

State of South Dakota

EIGHTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2012

391T0563

HOUSE BILL NO. 1126

Introduced by: Representative Hunt and Senator Krebs

1 FOR AN ACT ENTITLED, An Act to establish provisions that a bond paid by, or on behalf of,
2 a defendant in a criminal case shall be paid to the Department of Social Services to pay any
3 child support the defendant owes.

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

5 Section 1. That chapter 23A-43 be amended by adding thereto a NEW SECTION to read
6 as follows:

7 The court may consider any amount of outstanding child support owed by the defendant in
8 a bail proceeding when setting the amount and type of bond.

9 Section 2. That chapter 23A-43 be amended by adding thereto a NEW SECTION to read
10 as follows:

11 The court may order the forfeiture of all or part of a bond paid by, or on behalf of, a
12 defendant who owes outstanding child support up to the total amount owed at the time the
13 condition for the bond is satisfied.

14 Section 3. That § 23A-43-25 be amended to read as follows:

15 23A-43-25. After the forfeiture of recognizance, bond or undertaking of bail, including an



1 appearance bond, the prosecuting attorney shall proceed, with all due diligence, by action
2 against the bail upon the instrument so forfeited. If money deposited instead of bail, including
3 an appearance bond, is forfeited, the clerk of the court or other officer with whom it is
4 deposited, shall monthly pay the money deposited to the county treasurer who shall deposit it
5 in the county treasury. If the bond is forfeited against a person owing outstanding child support,
6 the clerk, or other officer with whom it is deposited, shall pay the forfeited funds, up to the total
7 amount owed, to the Department of Social Services Division of Child Support to satisfy the
8 person's support obligation. This section is not to be construed to include bonds assessed for
9 violations of traffic or other misdemeanor violations included on an approved fine and bond
10 schedule adopted by a circuit court for use by lay magistrates and law enforcement officials for
11 purposes of levying a fine and costs to permit a violator to submit a power of attorney in lieu
12 of a court appearance. Bonds which have been submitted in payment of such violations,
13 accompanied by either a signed or unsigned power of attorney, shall be deposited in accordance
14 with state laws governing the deposit of such fines, liquidated court costs and surcharges.