

# State of South Dakota

## EIGHTIETH LEGISLATIVE ASSEMBLY, 2005

916L0088

SENATE BILL NO. \_\_\_\_\_

Introduced by: \_\_\_\_\_

1 FOR AN ACT ENTITLED, An Act to HAMLIN-ABUSE OF JUDICIAL PROCESS.

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

3 Section 1. That § 22-12-1 be amended to read as follows:

4 22-12-1. Barratry is the ~~practice offense~~ of maliciously bringing or causing to be brought any  
5 groundless judicial ~~proceedings proceeding~~. It Barratry is a Class 2 misdemeanor. The fact that  
6 an accused was ~~himself~~ personally a party in interest or upon the record to any proceedings at  
7 law complained of is not a defense.

8 Section 2. That § 22-12-5 be amended to read as follows:

9 22-12-5. Any person who, for the purpose of obtaining anything of value, ~~shall circulate~~  
10 circulates or ~~offer~~ offers for sale, ~~print~~ prints for the purpose of sale or distribution, ~~send~~ sends  
11 or ~~deliver~~ delivers, or ~~cause~~ causes to be sent or delivered, any letter, paper, document, notice  
12 of intent to bring suit, or other notice or demand which simulates a any form of court or legal  
13 process or any official demand, notice or other paper of a federal, state, or municipal agency,  
14 the intention of which document is to lead the recipient or addressee to believe ~~the same to be~~  
15 that it is a genuine court or legal process or official demand, notice, or other paper of a federal,  
16 state, or municipal agency, is guilty of uttering simulated process. Uttering simulated process



1 is a Class 1 misdemeanor.

2 Section 3. That § 22-12-6 be amended to read as follows:

3 22-12-6. It ~~shall be~~ is no defense to a charge of uttering simulated process, that the document  
4 bears any statement that the thing of value sought to be obtained was to apply as payment on a  
5 valid obligation.

6 Section 4. That § 22-12-7 be amended to read as follows:

7 22-12-7. In prosecutions for any violation of § 22-12-5, the prosecution may show that the  
8 simulating document was deposited in the post office for mailing or was delivered to any person  
9 with intent to be forwarded, and such showing ~~shall be~~ is sufficient proof of the sending or  
10 delivery.

11 Section 5. That § 22-12-8 be amended to read as follows:

12 22-12-8. Nothing in §§ 22-12-5 to 22-12-7, inclusive, ~~shall prevent~~ prevents the printing,  
13 publication, sale, or distribution of genuine legal forms.

14 Section 6. That § 22-12-10 be amended to read as follows:

15 22-12-10. Any public officer or person pretending to be a public officer, who under the  
16 pretense or color of any process or other legal authority, arrests any person, or detains ~~him~~ any  
17 person against ~~his~~ that person's will, or seizes or levies upon any property, or dispossesses  
18 ~~anyone~~ any person of any lands or tenements without due and legal process, is guilty of a Class  
19 1 misdemeanor.

20 Section 7. That § 22-12-11 be repealed.

21 ~~—22-12-11. Any person who attaches the dead body of a human being for any debt or demand,~~  
22 ~~or detains or claims to detain it for any debt or demand, or upon any pretended lien or charge,~~  
23 ~~is guilty of a Class 2 misdemeanor.~~

24 Section 8. That § 22-12-13 be amended to read as follows:

1        22-12-13. Any person who, maliciously, and without probable cause, procures a search  
2 warrant to be issued and executed is guilty of a Class 1 misdemeanor.

3        Section 9. That § 22-12-14 be amended to read as follows:

4        22-12-14. Any law enforcement officer who, in executing a search warrant, intentionally  
5 exceeds his or her authority, or exercises ~~it~~ such authority maliciously, is guilty of a Class 1  
6 misdemeanor.

7        Section 10. That § 22-12-15 be amended to read as follows:

8        22-12-15. Any law enforcement officer or other person, who, having arrested a person on  
9 a criminal charge ~~and,~~ intentionally ~~delayed~~ delays taking that person before a committing  
10 magistrate for further proceedings, is guilty of a Class 1 misdemeanor.