

Codified Laws

Home > Codified Laws > 22 > 18

PREVIOUS

NEXT

Go To:(1-1-1) or Google Search



PRINTER FRIENDLY

CHAPTER 22-18 ASSAULTS AND PERSONAL INJURIES

- 22-18-1 Simple assault--Violation as misdemeanor--Third or subsequent offense a felony--Violation in other states.
- 22-18-1.1 Aggravated assault--Felony.
- 22-18-1.2 Criminal battery of an unborn child--Misdemeanor.
- 22-18-1.3 Aggravated criminal battery of an unborn child--Felony.
- 22-18-1.4 Aggravated battery of an infant--Felony.
- 22-18-1.5 Assaults with intent to cause serious permanent disfigurement--Felony.
- 22-18-1.05 Simple or aggravated assault against law enforcement officer, firefighter, ambulance personnel, Department of Corrections employee or contractor, health care personnel, or other public officer.
- 22-18-2 Justifiable force used by public officer in performance of duty--Assistance or direction of officer.
- 22-18-3 Lawful force in arrest and delivery of felon.
- 22-18-3.1 Definitions.
- 22-18-4 Force--Defense of person.
- 22-18-4.1 Deadly force--Defense of person.
- 22-18-4.2 Defense of dwelling or residence--Force--Deadly force.
- 22-18-4.3 Imminent death--Great bodily injury--Reasonable fear.
- 22-18-4.4 Presumption of fear--Exceptions.
- 22-18-4.5 Unlawful entry--Presumption.
- 22-18-4.6 Force--Defense of property other than a dwelling.
- 22-18-4.7 Deadly force--Defense of property other than a dwelling.
- 22-18-4.8 Immunity--Burden of proof.
- 22-18-4.9 Aggressor--Use of force--Justification not available.
- 22-18-5 Reasonable force used by parent, guardian, or teacher in correcting child, pupil, or ward.
- 22-18-6 Reasonable force used by carrier to expel passenger--Vehicle stopped.
- 22-18-7 22-18-7 to 22-18-25. Repealed by [SL 1976, ch 158, § 18-5](#)
- 22-18-26 Assault by convicted or incarcerated person under Department of Corrections jurisdiction--Intentionally causing contact with bodily fluids or human waste--Felony.
- 22-18-26.1 Intentionally causing contact with bodily fluids or human waste--Assault upon any other person--Misdemeanor.
- 22-18-26.2 Intentionally causing contact with bodily fluids or human waste--Unified Judicial System employee--Felony.
- 22-18-27 22-18-27, 22-18-28. Repealed by [SL 2005, ch 120, §§ 13, 14](#), eff. July 1, 2006.
- 22-18-29 Assault by adult prisoner in county or municipal jail--Intentionally causing contact with bodily fluids or human waste--Felony.
- 22-18-29.1 Assault by juvenile confined in detention facility or juvenile corrections facility--Intentionally causing contact with bodily fluids or human waste--Felony.
- 22-18-30 Third or subsequent offense--Offense in another state.
- 22-18-31 Intentional exposure to HIV infection a felony.
- 22-18-32 Definition of terms.
- 22-18-33 Informed consent of person exposed to HIV an affirmative defense.
- 22-18-34 Actual transmission of HIV not required for criminal exposure.
- 22-18-35 Disorderly conduct--Misdemeanor.
- 22-18-36 Vehicular battery.
- 22-18-37 Female genital mutilation--Felony.
- 22-18-38 Religion, custom, or consent not a defense to female genital mutilation.
- 22-18-39 Certain surgical procedures permitted.

22-18-40 Standing on highway with intent to impede or stop traffic--Misdemeanor.

22-18-41 Unlawful directing--Light--Laser pointer.

22-18-42 Watercraft battery--Penalty.

22-18-1. Simple assault--Violation as misdemeanor--Third or subsequent offense a felony--Violation in other states.

A person is guilty of simple assault, a Class 1 misdemeanor, if the person:

- (1) Attempts to cause bodily injury to another and has the actual ability to cause the injury;
- (2) Recklessly causes bodily injury to another;
- (3) Negligently causes bodily injury to another with a dangerous weapon;
- (4) Attempts by physical menace or credible threat to put another in fear of imminent bodily harm, with or without the actual ability to harm the other person; or
- (5) Intentionally causes bodily injury to another which does not result in serious bodily injury.

If the defendant has been convicted of, or entered a plea of guilty to, two or more violations of simple assault under this section, simple assault or aggravated assault under § [22-18-1.05](#), aggravated assault under § [22-18-1.1](#), assault under § [22-18-26](#), intentional contact with bodily fluids under § [22-18-26.1](#), or assault under § [22-18-29](#), within ten years of committing the current offense, the defendant is guilty of a Class 6 felony for any third offense, a Class 5 felony for a fourth offense, and a Class 4 felony for a fifth or subsequent offense.

Any conviction for, or plea of guilty to, an offense in another state which, if committed in this state, would be a violation of a crime described in this section and occurring within ten years prior to the date of the violation being charged, shall be used to determine if the violation being charged is a subsequent offense.

Source: SDC 1939, §§ 13.2401, 13.2403; SDCL § 22-18-8; [SL 1973, ch 147](#); [SL 1976, ch 158](#), § 18-1; [SL 1980, ch 173](#), § 2; [SL 1981, ch 174](#); [SL 1998, ch 132](#), § 1; [SL 1999, ch 117](#), § 1; [SL 2005, ch 120](#), § 1; [SL 2011, ch 115](#), § 1; [SL 2019, ch 108](#), § 1; [SL 2021, ch 92](#), § 1.

22-18-1.05. Simple or aggravated assault against law enforcement officer, firefighter, ambulance personnel, Department of Corrections employee or contractor, health care personnel, or other public officer.

Simple assault, as provided in § [22-18-1](#), if committed against a law enforcement officer, firefighter, ambulance service personnel, Department of Corrections employee or person under contract assigned to the Department of Corrections, or other public officer, which assault occurred while the officer or employee was engaged in the performance of the officer's or employee's duties, is a Class 6 felony.

Aggravated assault, as provided in § [22-18-1.1](#), if committed against a law enforcement officer, firefighter, ambulance service personnel, Department of Corrections employee or person under contract assigned to the Department of Corrections, or other public officer, which assault occurred while the officer or employee was engaged in the performance of the officer's or employee's duties, is a Class 2 felony.

The penalties in this section also apply to a simple assault or aggravated assault if committed against any health care facility personnel while the personnel was engaging in patient care.

Source: [SL 2005, ch 120](#), § 3; [SL 2018, ch 130](#), § 1.

22-18-1.1. Aggravated assault--Felony.

Any person who:

- (1) Attempts to cause serious bodily injury to another, or causes such injury, under circumstances manifesting extreme indifference to the value of human life;
- (2) Attempts to cause, or knowingly causes, bodily injury to another with a dangerous weapon;
- (3) Deleted by SL 2005, ch 120, § 2;
- (4) Assaults another with intent to commit bodily injury which results in serious bodily injury;
- (5) Attempts by physical menace with a deadly weapon to put another in fear of imminent serious bodily harm; or
- (6) Deleted by SL 2005, ch 120, § 2;
- (7) Deleted by SL 2012, ch 123, § 4;
- (8) Attempts to induce a fear of death or imminent serious bodily harm by impeding the normal breathing or circulation of the blood of another person by applying pressure on the throat or neck, or by blocking the nose and mouth;

is guilty of aggravated assault. Aggravated assault is a Class 3 felony.

Source: SDC 1939, §§ 13.1601, 13.2101, 13.2202, 13.2302, 13.2404; [SL 1941, ch 46](#); SDCL §§ 22-18-9 to 22-18-11, 22-18-15, 22-18-21; [SL 1976, ch 158](#), § 18-2; [SL 1977, ch 189](#), §§ 46, 47; [SL 1980, ch 173](#), § 3; [SL 1981, ch 13](#), § 5; [SL 1986, ch 180](#); [SL 1997, ch 130](#), § 4; [SL 2002, ch 106](#), § 1; [SL 2005, ch 120](#), § 2; [SL 2012, ch 122](#), § 1; [SL 2012, ch](#)

22-18-1.2. Criminal battery of an unborn child--Misdemeanor.

Any person who assaults a pregnant woman and inflicts bodily injury on an unborn child who is subsequently born alive is guilty of criminal battery of an unborn child. Criminal battery of an unborn child is a Class 1 misdemeanor. For the purposes of this section, the term, bodily injury, does not include the inducement of the unborn child's birth if done for bona fide medical purposes.

Source: [SL 1995, ch 122, § 7](#); [SL 2005, ch 120, § 4](#); [SL 2012, ch 123, § 2](#).

22-18-1.3. Aggravated criminal battery of an unborn child--Felony.

Any person who assaults a pregnant woman and inflicts serious bodily injury on an unborn child who is subsequently born alive is guilty of aggravated criminal battery of an unborn child. Aggravated criminal battery of an unborn child is a Class 3 felony.

Source: [SL 1995, ch 122, § 6](#); [SL 2005, ch 120, § 5](#); [SL 2012, ch 123, § 3](#).

22-18-1.4. Aggravated battery of an infant--Felony.

Any person who intentionally or recklessly causes serious bodily injury to an infant, less than three years old, by causing any intracranial or intraocular bleeding, or swelling of or damage to the brain, whether caused by blows, shaking, or causing the infant's head to impact with an object or surface is guilty of aggravated battery of an infant. Aggravated battery of an infant is a Class 2 felony. A second or subsequent violation of this section is a Class 1 felony.

Source: [SL 2012, ch 123, § 1](#).

22-18-1.5. Assaults with intent to cause serious permanent disfigurement--Felony.

Any person, who assaults another with the intent to cause serious permanent disfigurement and causes serious permanent disfigurement, is guilty of a Class 2 felony.

Assault with intent to cause serious permanent disfigurement as set forth in this section may be charged in the alternative as aggravated assault, as set forth in § 22-18-1.1.

Source: [SL 2017, ch 96, § 1](#).

22-18-2. Justifiable force used by public officer in performance of duty--Assistance or direction of officer.

To use or attempt to use or offer to use force or violence upon or toward the person of another is not unlawful if necessarily committed by a public officer in the performance of any legal duty or by any other person assisting the public officer or acting by the public officer's direction.

Source: [SDC 1939, § 13.2402 \(1\)](#); [SL 2005, ch 120, § 6](#).

22-18-3. Lawful force in arrest and delivery of felon.

To use or attempt to use or offer to use force or violence upon or toward the person of another is not unlawful if necessarily committed by any person in arresting someone who has committed any felony or in delivering that person to a public officer competent to receive him or her in custody.

Source: [SDC 1939, § 13.2402 \(2\)](#); [SL 2005, ch 120, § 7](#).

22-18-3.1. Definitions.

Terms used in §§ 22-18-4 to 22-18-4.9, inclusive, mean:

- (1) "Deadly force," force that is likely to cause death or great bodily harm;
- (2) "Dwelling," a building or structure of any kind, whether temporary or permanent, that is designed to be occupied by people lodging therein at night, together with any attached garage or porch, and which includes:
 - (a) A tent;
 - (b) A camper or motorhome; and
 - (c) Any other conveyance, whether mobile or immobile;
- (3) "Forcible felony," arson, assault, burglary, kidnapping, manslaughter, murder, rape, and robbery, and any other felony that involves the use of or the threat of physical force or violence against a person;

- (4) "Residence," a dwelling in which a person:
 - (a) Resides, either temporarily or permanently; or
 - (b) Is an invited guest;
- (5) "Unlawful force," an act of force that is employed without the consent of the person against whom it is directed and without legal justification or excuse; and
- (6) "Vehicle," a conveyance of any kind, whether motorized or not, which is designed to transport people or property.

Source: [SL 2021, ch 93](#), § 1.

22-18-4. Force--Defense of person.

A person is justified in using or threatening to use force, other than deadly force, against another if the person reasonably believes that using or threatening to use force is necessary to defend against the other's imminent use of unlawful force.

A person who uses or threatens to use force in accordance with this section does not have a duty to retreat before using or threatening to use force.

Source: SDC 1939, § 13.2402 (3); [SL 2005, ch 120](#), § 8; [SL 2006, ch 116](#), § 2; [SL 2021, ch 93](#), § 2.

22-18-4.1. Deadly force--Defense of person.

A person is justified in using or threatening to use deadly force if the person reasonably believes that using or threatening to use deadly force is necessary to prevent imminent death or great bodily harm to himself, herself, or another, or to prevent the imminent commission of a forcible felony.

A person who uses or threatens to use deadly force in accordance with this section does not have a duty to retreat and has the right to stand his or her ground, if the person using or threatening to use the deadly force is:

- (1) Not engaged in a criminal activity; and
- (2) In a place where the person has a right to be.

Source: [SL 2021, ch 93](#), § 3.

22-18-4.2. Defense of dwelling or residence--Force--Deadly force.

A person who is in a dwelling or residence, in which the person has a right to be:

- (1) Has no duty to retreat;
- (2) Has the right to stand his or her ground; and
- (3) Has the right to use or threaten to use:
 - (a) Force against another, if the person reasonably believes that using or threatening to use force is necessary to defend himself, herself, or another against the imminent use of unlawful force; and
 - (b) Deadly force, if the person reasonably believes that using or threatening to use deadly force is necessary to prevent imminent death or great bodily harm to himself, herself, or another, or to prevent the imminent commission of a forcible felony.

Source: [SL 2021, ch 93](#), § 4.

22-18-4.3. Imminent death--Great bodily injury--Reasonable fear.

For purposes of § [22-18-4.2](#), a person is presumed to have held a reasonable fear of imminent peril of death or great bodily harm, to himself, herself, or another, when using or threatening to use defensive force that is intended or likely to cause death or great bodily harm if:

- (1) The person against whom the defensive force was used or threatened:
 - (a) Was in the process of unlawfully entering a dwelling, residence, or occupied vehicle;
 - (b) Had unlawfully entered, a dwelling, residence, or occupied vehicle; or
 - (c) Had removed or was attempting to remove another against the other's will from a dwelling, residence, or occupied vehicle; and
- (2) The person who uses or threatens to use defensive force knew or had reason to believe that an unlawful entry or an unlawful and forcible act was occurring or had occurred.

Source: [SL 2021, ch 93](#), § 5.

22-18-4.4. Presumption of fear--Exceptions.

The presumption set forth in § 22-18-4.3 does not apply if:

- (1) The person against whom the defensive force is used or threatened:
 - (a) Has the right to be in or is a lawful resident of the dwelling, residence, or vehicle, including as an owner, lessee, or titleholder; and
 - (b) Is not the subject of a protection order, including a temporary protection order;
- (2) The person sought to be removed is the child, grandchild, or otherwise in the lawful custody or under the lawful guardianship of the person against whom the defensive force is used or threatened;
- (3) The person who uses or threatens to use defensive force is engaged in a criminal activity or is using the dwelling, residence, or occupied vehicle to further a criminal activity; or
- (4) The person against whom the defensive force is used or threatened is a law enforcement officer, who enters or attempts to enter a dwelling, residence, or vehicle in the performance of official duties and:
 - (a) The officer identified himself or herself as a law enforcement officer; or
 - (b) The person using or threatening to use force knew or reasonably should have known that the person entering or attempting to enter was a law enforcement officer.

Source: [SL 2021, ch 93](#), § 6.

22-18-4.5. Unlawful entry--Presumption.

A person who unlawfully enters or attempts to enter a person's dwelling, residence, or occupied vehicle is presumed to be doing so with the intent to commit an unlawful act involving force or violence.

Source: [SL 2021, ch 93](#), § 7.

22-18-4.6. Force--Defense of property other than a dwelling.

A person is justified in using or threatening to use force, other than deadly force, against another if and to the extent the person reasonably believes that using or threatening to use force is necessary to prevent or terminate another's trespass on, or criminal interference with:

- (1) Real property other than a dwelling;
- (2) Personal property that is lawfully:
 - (a) In the person's possession;
 - (b) In the possession of a member of the person's immediate family or household; or
 - (c) In the possession of one whose property the person has a legal duty to protect.

A person who uses or threatens to use force in accordance with this section does not have a duty to retreat before using or threatening to use such force.

Source: [SL 2021, ch 93](#), § 8.

22-18-4.7. Deadly force--Defense of property other than a dwelling.

A person is justified in using or threatening to use deadly force only if the person reasonably believes that the use of deadly force is necessary to prevent the imminent commission of a forcible felony.

A person who uses or threatens to use deadly force in accordance with this section does not have a duty to retreat and has the right to stand his or her ground, if the person using or threatening to use the deadly force is not engaged in a criminal activity and is in a place where the person has a right to be.

Source: [SL 2021, ch 93](#), § 9.

22-18-4.8. Immunity--Burden of proof.

A person who uses or threatens to use force, as permitted in §§ 22-18-4 to 22-18-4.7, inclusive, is justified in such conduct and is immune from criminal prosecution and from civil liability for the use or threatened use of such force brought by the person against whom force was used or threatened, or by any personal representative or heir of the person against whom force was used or threatened, unless:

- (1) (a) The person against whom force was used or threatened is a law enforcement officer, who was acting in the performance of official duties; and
(b) The officer identified himself or herself; or
- (2) The person using or threatening to use force knew or reasonably should have known that the person was a law enforcement officer who was acting in the performance of official duties.

The court shall award reasonable attorney's fees, court costs, compensation for loss of income, and all expenses incurred by a defendant in the defense of any civil action brought by a plaintiff, if the court finds that the defendant is immune from prosecution in accordance with this section.

In a criminal prosecution, once a *prima facie* claim of self-defense immunity has been raised by the defendant, the burden of proof, by clear and convincing evidence, is on the party seeking to overcome the immunity from criminal prosecution provided for in this section.

As used in this section, the term, criminal prosecution, includes arresting, detaining in custody, and charging or prosecuting the defendant.

Source: [SL 2021, ch 93, § 10](#); [SL 2022, ch 62, § 1](#).

22-18-4.9. Aggressor--Use of force--Justification not available.

Any justification for the use or the threatened use of either force or deadly force is not available to a person who:

- (1) Is attempting to commit, committing, or escaping after the commission of a forcible felony; or
- (2) Initially provokes the use or threatened use of force against himself or herself, unless:
 - (a) Such force or threat of force is so great that the person reasonably believes he or she is in imminent danger of death or great bodily harm and that every reasonable means to escape such danger has been exhausted, other than the use or threatened use of force that is likely to cause death or great bodily harm to the assailant; or
 - (b) In good faith, the person withdraws from physical contact with the assailant and indicates clearly to the assailant that he or she desires to withdraw and terminate the use or threatened use of force, but the assailant continues or resumes the use or threatened use of force.

Source: [SL 2021, ch 93, § 11](#).

22-18-5. Reasonable force used by parent, guardian, or teacher in correcting child, pupil, or ward.

To use or attempt to use or offer to use force upon or toward the person of another is not unlawful if committed by a parent or the authorized agent of any parent, or by any guardian, teacher, or other school official, in the exercise of a lawful authority to restrain or correct the child, pupil, or ward and if restraint or correction has been rendered necessary by the misconduct of the child, pupil, or ward, or by the child's refusal to obey the lawful command of such parent, or authorized agent, guardian, teacher, or other school official, and the force used is reasonable in manner and moderate in degree.

Source: [SDC 1939, § 13.2402 \(4\)](#); [SL 1976, ch 158, § 18-3](#); [SL 1977, ch 189, § 48](#); [SL 1990, ch 128, § 2](#); [SL 2005, ch 120, § 9](#).

22-18-6. Reasonable force used by carrier to expel passenger--Vehicle stopped.

A carrier of passengers or the authorized agent or servant of such carrier or any person assisting such person at his or her request, may use or attempt to use or offer to use force to expel any passenger who refuses to obey a lawful and reasonable regulation prescribed for the conduct of passengers if the vehicle carrying the passenger has first been stopped and the force used is not more than is sufficient to expel the offending passenger with reasonable regard for the passenger's personal safety.

Source: [SDC 1939, § 13.2402 \(5\)](#); [SL 1976, ch 158, § 18-4](#); [SL 2005, ch 120, § 10](#).

22-18-7 to 22-18-25. Repealed by [SL 1976, ch 158, § 18-5](#)

22-18-26. Assault by convicted or incarcerated person under Department of Corrections jurisdiction--Intentionally causing contact with bodily fluids or human waste--Felony.

Any convicted person or any incarcerated person under the jurisdiction of the Department of Corrections who intentionally throws, smears, spits, or otherwise causes blood, vomit, saliva, mucus, semen, excrement, urine, or human waste to come in contact with a Department of Corrections employee, or visitor, or other person authorized by the Department of Corrections to be on the premises, is guilty of a Class 6 felony.

Source: [SL 1997, ch 130, § 1](#); [SL 2005, ch 120, § 11](#).

22-18-26.1. Intentionally causing contact with bodily fluids or human waste--Assault upon any other person--Misdemeanor.

Any person who, with the intent to assault, throws, smears, spits, or causes human blood, vomit, saliva, mucus,

semen, excrement, urine, or human waste to come in contact with any other person, is guilty of a Class 1 misdemeanor.

Source: [SL 2002, ch 107, § 1](#); [SL 2003, ch 124, § 1](#); [SL 2005, ch 120, § 12](#).

22-18-26.2. Intentionally causing contact with bodily fluids or human waste--Unified Judicial System employee--Felony.

Any person under probationary supervision of the Unified Judicial System who intentionally throws, smears, spits, or otherwise causes blood, vomit, saliva, mucus, semen, excrement, urine, or human waste to come in contact with a Unified Judicial System employee during the performance of the employee's duties is guilty of a Class 6 felony.

Source: [SL 2024, ch 84, § 1](#).

22-18-27, 22-18-28. Repealed by [SL 2005, ch 120, §§ 13, 14](#), eff. July 1, 2006.

22-18-29. Assault by adult prisoner in county or municipal jail--Intentionally causing contact with bodily fluids or human waste--Felony.

Any adult confined in a county or municipal jail who intentionally throws, smears, spits, or otherwise causes blood, vomit, saliva, mucus, semen, excrement, urine, or human waste to come in contact with a county or municipal jail employee, or visitor, or other person authorized by the county or municipal jail to be on the premises, is guilty of a Class 6 felony.

Source: [SL 1997, ch 130, § 6](#); [SL 1998, ch 133, § 1](#); [SL 1999, ch 118, § 1](#); [SL 2005, ch 120, § 15](#).

22-18-29.1. Assault by juvenile confined in detention facility or juvenile corrections facility--Intentionally causing contact with bodily fluids or human waste--Felony.

Any juvenile confined in a juvenile detention facility or a juvenile corrections facility established and maintained in accordance with § [26-11A-1](#) who intentionally throws, smears, spits, or otherwise causes blood, vomit, saliva, mucus, semen, excrement, urine, or human waste to come in contact with a juvenile detention or juvenile corrections facility employee, or visitor, or other person authorized by the juvenile detention or juvenile corrections facility to be on the premises, is guilty of a Class 6 felony.

Source: [SL 1999, ch 118, § 2](#); [SL 2005, ch 120, § 16](#).

22-18-30. Third or subsequent offense--Offense in another state.

Any conviction for, or plea of guilty to, an offense in another state which, if committed in this state, would constitute a violation of simple assault under § [22-18-1](#), aggravated assault under § [22-18-1.1](#), assault under § [22-18-26](#), intentional contact with bodily fluids under § [22-18-26.1](#), or assault under § [22-18-29](#), and that occurs within ten years prior to the date of the violation being charged, shall be used to determine if the violation to be charged is a third or subsequent offense pursuant to § [22-18-1](#).

Source: [SL 1999, ch 117, § 2](#); [SL 2012, ch 124, § 1](#); [SL 2020, ch 82, § 1](#).

22-18-31. Intentional exposure to HIV infection a felony.

Any person who, knowing himself or herself to be infected with HIV, intentionally exposes another person to infection by:

- (1) Engaging in sexual intercourse or other intimate physical contact with another person;
- (2) Transferring, donating, or providing blood, tissue, semen, organs, or other potentially infectious body fluids or parts for transfusion, transplantation, insemination, or other administration to another in any manner that presents a significant risk of HIV transmission;
- (3) Dispensing, delivering, exchanging, selling, or in any other way transferring to another person any nonsterile intravenous or intramuscular drug paraphernalia that has been contaminated by himself or herself; or
- (4) Throwing, smearing, or otherwise causing blood or semen, to come in contact with another person for the purpose of exposing that person to HIV infection; is guilty of criminal exposure to HIV.

Criminal exposure to HIV is a Class 3 felony.

Source: [SL 2000, ch 99, § 1](#); [SL 2005, ch 120, § 17](#).

22-18-32. Definition of terms.

Terms used in §§ 22-18-31 to 22-18-34, inclusive, mean:

- (1) "HIV," the human immunodeficiency virus or any other identified causative agent of acquired immunodeficiency syndrome;
- (2) "Intimate physical contact," bodily contact which exposes a person to the body fluid of the infected person in any manner that presents a significant risk of HIV transmission; and
- (3) "Intravenous or intramuscular drug paraphernalia," any equipment, product, or material of any kind which is peculiar to and marketed for use in injecting a substance into the human body.

Source: [SL 2000, ch 99](#), § 2.

22-18-33. Informed consent of person exposed to HIV an affirmative defense.

It is an affirmative defense to prosecution pursuant to § 22-18-31, if it is proven by a preponderance of the evidence, that the person exposed to HIV knew that the infected person was infected with HIV, knew that the action could result in infection with HIV, and gave advance consent to the action with that knowledge.

Source: [SL 2000, ch 99](#), § 3; [SL 2005, ch 120](#), § 18.

22-18-34. Actual transmission of HIV not required for criminal exposure.

Nothing in §§ 22-18-31 to 22-18-34, inclusive, may be construed to require the actual transmission of HIV in order for a person to have committed the offense of criminal exposure to HIV.

Source: [SL 2000, ch 99](#), § 4.

22-18-35. Disorderly conduct--Misdemeanor.

Any person who intentionally causes serious public inconvenience, annoyance, or alarm to any other person, or creates a risk thereof by:

- (1) Engaging in fighting or in violent or threatening behavior;
- (2) Making unreasonable noise;
- (3) Disturbing any lawful assembly or meeting of persons without lawful authority; or
- (4) Obstructing vehicular or pedestrian traffic;

is guilty of disorderly conduct. Disorderly conduct is a Class 2 misdemeanor. However, if the defendant has been convicted of, or entered a plea of guilty to, three or more violations of this section, within the preceding ten years, the defendant is guilty of a Class 1 misdemeanor for any fourth or subsequent offense.

Source: SDC 1939, §§ 13.1401, 13.1409, 13.1421; SDCL §§ [22-13-2](#), [22-13-3](#); [SL 1976, ch 158](#), § 13-1; [SL 1984, ch 164](#); SDCL § [22-13-1](#); [SL 2005, ch 120](#), §§ 130, 131; [SL 2007, ch 142](#), § 1.

22-18-36. Vehicular battery.

Any person who, while under the influence of alcohol, drugs, or substances in a manner and to a degree prohibited by § 32-23-1, without design to effect serious bodily injury, operates or drives a motor vehicle of any kind in a negligent manner and thereby causes the serious bodily injury of another person, including an unborn child, is guilty of vehicular battery. Vehicular battery is a Class 4 felony. In addition to any other penalty prescribed by law, the court shall order that the driver's license of any person convicted of vehicular battery be revoked for a period of not less than three years from the date sentence is imposed or three years from the date of initial release from imprisonment, whichever is later. In the event the person is returned to imprisonment prior to the completion of the period of driver's license revocation, time spent imprisoned does not count toward fulfilling the period of revocation.

Source: [SL 1993, ch 174](#), § 2; [SL 1995, ch 122](#), § 9; [SL 2000, ch 98](#), § 2; SDCL § [22-16-42](#); [SL 2005, ch 120](#), § 172; [SL 2006, ch 168](#), § 17; [SL 2009, ch 115](#), § 2.

22-18-37. Female genital mutilation--Felony.

It is a Class 4 felony for any person:

- (1) To knowingly circumcise, excise, mutilate, or infibulate, in whole or in part, the labia majora, labia minora, or clitoris of a female under the age of eighteen years;
- (2) Who is a parent, guardian, or has immediate custody or control of a female under the age of eighteen years to knowingly consent to or permit the circumcision, excision, mutilation, or infibulation, in whole or in part, of

- the labia majora, labia minora, or clitoris of such female; or
- (3) To knowingly remove, cause, or permit the removal of a female under the age of eighteen years from this state for the purpose of circumcising, excising, mutilating, or infibulating, in whole or in part, the labia majora, labia minora, or clitoris of such female.

Source: [SL 2015, ch 127](#), § 1, eff. Mar. 10, 2015.

22-18-38. Religion, custom, or consent not a defense to female genital mutilation.

It is not a defense to the provisions of § [22-18-37](#) that the conduct described is required as a matter of religion, custom, ritual, or standard practice, or that the individual on whom the conduct is performed, or the parent or guardian of the individual consented to the procedure.

Source: [SL 2015, ch 127](#), § 2, eff. Mar. 10, 2015.

22-18-39. Certain surgical procedures permitted.

A surgical procedure is not a violation of § [22-18-37](#) if the procedure is:

- (1) Necessary to the health of the individual on whom it is performed and the procedure is performed by a licensed medical practitioner in a licensed medical facility; or
- (2) Performed on an individual in labor or who has just given birth and the procedure is performed for medical purposes connected with that labor or birth and the procedure is performed by a licensed medical practitioner.

Source: [SL 2015, ch 127](#), § 3, eff. Mar. 10, 2015.

22-18-40. Standing on highway with intent to impede or stop traffic--Misdemeanor.

Unless otherwise directed by law enforcement or other emergency personnel or to seek assistance for an emergency or inoperable vehicle, no person may stand upon the paved or improved or main-traveled portion of any highway with intent to impede or stop the flow of traffic. A violation of this section is a Class 1 misdemeanor.

Source: [SL 2017, ch 42](#), § 4, eff. Mar. 13, 2017.

22-18-41. Unlawful directing--Light--Laser pointer.

Anyone who intentionally directs light from a laser pointer at the body of a law enforcement officer is guilty of a Class 1 misdemeanor. For purposes of this section, a laser pointer is a device that emits light amplified by the stimulated emission of radiation that is visible to the human eye.

Source: [SL 2021, ch 94](#), § 1.

22-18-42. Watercraft battery--Penalty.

Any person who, while under the influence of alcohol, drugs, or substances, in a manner and to a degree prohibited by § [42-8-45](#), without design to effect serious bodily injury, operates a boat, as defined by § [42-8-2](#), in a negligent manner and thereby causes the serious bodily injury of another person, including an unborn child, is guilty of watercraft battery, a Class 4 felony.

Source: [SL 2025, ch 92](#), § 2.