocated to the implementation, regulation, or enforcement of any federal law, executive order, rule, or regulation regulating any case that is in violation of this amendment.
- (b) No personnel or property of this state, or any political subdivision of this state, shall be allocated to the implementation, regulation, or enforcement of any federal law, executive order, rule, or regulation that is in violation of this amendment.