

REGISTER



South Dakota Legislative Research Council

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A COPY OF EACH REGISTER IS FILED IN THE OFFICE OF THE SECRETARY OF STATE

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

Department of Social Services: Crime Victims' Compensation Commission: (November 17, 2003) has filed rules to repeal the definition of "medical expense"; incorporate by reference the definitions of the terms contained in SDCL 23A-28B-1; require an individual seeking compensation to submit to the Department a written, signed application; limit the individuals who may request compensation from the fund; list those circumstances for which compensation is not allowed; establish guidelines the Department will use to determine whether a victim contributed substantially to the victim's injury or death; establish good cause criteria to be used by the Department when an individual fails to apply for compensation within one year after the date of the personal injury or death; establish guidelines the Department will use to determine whether the claimant cooperated with law enforcement in the investigation and prosecution of the crime; establish those circumstances under which a South Dakota resident who was a victim of a crime in another jurisdiction can apply for compensation from the fund; specify that payment will be made directly to the service provider unless the claimant provides proof that the services were paid by the claimant; specify that payments made by the Department are considered to be payment in full unless certain additional circumstances exist; limit the length of time the Department will retain records related to a claim; establish the payment procedures to be followed by the Department if a collateral source exists; define mental health services;

require the Commission to approve payment for residential mental health services; establish service and payment limits for the provision of mental health services, transportation expenses, lost earnings, lost support, loss of personal property, child care expenses, security devices, medical expenses resulting from a sexual assault, homicide cleanup expenses, chiropractic services, home health services, funeral and burial expenses; establish good cause criteria for the payment of mileage to enable a claimant to obtain services from a provider located out of South Dakota; allow the payment of witness fees if an individual appears before the Commission to present evidence in support of a claim; limit the payment of witness fees and mileage to those allowed under SDCL 19-5-1; except for certain services, limit the payment of medical expenses to those services provided during the 12-month period immediately following the date the crime occurred and allow the Commission to extend this period if good cause is shown; based on evidence provided by the claimant, allow the Commission to deviate from the established limits; require the Department to reduce the payment to a victim if the victim was previously an alleged offender whose actions resulted in payment from the fund on behalf of another victim and establish the methodology for calculating the amount of the reduction; reduce the amount payable in order to recover the amount of an emergency award and require an individual to repay the fund if the amount of the final payment is less than the emergency award; if a claim is being made on behalf of a deceased victim's dependent, allow the Department to require documentation that substantiates the claimant's relationship to the victim; allow the

Commission to reopen or reinvestigate previously closed claims under certain circumstances and to subsequently withdraw or reduce an award of compensation.

For rules relating specifically to hearings conducted by the Commission, the effects of these changes will be to repeal a rule that detailed the order of business for Commission meetings; repeal a rule that allowed the Commission to request additional information to substantiate a claim; when a claimant requests a hearing, require the Commission to send the claimant a Notice of Hearing at least 30 days before the hearing; specify the contents of the Notice of Hearing and consider service of the Notice to be complete when a copy is deposited in the mail; if the claimant is unable to attend the hearing, require the claimant to notify the Commission prior to the hearing; if the claimant fails to notify the Commission and fails to appear, allow the claimant a limited period of time to present the Commission with good cause reasons as to their failure to appear; allow the Commission to reschedule a hearing for good cause; allow the Commission to take final action during a second hearing if the claimant fails to appear at the re-scheduled hearing; specify that the Commission will accept evidence to support the claim and specify that the burden of proof is on the claimant to show that the claim is reasonable and compensable; allow the Commission to conduct an independent investigation and to use that information when making decisions; specify that subpoenas issued by the Commission shall be served and fees and mileage paid according to state law; specify that the Commission's final decision is final and conclusive as to all matters adjudicated; and require the Commission to send a written notice to the claimant notifying the claimant of the final decision. 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 at 9:00 a.m. on December 9, 2003, in Room 413, State Capitol Building, 500 E. Capitol Avenue, Pierre, South

Dakota. Copies of the proposed rules may be obtained from and written comments sent to Jill Wellhouse, Administrative Rules, Department of Social Services, 700 Governors Drive, Pierre, South Dakota 57501. Written comments relating to the Commission's hearing provisions must be received by twelve o'clock noon on December 8, 2003, to be considered. Comments that relate to the remainder of the rules must be received by the Department by December 19, 2003, 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) 773-3305 at least forty-eight hours before the hearing.

Department of Game, Fish and Parks:

(November 21, 2003) has filed rules to prohibit possession of uncased firearms at Kelly's Cove Fishing Access Area located along the James River east of Yankton and change the designation of the Mission Hill Game Production Area to a Fishing Access area, and prohibit the taking of more than 1 walleye, sauger, or walley-sauger hybrid 20 inches or greater in length daily from Campbell Slough. The general authority for these rules, as cited by the department, is SDCL 41-2-18 and 41-17.1.1.

A public hearing will be held at the Best Western Ramkota Hotel, 920 West Sioux, Pierre, South Dakota, on December 11, 2003, at 2:00 p.m. Copies of the proposed rules may be obtained from and written comments sent to John L. Cooper, Secretary, Foss Building, 523 East Capitol Avenue, Pierre, South Dakota 57501. Written comments must be received prior to the hearing date. Comments may also be sent by e-mail to chuck.schlueter@state.sd.us. E-mail comments must include the commenter's

name and address. Handicapped persons may contact the department at (605) 773-3718 for assistance.

FILINGS IN THE SECRETARY OF STATE'S OFFICE:

Administrative Rules:

DEPARTMENT OF TRANSPORTATION:
70:01:02:00, 70:01:02:02, 70:01:02:06,
70:01:02:42, and 70:01:02:65.

History-Notice: 30 SDR 35, Sept. 8, 2003
Hearing: October 22, 2003
Filed: November 17, 2003
Effective: December 7, 2003

DEPARTMENT OF TRANSPORTATION:
70:03:01:36.09.

History-Notice: 30 SDR 47, October 6, 2003
Hearing: October 22, 2003
Filed: November 17, 2003
Effective: December 7, 2003

DEPARTMENT OF HEALTH: 44:20:01:01,
44:20:01:03, 44:20:01:04; 44:20:02:06; and
44:20:03:01.

History-Notice: 30 SDR 47, October 6, 2003
Hearing: October 28, 2003
Filed: November 17, 2003
Effective: December 7, 2003

**DEPARTMENT OF REVENUE AND
REGULATION: DIVISION OF
INSURANCE:** 20:06:08:40, 20:06:08:43;
20:06:21:44.01; and 20:06:28:01.

History-Notice: 30 SDR 51, October 14, 2003
Hearing: October 28, 2003
Filed: November 19, 2003
Effective: December 9, 2003

**DEPARTMENT OF REVENUE AND
REGULATION:** 64:44:01:08; 64:75:04:10,
64:75:04:12, and 64:75:04:14.

History-Notice: 30 SDR 47, October 6, 2003
Hearing: October 24, 2003
Filed: November 20, 2003
Effective: December 10, 2003

Executive Appointments:

Todd Chambers, Pierre, was reappointed on November 20, 2003, to the **Statewide One-Call Notification Center Board**, effective immediately and shall continue until November 1, 2006.

Kevin Kouba, Milbank, was reappointed on November 20, 2003, to the **Statewide One-Call Notification Center Board**, effective immediately and shall continue until November 1, 2006.

Paul Lowe, Rapid City, was reappointed on November 20, 2003, to the **Statewide One-Call Notification Center Board**, effective immediately and shall continue until November 1, 2006.

Donn Fahrendorf, Sioux Falls, was reappointed on November 20, 2003, to the **Board of Chiropractic Examiners**, effective immediately and shall continue until January 1, 2007.

David Peters, Spearfish, was reappointed on November 20, 2003, to the **South Dakota Professional Administrators Practices and Standards Commission**, effective immediately and shall continue until December 31, 2006.

Scott Gannaway, Pierre, was reappointed on November 20, 2003, to the **South Dakota Professional Administrators Practices and Standards Commission**, effective immediately and shall continue until December 31, 2006.

Theodore J. Pins, Jr., Wentworth, was reappointed on November 20, 2003, to the **Board of Pardons and Paroles**, effective immediately and shall continue until January 19, 2008.

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 Commerce and Regulation for commercial driver licensing, the Department of Labor for Article 47:03, and the Department of Revenue.

REMINDER OF HEARINGS SCHEDULED

12-1-2003	Education: Board of Education	Amend rules regarding school bus standards and procedures; 30 SDR 77.
12-1-2003	Education: Board of Education	Amend a rule to require that the Office of Career and Technical Education convene a meeting of the technical directors and an Office of Economic Development staff member to review applications for new or expanded programs prior to their presentation to the State Board of Education; 30 SDR 77.
12-1-2003	Education: Board of Education	Amend rules to remove the current years of experience requirement from the administrator certification program and add a requirement of three years of verified experience in an accredited K-12 school; create an alternative route of certification for administrators; transfer all endorsement programs from ARSD 24:16:08 to a new chapter; and create a principal endorsement program; 30 SDR 78.
12-4-2003	Revenue and Regulation: Appraisers	Amend rules to describe the appropriate use of titles in advertising, remove the varying requirements for return to active status, update references to the Uniform Standards of Professional Appraisal Practice, and defer continuing education requirements for reciprocal appraisers if they are duly licensed or certified in their state of domicile; 30 SDR 84.
12-5-2003	Public Safety: Office of Emergency Medical Services	Adopt and amend rules to define terms and update licensing, personnel, and equipment requirements for ambulance services; 30 SDR 78.
12-9-2003	Social Services: Crime Victims' Compensation Commission	Amend rules to update and clarify existing rules; implement form and style changes; repeal rules that are not necessary or that duplicate existing statutory provisions; define terms; establish eligibility criteria, limits on covered services, payment methodology, and

		<p>payment rates; specify those circumstances when compensation is not allowed; limit the length of time records are kept; establish good cause criteria; require Commission approval for payment of certain services; in certain circumstances, allow the payment of witness fees; allow the Commission to approve amounts in excess of established limits; allow the Department or the Commission to reduce payments under certain circumstances; require substantiation of claims; specify that the Department will make payments directly to the service provider and consider the Department's payment to be payment in full unless certain additional circumstances exist; and establish the procedure to be followed when a claimant requests a hearing by the Commission for purposes of reviewing a claim for compensation, including service of the Notice of Hearing, the issuing of subpoenas, the process to be followed if a claimant fails or is unable to attend the hearing, and the final decision and notice; 30 SDR 87.</p>
<p>12-10-2003</p>	<p>Revenue and Regulation: Commission on Gaming</p>	<p>Adopt a variation of play for STREAK blackjack; add to definitions of slot machine testing, approval, and modifications "on-line monitoring and control system" and "redemption kiosks"; prohibit the sale of slot machines by Deadwood casinos unless purchaser is regulated by gaming agency that has agreement with the South Dakota Commission regarding exchange of information on licensees and/or applicants; clarify that certain parts and associated equipment can effect and trigger revenue reporting; adding to the definition of associated equipment to include "redemption kiosks" and "on-line monitoring and control systems"; redefine gross revenue to include hand pay credit lockups and vouchers; recognize situations where vouchers are not redeemed; require accounting of the liability associated with vouchers and paper tickets; repeal provisions dealing with unclaimed jackpots and unredeemed vouchers; add cage count provisions to the gaming revenue collection and count schedule audit requirements; and eliminate the requirement</p>

		that engagement slips be signed by both the owner or trainer and the jockey or jockey's agent; 30 SDR 83.
12-11-2003	Agriculture: State Fair	Amend rules to create a definition of "Fair Week" and conform the rules to recent statutory changes which vested control of the State Fair to the Secretary of Agriculture; 30 SDR 78.
12-11-2003	Game, Fish and Parks	Amend rules to prohibit possession of uncased firearms at Kelly's Cove Fishing Access Area located along the James River east of Yankton and change the designation of the Mission Hill Game Production Area to a Fishing Access area, and prohibit the taking of more than 1 walleye, sauger, or walley-sauger hybrid 20 inches or greater in length daily from Campbell Slough; 30 SDR 88.
12-12-2003	Tourism and State Development: State Historical Society	Adopt and amend rules to set standard fees for photographic shipping and handling and processing and clarify non-governmental use of the Cultural Heritage Center; 30 SDR 83.

Rules Review Committee Meetings

The next meeting of the Interim Rules Review Committee will be held Tuesday, December 2, 2003, in Room 413 of the State Capitol. The committee chair has set the following tentative meeting for the remainder of the interim: January 12, 2004.

Agencies whose rules have had a public hearing will be scheduled to meet with the Rules Review Committee and are asked to have a representative present at the meeting to give background information on their rules.

Note: An updated version of the Administrative Rules Guide to Form and Style is available at the LRC office and on the LRC web site.