

# State of South Dakota

EIGHTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2010

349R0168

## SENATE JUDICIARY ENGROSSED NO. **HB 1077** - 3/4/2010

**This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.**

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

1 FOR AN ACT ENTITLED, An Act to enact a procedure for delayed appeal if the petitioner was  
2 unconstitutionally denied the right of appeal.

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

4 Section 1. If the court finds that an applicant was denied the right to an appeal from an  
5 original conviction in violation of the Constitution of the United States or the Constitution of  
6 South Dakota, the court shall issue a new judgment and impose the same sentence if such relief  
7 is requested within a reasonable time and an adequate record of the original trial proceeding is  
8 available for review. The court shall advise the applicant of the following:

- 9 (1) The rights associated with an appeal from a criminal conviction; and  
10 (2) The time for filing a notice of appeal from the reimposed judgment and sentence.

11 Nothing in this section limits an applicant's right to habeas corpus.

