

State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

400Q0154

SENATE AGRICULTURE AND NATURAL RESOURCES

ENGROSSED NO. **HB 1053** - 2/5/2009

Introduced by: The Committee on Agriculture and Natural Resources at the request of the
Department of Game, Fish and Parks

1 FOR AN ACT ENTITLED, An Act to repeal the prohibition against the resale of certain seized
2 or abandoned property purchased from the secretary of game, fish and parks.

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

4 Section 1. That § 41-15-21 be repealed.

5 ~~— 41-15-21. No fish, game, game animals, game birds, or any part thereof sold pursuant to the~~
6 ~~terms of § 41-15-20 shall be resold, offered for sale, or held for the purpose of sale, or otherwise~~
7 ~~disposed of to any other person by such purchaser. Such game shall not be taken into possession~~
8 ~~by any person other than such purchaser.~~

9 Section 2. If any person finds a skull, antler, or carcass of a game animal or game bird and
10 if the person submits to the Department of Game, Fish and Parks an affidavit that the animal
11 was not taken illegally, the person is deemed to have lawful possession of the skull, antler, or
12 carcass.



State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

907Q0102

SENATE JUDICIARY ENGROSSED NO. **HB 1088** - 2/3/2009

Introduced by: The Committee on Judiciary at the request of the Chief Justice

1 FOR AN ACT ENTITLED, An Act to provide for the continuance of certain ex parte temporary
2 protection orders.

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

4 Section 1. That § 25-10-7 be amended to read as follows:

5 25-10-7. An ex parte temporary protection order is effective for a period of thirty days
6 except as provided in § 25-10-7.1 unless for good cause the court grants a continuance. No
7 continuance may exceed seven days. If a continuance is granted, the court by order shall extend
8 the ex parte temporary protection order until the rescheduled hearing date. The respondent shall
9 be personally served forthwith with a copy of the ex parte order along with a copy of the
10 petition, affidavit, and notice of the date set for the hearing. The ex parte order shall be served
11 without delay under the circumstances of the case including service of the ex parte order on a
12 Sunday or holiday. The law enforcement agency serving the order shall notify the petitioner by
13 telephone or written correspondence when the order is served if the petitioner has provided to
14 the law enforcement agency either a telephone number or address, or both, where the petitioner
15 may be contacted. The law enforcement agency and any officer of the law enforcement agency



1 is immune from civil and criminal liability if the agency or any such officer makes a good faith
2 attempt to notify the petitioner in a manner consistent with the provisions of this section.

3 Section 2. That § 22-19A-12 be amended to read as follows:

4 22-19A-12. If an affidavit filed with an application under § 22-19A-8 alleges that immediate
5 and irreparable injury, loss, or damage is likely to result before an adverse party or the party's
6 attorney can be heard in opposition, the court may grant an ex parte temporary protection order
7 pending a full hearing and granting relief as the court deems proper, including an order
8 restraining any person from committing acts of stalking or physical injury as a result of an
9 assault or a crime of violence as defined in subdivision 22-1-2(9). An ex parte temporary
10 protection order is effective for a period of thirty days unless for good cause the court grants a
11 continuance. No continuance may exceed seven days. If a continuance is granted, the court by
12 order shall extend the ex parte temporary protection order until the rescheduled hearing date.
13 The respondent shall be personally served forthwith with a copy of the ex parte order along with
14 a copy of the petition, affidavit, and notice of the date set for the hearing.

State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

466Q0101

SENATE JUDICIARY ENGROSSED NO. **HB 1089** 2/3/2009

Introduced by: The Committee on Judiciary at the request of the Chief Justice

1 FOR AN ACT ENTITLED, An Act to provide the court with discretion in ordering certain
2 hearings on protection order petitions.

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

4 Section 1. That § 25-10-4 be amended to read as follows:

5 25-10-4. Upon receipt of the petition, if sufficient grounds are alleged for relief, the court
6 shall order a hearing which shall be held not later than thirty days from the date of the order
7 unless for good cause the court grants a continuance. Personal service of the petition, affidavit,
8 and notice for hearing shall be made on the respondent not less than five days prior to the
9 hearing.

10 Section 2. That § 22-19A-10 be amended to read as follows:

11 22-19A-10. Upon receipt of the petition, if sufficient grounds are alleged for relief, the court
12 shall order a hearing which shall be held not later than thirty days from the date of the order
13 unless for good cause the court grants a continuance. Personal service of the petition, affidavit,
14 and notice for hearing shall be made on the respondent not less than five days prior to the
15 hearing.



State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

427Q0405

SENATE JUDICIARY ENGROSSED NO. **HB 1097** - 2/5/2009

Introduced by: Representatives Cutler, Deadrick, Engels, Feinstein, Gosch, Hunt, Lust, and Russell and Senators Abdallah, Gillespie, Heidepriem, and Knudson

1 FOR AN ACT ENTITLED, An Act to provide for certain filing fees and surcharges in certain
2 civil cases and to provide exemptions in certain cases.

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

4 Section 1. That § 16-2-29 be amended to read as follows:

5 16-2-29. The clerk of courts shall charge and collect the following fees ~~and commissions~~:

6 (1) For the probate of an estate, seventy-five dollars;

7 (2) For all service connected with the preparation and transmission of a settled record to
8 the Supreme Court, including the remittitur from the Supreme Court, fifty dollars;

9 (3) For any of the following, twenty-five dollars:

10 (a) Civil cases filed for jury or court trial;

11 (b) Guardianship or conservatorship actions, adoption cases, termination of life
12 estates;

13 (c) Cases to determine amount of inheritance tax in estates in which real and
14 personal property is transferred in contemplation of death;



- 1 (d) Default actions to quiet title to real property;
- 2 (e) Default cases involving garnishment proceedings;
- 3 (f) Dissolutions of corporations;
- 4 (g) Foreclosure actions;
- 5 (h) Special administration proceedings;
- 6 (i) Summary administration proceedings;
- 7 (j) Appeals to the circuit court from an action of a political subdivision of the
- 8 state or from an action of the state or its officers, boards, agencies, and
- 9 commissions; or
- 10 (k) All matters not otherwise provided for in this section;

11 ~~twenty-five dollars;~~

12 (4) For any of the following, fifty dollars:

- 13 (a) Petitions and motions to modify final child support orders, except if the
- 14 petitioner or moving party is a recipient of assistance benefits pursuant to Title
- 15 28;
- 16 (b) Petitions and motions to modify final child custody orders;
- 17 (c) Petitions and motions to modify final visitation orders;
- 18 (d) Petitions and motions to modify final spousal support orders;

19 (5) For any of the following, five dollars:

- 20 (a) Issuing a transcript of a judgment;
- 21 (b) Filing and docketing a transcript of a judgment;
- 22 (c) Issuing and docketing an execution, commission, or writ;
- 23 (d) Filing a special execution; or
- 24 (e) Renewing a judgment according to § 15-16-33;

1 ~~five dollars;~~

2 ~~(5)~~(6) For any of the following, two dollars:

- 3 (a) Reproducing an authenticated, exemplified, or double certificate of a record
- 4 on file in the clerk's office;
- 5 (b) Certifying a document not excepted by subdivision ~~(6)~~ (7) of this section;
- 6 (c) Issuing a subpoena in a civil case; or
- 7 (d) Safekeeping or filing of a will;

8 ~~two dollars;~~

9 ~~(6)~~(7) All true and correct copies of any original record or paper furnished by the attorney
10 of record or the personal representative qualified to act in any of the following cases
11 which are necessary for the completion of the case shall be certified at no extra
12 charge for the certification:

- 13 (a) Guardianship or conservatorship actions, adoption cases, termination of life
- 14 estates, trusts, probate actions;
- 15 (b) Cases to determine amount of inheritance tax in estates in which real and
- 16 personal property is transferred in contemplation of death; and
- 17 (c) Divorce actions;

18 ~~(7)~~(8) For a facsimile transmission of any opinion, record, or paper from an active or
19 inactive file in the clerk's custody, one dollar per page, but the minimum charge ~~shall~~
20 ~~be~~ is five dollars. Fees collected pursuant to this subdivision shall be deposited into
21 the unified judicial system court automation fund.

22 No fee for filing, docketing, issuing, recording, certifying, or searching, or other fee or
23 commission, may be required of the state, any foreign state, or the federal government, or its
24 officers, boards, agencies, and commissions, or its political subdivisions, in any action or

1 proceeding commenced by the state or a political subdivision. In addition, no fee for record
2 searches may be required of any agency of the federal government which is charged with law
3 enforcement or investigatory duties under federal law.

4 No filing fee may be required in any action under § 25-10-3, 25-10-6, 22-19A-8, or 22-19A-
5 12.

6 Section 2. That § 16-2-39 be amended to read as follows:

7 16-2-39. In each civil action, ~~other than small claims actions~~, proceeding for judicial
8 remedy, and probate proceeding, the clerk of courts shall collect the sum of twenty dollars as
9 a unified judicial system court automation surcharge. The twenty-dollar surcharge does not
10 apply to a small claims action. In each small claims action, the clerk of courts shall collect as
11 a unified judicial system court automation surcharge the sum of six dollars if the amount in
12 controversy is less than four thousand dollars and eight dollars if the amount in controversy is
13 four thousand dollars or more. The surcharge shall be collected from the plaintiff or person
14 instituting the action or proceeding at the time of filing the first paper. The surcharge shall be
15 collected by the clerk in the manner in which other fees are collected. However, no surcharge
16 may be collected for any petition or motion to modify final orders for child support, child
17 custody, child visitation, or spousal support or in any civil action or proceeding for judicial
18 remedy commenced by the state, a county, a municipality, or a school district.

19 Section 3. That § 14-6-1 be amended to read as follows:

20 14-6-1. Upon order of the presiding judge of the circuit court made and filed in the office
21 of the clerk of courts of any county within the circuit of which such county is a part, the clerk
22 of courts of such county shall collect in each civil action, proceeding for judicial remedy, and
23 probate proceeding, ~~except such as commenced by the state, county, municipality, or school~~
24 ~~district therein, in the manner in which other fees are collected therein and in addition thereto,~~

1 as a county lawbook and county law library fee, a sum of two dollars in actions commenced
2 pursuant to chapter 15-39 and a sum of five dollars in all other civil actions, proceedings for
3 judicial remedy, and probate proceedings; The clerk shall collect the fee in the manner in which
4 other fees are collected from the plaintiff or person instituting such action or proceeding, at the
5 time of filing the first paper ~~therein~~ in such action or proceeding. However, no surcharge may
6 be collected for any petition or motion to modify final orders for child support, child custody,
7 child visitation, or spousal support or in any civil action or proceeding for judicial remedy
8 commenced by the state, a county, a municipality, or a school district.

9 Section 4. That chapter 16-2 be amended by adding thereto a NEW SECTION to read as
10 follows:

11 For any petition or motion to modify final orders for child support, child custody, child
12 visitation, or spousal support, the clerk of courts shall collect the sum of fifty dollars as a
13 commission on equal access to our courts surcharge. The surcharge shall be collected from the
14 person filing the motion or petition at the time of filing. The surcharge shall be collected by the
15 clerk in the manner in which other fees are collected. No surcharge may be collected in any civil
16 action or proceeding commenced by the state, county, a municipality, or a school district. The
17 surcharge may be waived pursuant to the provisions of §§ 16-2-29.2 and 16-2-29.3.

18 Section 5. That chapter 16-2 be amended by adding thereto a NEW SECTION to read as
19 follows:

20 The clerk of courts shall collect all amounts due under section 4 of this Act and transmit
21 such amounts monthly to the state treasurer who shall place such amounts received into the
22 equal access to our courts fund.

State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

957Q0356

SENATE APPROPRIATIONS ENGROSSED NO. **SB 72** - 2/5/2009

Introduced by: Senators Gray, Haverly, Hunhoff (Jean), and Miles and Representatives Rave, Blake, Hunhoff (Bernie), and Tidemann

1 FOR AN ACT ENTITLED, An Act to make an appropriation to initiate a master of social work
2 degree program in higher education.

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

4 Section 1. There is hereby appropriated from the general fund the sum of one dollar(\$1), or
5 so much thereof as may be necessary, to the Board of Regents to develop a master's degree
6 program in social work at the University of South Dakota.

7 Section 2. The executive director of the Board of Regents shall approve vouchers and the
8 state auditor shall draw warrants to pay expenditures authorized by this Act.



State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

933Q0345

SENATE APPROPRIATIONS ENGROSSED NO. **SB 74** - 2/5/2009

Introduced by: Senators Abdallah, Bartling, Bradford, Dempster, Gant, Gillespie, Gray, Hansen (Tom), Heidepriem, Maher, and Rhoden and Representatives Rave, Blake, Cutler, Feickert, Juhnke, Kirkeby, Lederman, Solberg, Steele, Thompson, and Vanderlinde

1 FOR AN ACT ENTITLED, An Act to direct the Office of the Attorney General to study the
2 creation of a state medical examiner system and to declare an emergency.

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

4 Section 1. The Office of the Attorney General shall conduct a study of the composition,
5 scope, and administration of a state medical examiner system in South Dakota. The study shall
6 gather the data and information regarding the creation of a state medical examiner system,
7 examine other states' medical examiner systems, and analyze the range of issues affecting the
8 creation, organization, and functions of a state medical examiner system. The Office of the
9 Attorney General shall consult with all appropriate interests including sheriffs, police chiefs,
10 county commissioners, criminal investigators, prosecutors, funeral directors, forensic
11 pathologists, the Department of Health, and the University of South Dakota School of Medicine.
12 The Office of the Attorney General shall submit a report regarding its findings and
13 recommendations and draft legislation, if any, to the Executive Board of the Legislative



1 Research Council by November 1, 2009.

2 Section 2. Whereas, this Act is necessary for the immediate preservation of the public peace,
3 health, or safety, an emergency is hereby declared to exist, and this Act shall be in full force and
4 effect from and after its passage and approval.