

State of South Dakota

EIGHTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2012

400T0266

HOUSE BILL NO. 1023

Introduced by: The Committee on Judiciary at the request of the Department of Corrections

1 FOR AN ACT ENTITLED, An Act to repeal and revise certain provisions relating to the
2 Department of Corrections.

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

4 Section 1. That § 1-15-1.9 be repealed.

5 ~~1-15-1.9. If it is determined that a function of a transferred agency, which has not been~~
6 ~~eliminated by this chapter, and its associated records, personnel, equipment, facilities,~~
7 ~~unexpended balances or appropriations, allocations, or other funds have not been clearly~~
8 ~~allocated to an agency, the Governor shall specify by interim procedures the allocation of the~~
9 ~~function and its associated resources. At the next legislative session following the issuance of~~
10 ~~such interim procedures, the Governor shall make recommendations concerning the proper~~
11 ~~allocation of the functions of transferred agencies which are not clearly allocated by this chapter.~~
12 ~~Any interim procedures issued shall be filed with the secretary of state.~~

13 Section 2. That § 1-15-1.11 be repealed.

14 ~~1-15-1.11. No judicial or administrative suit, action, or other proceeding lawfully~~
15 ~~commenced before July 1, 1989, by or against any agency or any officer of the state, in his~~



1 ~~official capacity or in relation to the discharge of his official duties, may abate or be affected by~~
2 ~~the reason of the taking effect of any reorganization under the provisions of this chapter. The~~
3 ~~court may allow the suit, action, or other proceeding to be maintained by or against the~~
4 ~~successor of any agency or any officer affected by this chapter.~~

5 Section 3. That § 1-15-16 be repealed.

6 ~~—1-15-16. The Department of Corrections may expend from any appropriation of money for~~
7 ~~the construction of any public building that may lawfully be constructed under its supervision,~~
8 ~~or from any appropriation made for such purposes, sufficient funds to purchase and secure such~~
9 ~~protection from loss by fire during the erection of such building as may be proper in the~~
10 ~~judgment of the secretary of corrections.~~

11 Section 4. That § 1-15-16.1 be repealed.

12 ~~—1-15-16.1. The Department of Corrections may move, dismantle, destroy, or sell temporary~~
13 ~~buildings or structures as the secretary may determine to be in the best interests of the State of~~
14 ~~South Dakota, in order to make better use of the area, or because of extensive maintenance and~~
15 ~~repair costs, or because of fire safety hazards. However, such structures shall be evaluated by~~
16 ~~the Bureau of Administration and a determination made that it would not be economically~~
17 ~~feasible to repair, remodel, or redesign the structures for other use.~~

18 ~~—Receipts from the sale of such structures shall be deposited in the state general fund.~~

19 Section 5. That § 24-7-17 be repealed.

20 ~~—24-7-17. The director of prison industries is responsible for the collection of prison~~
21 ~~industries accounts. Any uncollectable account, not in excess of fifty dollars, which is one year~~
22 ~~past due, may be closed. Any uncollected account with a balance of fifty dollars or more, which~~
23 ~~is one year past due, shall be reported to the attorney general, who shall attempt to collect the~~
24 ~~money owed.~~

1 Section 6. That § 24-7-18 be repealed.

2 ~~—24-7-18. In the collection of past-due accounts of the prison industries, the attorney general~~
3 ~~may institute probate proceedings as a creditor of any deceased person or institute other court~~
4 ~~actions to collect the past-due account, enter into any stipulation or agreement to compromise~~
5 ~~or settle the past-due account, whether paid in full or not, if, in the attorney general's judgment,~~
6 ~~it is for the best interests of the state to do so, and make any such settlement or compromise and~~
7 ~~execute any release, partial release, discharge, satisfaction, or partial satisfaction of any lien if~~
8 ~~necessary to the settlement of the account. However, before making such settlement, the~~
9 ~~attorney general shall secure the approval of the secretary of corrections to the settlement.~~

10 Section 7. That § 24-7-19 be repealed.

11 ~~—24-7-19. The attorney general may employ such special assistant attorney or collector as may~~
12 ~~be necessary to collect any delinquent accounts of the prison industries and to pay such special~~
13 ~~assistant attorney or collector on a salary, fee, or contingent fee basis as the attorney general may~~
14 ~~deem best. All of such expense, including filing fees, sheriff's fees, court costs, traveling,~~
15 ~~expenses, and other necessary expenses of collection, shall be paid out of the sums collected,~~
16 ~~or out of the prison industries revolving fund on itemized claims approved by the attorney~~
17 ~~general and the secretary of corrections; but the amount expended for such purposes from the~~
18 ~~prison industries funds may not exceed the sum of five hundred dollars.~~

19 Section 8. That § 24-11A-1 be repealed.

20 ~~—24-11A-1. Terms used in this chapter mean:~~

21 ~~—(1)—"Adult community corrections facility," a community-based or community-oriented~~
22 ~~facility or program operated either by a unit of local government or by a~~
23 ~~nongovernmental agency which:~~

24 ~~—(a)—Provides residential and nonresidential accommodations and services for~~

1 clients;

2 ~~———— (b) Provides programs and services to aid clients to obtain and hold regular~~
3 ~~employment, enroll in and maintain academic courses, participate in~~
4 ~~vocational training programs, utilize the resources of the community to meet~~
5 ~~their personal and family needs and participate in specialized treatment~~
6 ~~programs existing within the community, or~~

7 ~~———— (c) Provides supervision for clients as required;~~

8 ~~———— (2) "Client," an offender, parolee, or inmate after being accepted and enrolled in an adult~~
9 ~~community corrections facility or program;~~

10 ~~———— (3) "Department," the Department of Corrections;~~

11 ~~———— (4) "Inmate," an adult serving a sentence in the South Dakota prison system for a crime~~
12 ~~other than a violent crime as defined in subdivision 22-1-2(9);~~

13 ~~———— (5) "Local community correctional board," a nine member local advisory board~~
14 ~~representative of law enforcement, prosecution, defense, the Department of~~
15 ~~Corrections, court services, and the general community;~~

16 ~~———— (6) "Local unit of government," a county or municipality;~~

17 ~~———— (7) "Nongovernmental agency," any person or organization other than a unit of local~~
18 ~~government and includes private profit organizations;~~

19 ~~———— (8) "Offender," an adult who has entered a plea of guilty to or has been convicted of a~~
20 ~~felony, but excluding any individual who has plead guilty or been convicted of~~
21 ~~committing a violent felony as defined in subdivision 22-1-2(9);~~

22 ~~———— (9) "Parolee," an inmate who has received a discretionary conditional release from actual~~
23 ~~penitentiary custody before the expiration of their term of imprisonment. This term~~
24 ~~also includes any inmate released by the court under suspended sentence and placed~~

1 ~~under the supervision of the Board of Pardons and Paroles for the period of the~~
2 ~~inmate's supervision;~~

3 ~~—(10)—"Secretary," the secretary of the Department of Corrections.~~

4 Section 9. That § 24-11A-2 be repealed.

5 ~~—24-11A-2. A local unit of government may contract with the secretary for the placement of~~
6 ~~offenders, parolees, and inmates in its adult community corrections facility or program.~~

7 Section 10. That § 24-11A-3 be repealed.

8 ~~—24-11A-3. A nongovernmental agency may contract with the secretary for the placement of~~
9 ~~offenders, parolees, and inmates in its adult community corrections facility or program. A~~
10 ~~nongovernmental agency shall obtain initial approval to locate in a municipality or county from~~
11 ~~the applicable local unit of government. If the facility is to be sited in a municipality, approval~~
12 ~~shall be obtained from the governing body of the municipality and from the applicable county~~
13 ~~commission. If the facility is to be sited outside a municipality, approval shall be obtained from~~
14 ~~the applicable county commission.~~

15 Section 11. That §§ 24-11A-4 to 24-11A-20, inclusive, be repealed.

16 Section 12. That § 1-32-2 be amended to read as follows:

17 1-32-2. For the purposes of achieving reorganization under the terms of S.D. Const., Art.
18 IV, § 8, the following principal departments are established:

- 19 (1) Department of Executive Management;
- 20 (2) Department of Public Safety;
- 21 (3) Department of Social Services;
- 22 (4) Department of Labor and Regulation;
- 23 (5) Department of Education;
- 24 (6) Department of Environment and Natural Resources;

- 1 (7) Department of Game, Fish and Parks;
- 2 (8) Department of Health;
- 3 (9) Department of Agriculture;
- 4 (10) Department of Transportation;
- 5 (11) Department of the Military;
- 6 (12) Department of Revenue;
- 7 (13) Department of Human Services;
- 8 (14) Department of Tourism;
- 9 (15) Department of Veterans Affairs;
- 10 (16) Department of Tribal Relations;
- 11 (17) Department of Corrections.