

REGISTER



South Dakota Legislative Research Council

Volume 36

Monday, 8:00 a.m., July 27, 2009

NOTICES OF PROPOSED RULES: (The date in parentheses is the date the rules were filed in the Legislative Research Council.)

Department of Social Services: Adult Services and Aging: (June 22, 2009) intends to amend Crime Victims' Compensation Program rules to revise definitions; specify requirements and limitations of covered services; update reference to overall payment limit of the program; remove specific dollar amount limits for covered expenses; remove unnecessary examples and duplicate language; update notice procedures to reflect current practice; allow the department and commission joint authority for claims reconsiderations; and allow loss of support compensation for victims in certain situations. The general authority for these rules, as cited by the department, is SDCL 23A-28B-4, 23A-28B-20, and 23A-28B-33,

A public hearing will be held in the DSS Conference Room #2, Kneip Office Building, 700 Governors Drive, Pierre, South Dakota, on August 17, 2009, at 9:00 a.m. Copies of the proposed rules may be obtained from and written comments sent to Laura Ringling, Administrative Rules, Department of Social Services, 700 Governors Drive, Pierre, South Dakota 57501. Ms. Ringling may be contacted by telephone at (605) 773-3165. Written comments must be received by August 27, 2009, to be considered. Individuals intending to present oral testimony at the hearing must make a written copy of their testimony available to the department at the time of the hearing. The testimony must relate directly to the changes being proposed and must cite the specific rule number to which the comments are being directed. This hearing is being held in a

physically accessible place. Persons who have special needs for which the department can make arrangements are asked to call (605) 773-3165 at least 48 hours before the hearing.

DECLARATORY RULINGS:

The South Dakota Gaming Commission has issued five declaratory rulings. The first ruling, dated June 26, 2009, In the Matter of the Declaratory Ruling of Elektroncek D. D., the commission determined that Elektroncek's electronic gaming device with a roulette theme, also known as "Mechanical Double Zero Roulette," is a slot machine according to SDCL 42-7B-4(21), ARSD 20:18:17:05, and the other statutes and rules relating to gaming in Deadwood; therefore this gaming device may be operated in licensed casinos in Deadwood.

The second ruling, dated July 1, 2009, In the Matter of the Declaratory Ruling of B. Y, Development, Inc., the commission has determined that, based on the structural evidence of the original construction of Cadillac Jack's Casino, the proposed Gaming Rooms 7 and 8 within the casino constitute separate and distinct buildings for the purpose of determining the number of gaming devices that may be placed within the casino.

The third ruling, dated June 26, 2008, In the Matter of the Declaratory Ruling of the Gold Dust Group, LLC (Pineview Apartment Building), the commission has determined that the Pineview Apartment Building constitutes two separate and distinct buildings for the purpose of determining the number of gaming devices that can be placed in each building.

The fourth ruling, dated December 13, 2008, In the Matter of the Declaratory Ruling of the Deadwood Resort, LLC, the commission has determined that the plans proposed for "The Lodge at Deadwood" structure constitute 10 separate and distinct buildings for the purpose of determining the number of gaming devices that may be placed within each building.

The fifth ruling, dated December 13, 2008, In the Matter of the Declaratory Ruling of Deadwood Resort, LLC, Request for Inner Access Variance, the commission has granted the request for a variance based on life safety considerations and the proposed opening between buildings 2 and 3 may be up to eight feet wide.

Copies of the declaratory rulings may be reviewed or copied at the office of the Legislative Research Council during normal business hours.

FILINGS IN THE SECRETARY OF STATE'S OFFICE:

Executive Appointments:

Jeffory A. Erickson, Sioux Falls, was appointed on July 17, 2009, to the **South Dakota Ellsworth Development Authority**, effective July 17, 2009, and shall continue until filling the position of an initial three-year term.

Gary Grittner, Ft. Pierre, was appointed on July 17, 2009, to the **South Dakota Ellsworth Development Authority**, effective July 17, 2009, filling the position of an initial two-year term.

Mark Johnston, Sioux Falls, was appointed on July 17, 2009, to the **South Dakota Ellsworth Development Authority**, effective July 17, 2009, and shall continue until filling the position of an initial three-year term.

Glen Kane, Rapid City, was appointed on July 17, 2009, to the **South Dakota Ellsworth Development Authority**, effective July 17, 2009, and shall continue until filling the position of an initial two-year term.

Stanley Porch, Wanblee, was appointed on July 17, 2009, to the **South Dakota Ellsworth Development Authority**, effective July 17, 2009, and shall continue until filling the position of an initial one-year term.

Bruce Rampelberg, Rapid City, was appointed on July 17, 2009, to the **South Dakota Ellsworth Development Authority**, effective July 17, 2009, and shall continue until filling the position of an initial three-year term.

Mark Roby, Watertown, was appointed on July 17, 2009, to the **South Dakota Ellsworth Development Authority**, effective July 17, 2009, and shall continue until filling the position of an initial one-year term.

Nancy Allard, Pierre, was reappointed on July 20, 2009, to the **Council of Juvenile Services**, effective immediately and shall continue until June 30, 2012.

Mary Carpenter, Winner, was reappointed on July 20, 2009, to the **South Dakota Risk Pool Advisory Board**, effective immediately and shall continue until June 30, 2012.

Doug Herrmann, Rapid City, was reappointed on July 20, 2009, to the **Council of Juvenile Services**, effective immediately and shall continue until June 30, 2012.

Kay Jorgensen, Spearfish, was reappointed on July 20, 2009, to the **South Dakota Board of Directors for Educational Telecommunications**, effective immediately and shall continue until June 30, 2012.

Janine Kern, Rapid City, was reappointed on July 20, 2009, to the **Council of Juvenile Services**, effective immediately and shall

continue until June 30, 2012.

Rick Knobe, Sioux Falls, was reappointed on July 20, 2009, to the **South Dakota Board of Directors for Educational Telecommunications**, effective immediately and shall continue until June 30, 2012.

Mike Leidholt, Pierre, was reappointed on July 20, 2009, to the **Council of Juvenile Services**, effective immediately and shall continue until June 30, 2012.

Lonnie McKittrick, Pierre, was reappointed on July 20, 2009, to the **South Dakota Risk Pool Advisory Board**, effective immediately and shall continue until June 30, 2012.

Larry Miller, Spearfish, was reappointed on July 20, 2009, to the **South Dakota Board of Directors for Educational Telecommunications**, effective immediately and shall continue until June 30, 2012.

Damian Prunty, Pierre, was reappointed on July 20, 2009, to the **South Dakota Risk Pool Advisory Board**, effective immediately and shall continue until June 30, 2012.

Susan Randall, Sioux Falls, was reappointed on July 20, 2009, to the **Council of Juvenile Services**, effective immediately and shall continue until June 30, 2012.

Jean Reed, Sioux Falls, was reappointed on July 20, 2009, to the **South Dakota Risk Pool Advisory Board**, effective immediately and shall continue until June 30, 2012.

Mark Shlanta, Sioux Falls, was reappointed on July 20, 2009, to the **South Dakota Board of Directors for Educational Telecommunications**, effective immediately and shall continue until June 30, 2012.

Barbara Smith, Sioux Falls, was reappointed on July 20, 2009, to the **South Dakota Risk Pool Advisory Board**, effective immediately

and shall continue until June 30, 2012.

Tanner Starr, Watertown, was reappointed on July 20, 2009, to the **Council of Juvenile Services**, effective immediately and shall continue until June 30, 2012.

Joanna Vitek, Watertown, was reappointed on July 20, 2009, to the **Council of Juvenile Services**, effective immediately and shall continue until June 30, 2012.

Virgena Wieseler, Pierre, was reappointed on July 20, 2009, to the **Council of Juvenile Services**, effective immediately and shall continue until June 30, 2012.

Glenda Woodburn, Pierre, was reappointed on July 20, 2009, to the **South Dakota Board of Directors for Educational Telecommunications**, effective immediately and shall continue until June 30, 2012.

Roger G. Bowie, Sioux Falls, was appointed on July 21, 2009, to the **South Dakota Advisory Council for Children with Disabilities**, effective July 20, 2009, and shall continue until June 30, 2012.

Sarah A. Carda, Yankton, was appointed on July 21, 2009, to the **South Dakota Advisory Council for Children with Disabilities**, to replace Peggy Hargens, effective July 20, 2009, and shall continue until June 30, 2012.

Clayton Cooch, Spearfish, was reappointed on July 21, 2009, to the **South Dakota Advisory Council for Children with Disabilities**, effective immediately and shall continue until June 30, 2012.

Lori D. Dennison, Elk Point, was appointed on July 21, 2009, to the **South Dakota Advisory Council for Children with Disabilities**, effective July 21, 2009, and shall continue until June 30, 2012.

Jim Dunston, Custer, was reappointed on July 21, 2009, to the **South Dakota Advisory Council for Children with Disabilities**, effective immediately and shall continue until June 30, 2012.

Gail Eichstadt, Pierre, was reappointed on July 21, 2009, to the **South Dakota Advisory Council for Children with Disabilities**, effective immediately and shall continue until June 30, 2012.

Michelle Greseth, Sisseton, was reappointed on July 21, 2009, to the **South Dakota Advisory Council for Children with Disabilities**, effective immediately and shall continue until June 30, 2012.

Bernie Grimme, Pierre, was reappointed on July 21, 2009, to the **South Dakota Advisory Council for Children with Disabilities**, effective immediately and shall continue until June 30, 2012.

Lisa Heckenlaible, Mitchell, was reappointed on July 21, 2009, to the **South Dakota Advisory Council for Children with Disabilities**, effective immediately and shall continue until June 30, 2012.

Sara Hoogheem, Clark, was appointed on July 21, 2009, to the **South Dakota Advisory Council for Children with Disabilities**, effective July 21, 2009, and shall continue until June 30, 2012.

Judy Hoscheid, Pierre, was reappointed on July 21, 2009, to the **South Dakota Advisory Council for Children with Disabilities**, effective immediately and shall continue until June 30, 2012.

Marie Ivers, Brookings, was appointed on July 21, 2009, to the **South Dakota Advisory Council for Children with Disabilities**, to replace Nicole Haneke, effective July 21, 2009, and shall continue until June 30, 2012.

Laura Johnson-Frame, Pierre, was reappointed on July 21, 2009, to the **South Dakota Advisory Council for Children with Disabilities**, effective immediately and shall continue until June 30, 2012.

Kerry B. Larson, Sioux Falls, was appointed on July 21, 2009, to the **South Dakota Advisory Council for Children with Disabilities**, effective July 21, 2009, and shall continue until June 30, 2012.

Timothy Reisch, Howard, was reappointed on July 21, 2009, to the position of **Secretary of the Department of Corrections**, effective April 24, 2009, and shall continue at the pleasure of the Governor.

Shelly J. Shaw, Mission, was appointed on July 21, 2009, to the **South Dakota Advisory Council for Children with Disabilities**, to replace Michele Cogley, effective July 20, 2009, and shall continue until June 30, 2012.

Heather Stettinichs, Brandon, was reappointed on July 21, 2009, to the **South Dakota Advisory Council for Children with Disabilities**, effective immediately and shall continue until June 30, 2012.

Nora Svatos, Lake Andes, was reappointed on July 21, 2009, to the **South Dakota Advisory Council for Children with Disabilities**, effective immediately and shall continue until June 30, 2012.

Jolie L. Tostenson, Milbank, was appointed on July 21, 2009, to the **South Dakota Advisory Council for Children with Disabilities**, effective July 21, 2009, and shall continue until June 30, 2012.

Steve Halverson, Pierre, was reappointed on July 22, 2009, to the **Wheat Utilization Research and Marketing Development Commission**, effective immediately and shall continue until June 30, 2012.

Note: A copy of the rules may be obtained directly from the above agencies. Write to the agency at the address given under "Notices of Proposed Rules." There is no charge for proposed rules. The following agencies have permission from the Interim Rules Review Committee to charge for adopted rules: the Division of Insurance, the Cosmetology Commission, the State Board of Examiners

in Optometry, the State Plumbing Commission, the Board of Nursing, the Department of Social Services, the State Electrical Commission, the South Dakota Board of Pharmacy, the Real Estate Commission, the Gaming Commission, the Department of Revenue and Regulation, and the Department of Labor for Article 47:03.

REMINDER OF HEARINGS SCHEDULED

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| <p>8-6-2009</p> | <p>Game, Fish and Parks</p> | <p>Amend a Uses of Parks and Public Land rule to permit hunting only with shotguns using shot shells and bow and arrow on the Lake Andes Units Game Production Areas in Charles Mix County; amend a Park Licenses rule to establish the procedure by which a qualifying disabled veteran may obtain a free lifetime park license; amend Waterfowl Hunting Seasons (Duck Hunting Season) rules to establish season dates, which would include establishing a split season for the High Plains Unit in order to extend the season for an additional week, and establish daily bag and possession limits for duck, coot, and merganser, which would include increasing the daily bag limit for Wood Duck from 2 to 3 depending on the current adjustment consideration at the Flyway level by the U.S. Fish and Wildlife Service; amend Elk Depredation Permit rules to establish requirements and restrictions; allow elk depredation hunts to be conducted in areas not designated as an elk unit; allow elk depredation hunts to be conducted before a regular season is opened; base hunter selection for elk depredation hunts on unsuccessful hunters for that unit from the first drawing, then unsuccessful hunters for that unit from the second drawing, then unsuccessful applicants for that unit, then unsuccessful applicants for elk units closest to the depredation hunt area; base hunter selection for pre-season depredation hunts on successful applicants for that unit, then unsuccessful applicants for that unit, then unsuccessful applicants for elk hunting units closest to the depredation hunt area; collect fees only from elk depredation hunters who did not pay for a license during the current season; unsuccessful applicants</p> |
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| | | selected for a depredation hunt who elect to participate would not lose their preference points; and amend Private Shooting Preserve rules to increase the daily bag limit for pheasants on shooting preserves from 15 to 20; establish both a single-season and 3-year season private shooting preserve permit and provide for the manner in which acreage adjustments are handled for 3-year permits; and provide that all pen-reared and wild birds harvested on a shooting preserve be tagged with tags that distinguish whether the harvested bird is pen-raised or wild, increase the fee for kill tags for pen-reared birds harvested on a shooting preserve from five to fifteen cents each, and establish a new fee for kill tags issued for wild birds harvested on a shooting preserve at fifty cents each; 36 SDR 7. |
| 8-11-2009 | Personnel | Amend rules to insure that any applicant or employee with a position in the Department of Agriculture, Wildland Fire Suppression Division, whose duties include firefighting, be drug free; 36 SDR 7. |
| 8-11-2009 | Social Services: Adult Services and Aging | Amend Crime Victims' Compensation Program rules to revise definitions; specify requirements and limitations of covered services; update reference to overall payment limit of the program; remove specific dollar amount limits for covered expenses; remove unnecessary examples and duplicate language; update notice procedures to reflect current practice; allow the department and commission joint authority for claims reconsiderations; and allow loss of support compensation for victims in certain situations; 36 SDR 13. |
| 8-13-2009 | Health: Board of Examiners in Optometry | Amend Appendix A to add codes to the Procedural Code List; 36 SDR 7. |
| 8-14-2009 | Health: Administration | Amend a rule to define the disinterment process; 36 SDR 7. |

RULES REVIEW COMMITTEE MEETINGS

The next meeting of the Interim Rules Review Committee will be held Tuesday, July 28, 2009, via the Digital Dakota Network (DDN) in Room 414, Fourth Floor, of the State Capitol. Other DDN sites will be: Aberdeen – NSU, 1200 S. Jay Street, Room Lib117; Huron – DOT, 901 Dakota St.; Mitchell – MTI, 1800 E. Spruce, Room TC155; Rapid City – SDSM&T, 501 E. St. Joseph St., Room CB109; Sioux Falls – SFUC, 2205 Career Ave., Room 282S; and Yankton – DOT, 1306 W. 31st St. The committee chair has set the following tentative meeting schedule for the 2009 interim: September 1, October 6, November 18, and December 15.

Note: An updated version of the Administrative Rules Guide to Form and Style is available on the Legislative Web site at <http://legis.state.sd.us/rules/index.aspx>.

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