

State of South Dakota

EIGHTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2012

580T0139

HOUSE BILL NO. 1263

Introduced by: Representatives Deelstra, Abdallah, Hansen (Jon), Jensen, Munsterman, Nelson (Stace), and Russell and Senators Peters, Cutler, Haverly, and Novstrup (Al)

1 FOR AN ACT ENTITLED, An Act to provide for mandatory HIV testing for any person
2 convicted of prostitution or solicitation of prostitution and to provide for appropriate
3 utilization of the test results.

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

5 Section 1. Any person convicted of prostitution or solicitation of prostitution shall be
6 required, with or without that person's consent, to undergo a standard diagnostic test for human
7 immunodeficiency virus (HIV) under the testing protocol of the Department of Health.

8 Section 2. After conviction, but prior to sentencing, the court shall order the convicted
9 person to submit to an HIV test and shall issue a warrant to collect a blood sample from that
10 person. A health professional licensed or certified to do so shall take the blood samples required
11 for testing and forward them to the Department of Health. The Department of Health shall
12 initiate the test for HIV within forty-eight hours after the department receives the blood sample.
13 If the screening test required by this section indicates the presence of antibodies to HIV, the
14 court shall order the person to undergo a confirmatory test.



1 Section 3. The court shall order the convicted person to pay the cost of the testing. The cost
2 shall be treated as any other court cost or fine under chapter 23A-27. If the person tested is an
3 inmate under the jurisdiction of the Department of Corrections, the cost of testing shall be taken
4 from the person's inmate account pursuant to § 24-2-29.

5 Section 4. The final test results shall be reported to the person tested along with
6 precautionary, medical care, and counseling information. Except as provided in section 5 of this
7 Act, the results of the test shall remain confidential.

8 Section 5. Any person who may have had sexual relations with or otherwise exchanged
9 bodily fluids with the tested person may petition the court to receive the results of the HIV test.
10 The petition shall state that the petitioner believes there was an exchange of blood, semen, or
11 other bodily fluids with the tested person and shall state the factual basis for believing there was
12 such an exchange. The court shall hold a hearing at which both the petitioner and the tested
13 person may be present. If the court finds probable cause that there was an exchange of blood,
14 semen, or other bodily fluids, the court may issue an order releasing the test results to the
15 petitioner.

16 Section 6. The results of the test may not be used as evidence in any criminal prosecution.