

State of South Dakota

EIGHTIETH LEGISLATIVE ASSEMBLY, 2005

916L0034

SENATE BILL NO. _____

Introduced by: _____

1 FOR AN ACT ENTITLED, An Act to BON HOMME-----Perjury.

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

3 Section 1. That § 22-29-1 be amended to read as follows:

4 22-29-1. Any person who, having taken an oath ~~that he or she will~~ to testify, declare, depose,
5 or certify truly, before any competent tribunal, officer, or person, in any state or federal
6 proceeding or action in which such an oath may by law be administered, ~~intentionally and~~
7 ~~contrary to the oath~~, states, intentionally and contrary to the oath, any material matter which the
8 person knows to be false, is guilty of perjury.

9 Section 2. That § 22-29-2 be amended to read as follows:

10 22-29-2. ~~An~~ Any unqualified statement of that which ~~one~~ a person does not know or
11 reasonably believe to be true is equivalent to a statement of that which ~~one~~ a person knows to
12 be false.

13 Section 3. That § 22-29-3 be amended to read as follows:

14 22-29-3. It is no defense to a prosecution for perjury that the accused was not competent to
15 give the testimony, deposition, or certificate of which falsehood is alleged. It is sufficient that
16 ~~he~~ the accused actually was required to give such testimony or made such deposition or



1 certificate.

2 Section 4. That § 22-29-4 be amended to read as follows:

3 22-29-4. It is no defense to a prosecution for perjury that the accused did not know the
4 materiality of the false statement ~~made by him~~, or that it the false statement did not in fact affect
5 the proceeding in or for which it the false statement was made. It is sufficient that it the false
6 statement was material and might have been used to affect such proceeding.

7 Section 5. That § 22-29-5 be amended to read as follows:

8 22-29-5. Perjury:

9 (1) ~~When~~ If committed ~~on a~~ in any trial for felony, is a Class 3 felony;

10 (2) ~~When~~ If committed ~~on in~~ in any other trial or, court proceeding ~~in a court of justice,~~
11 is a Class 4 felony;

12 ~~———— (3) In all other cases is a Class 5 felony, deposition, or administrative proceeding~~
13 conducted under oath, is a Class 5 felony.

14 Section 6. That § 22-29-6 be amended to read as follows:

15 22-29-6. Any person who intentionally procures another person to commit any perjury is
16 guilty of subornation of perjury. Subornation of perjury is punishable in the same manner as
17 perjury, and as if the suborner were personally guilty of the perjury so procured.

18 Section 7. That § 22-29-7 be repealed.

19 ~~———— 22-29-7. Every person guilty of subornation of perjury is punishable in the same manner as~~
20 ~~he would be if personally guilty of the perjury so procured.~~

21 Section 8. That § 22-29-8 be amended to read as follows:

22 22-29-8. The term, "oath", as used in this chapter, includes ~~an~~ any affirmation, and every
23 other mode of attesting the truth of that which is stated, which is authorized by law. It is no
24 defense that ~~an~~ the oath was administered or taken in an irregular manner.

1 Section 9. That § 22-29-9 be repealed.

2 ~~22-29-9. So much of an oath of office as relates to future performance of official duty is not~~
3 ~~sufficient to constitute perjury or subornation.~~

4 Section 10. That § 22-29-9.1 be amended to read as follows:

5 22-29-9.1. Any person who submits any petition, application, information, or other
6 document for the purpose of obtaining benefits or any other privilege from the State of South
7 Dakota shall verify, under oath, that such petition, application, or information is true and
8 correct. However, it is sufficient if the claimant, in lieu of verification under oath, signs a
9 statement printed or written thereon in the form following: "I declare and affirm under the
10 penalties of perjury that this claim (petition, application, information) has been examined by me,
11 and to the best of my knowledge and belief, is in all things true and correct." Any person who
12 signs such statement as provided for in this section, knowing the ~~same~~ statement to be false or
13 untrue, in whole or in part, ~~shall be~~ is guilty of perjury.

14 Section 11. That § 22-29-10 be amended to read as follows:

15 22-29-10. The making of a any deposition or certificate is deemed to be complete, within
16 the provisions of this chapter, from the time when it is delivered by the accused to any other
17 person with intent that it be uttered or published as true.

18 Section 12. That § 22-29-11 be amended to read as follows:

19 22-29-11. ~~It shall be unlawful for any~~ No person to may knowingly make or execute a false
20 statement, instrument, document, or representation, or to use any other fraudulent device, and
21 thereby obtain money, property, or other assistance to which ~~he~~ that person is not entitled, from
22 any program provided for by Title 26, 27A, 27B, or 28, of the South Dakota Codified Laws, or
23 otherwise administered by the South Dakota Department of Social Services.

24 Section 13. That § 22-29-12 be amended to read as follows:

1 22-29-12. ~~It shall be unlawful for any~~ No person to ~~may~~ knowingly fail to report any change
2 in circumstances which would affect ~~his~~ that person's eligibility for money, property, or other
3 assistance, and thereby obtain money, property, or other assistance to which ~~he~~ that person is
4 not entitled, from any program provided for by Title 26, 27A, 27B, or 28, of the South Dakota
5 Codified Laws, or otherwise administered by the South Dakota Department of Social Services.

6 Section 14. That § 22-29-13 be amended to read as follows:

7 22-29-13. For ~~purpose~~ the purposes of §§ 22-29-11 to 22-29-17, inclusive, any person who
8 receives money, property, or services, on behalf of any other person, from any program covered
9 by such sections, shall be considered to have received such money for himself or herself.

10 Section 15. That § 22-29-14 be amended to read as follows:

11 22-29-14. Any person who attempts to obtain any money, property, or other assistance, in
12 violation of § 22-29-11 or 22-29-12, but does not thereby obtain any such money, property, or
13 services, ~~shall be~~ is guilty of a Class 1 misdemeanor.

14 Section 16. That § 22-29-15 be amended to read as follows:

15 22-29-15. Any person who violates § 22-29-11 or 22-29-12 and thereby obtains money,
16 property, or other assistance to which ~~he~~ such person is not entitled with a value of two hundred
17 dollars or less ~~shall be~~ is guilty of a Class 1 misdemeanor.

18 Section 17. That § 22-29-16 be amended to read as follows:

19 22-29-16. Any person who violates § 22-29-11 or 22-29-12 and thereby obtains money,
20 property, or other assistance to which ~~he~~ such person is not entitled with a value of more than
21 two hundred dollars ~~shall be~~ is guilty of a Class 6 felony.

22 Section 18. That § 22-29-17 be amended to read as follows:

23 22-29-17. Amounts involved in violations of §§ 22-29-11 ~~and~~ or 22-29-12, or both,
24 committed pursuant to one scheme or course of conduct, may be aggregated in determining the

1 degree of the offense.

2 Section 19. That § 22-29-18 be amended to read as follows:

3 22-29-18. It is sufficient for a conviction of any offense under this chapter that a finding of
4 guilt is based upon admissible evidence ~~and no~~. No minimum number of witnesses ~~may be~~ is
5 required. In reviewing the sufficiency of the evidence of a conviction under this chapter, the
6 court shall only consider whether there is evidence in the record which, if believed by the trier
7 of fact, is sufficient to sustain a finding of guilty beyond a reasonable doubt.