

State of South Dakota

SEVENTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 1997

400A0653

SENATE ENGROSSED NO. **HB1164** - 2/25/97

Introduced by: Representatives Jorgensen and Hunt and Senators Whiting and Halverson

1 FOR AN ACT ENTITLED, An Act to authorize sanctions for inmate abuse of the court system
2 and to require inmate financial responsibility for costs incurred from the court actions.

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

4 Section 1. That chapter 24-2 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 The secretary of corrections shall develop department rules which allow an inmate to be
7 sanctioned pursuant to §§ 24-2-9 and 24-15A-4 for each instance that a court finds that the
8 inmate has done any of the following while in the custody of the Department of Corrections:

- 9 (1) Filed a false, frivolous, or malicious action or claim with the court;
- 10 (2) Brought an action or claim with the court solely or primarily for delay or harassment;
- 11 (3) Unreasonably expanded or delayed a judicial proceeding;
- 12 (4) Testified falsely or otherwise submitted false evidence or information to the court;
- 13 (5) Attempted to create or obtain a false affidavit, testimony, or evidence; or
- 14 (6) Abused the discovery process in any judicial action or proceeding.

15 The violation of such rules may be considered in parole release decisions pursuant to
16 subdivision 24-13-7(6) and shall be considered in determining substantive compliance or

1 noncompliance with the inmate's individual program directive pursuant to §§ 24-15A-35 and 24-
2 15A-39.

3 Section 2. That chapter 15-17 be amended by adding thereto a NEW SECTION to read as
4 follows:

5 If a court finds that an inmate has acted in a manner specified by the provisions of section 1
6 of this Act, the court shall order the inmate plaintiff to pay the costs incurred by the person or
7 the state in defending the cause of action, including reasonable attorney's fees.

8 Section 3. That § 24-2-29 be amended to read as follows:

9 24-2-29. An inmate is liable for court ordered fines, costs, fees, sanctions, and restitution and
10 any obligation incurred while under the jurisdiction of the Department of Corrections including
11 those outlined in §§ 24-2-28, 24-7-3, 24-8-9, and 24-11A-19, and any other charge owed to the
12 State. Disbursement shall be made from an inmate's institutional account to defray the inmate's
13 obligation, regardless of the source of the inmate's funds, including moneys in the inmate's
14 institutional account pursuant to § 24-2-5₂ and wages earned by the inmate pursuant to
15 §§ 24-4-9, 24-7-3(3), 24-7-6, 24-8-8, and 24-11A-20.

16 Section 4. If a court finds that an inmate or prisoner has acted in a manner specified by the
17 provisions of section 1 of this Act in a county or regional jail, the court shall order the inmate
18 or prisoner plaintiff to pay the costs incurred by the person or the county in defending the cause
19 of action, including reasonable attorney's fees.

1 **BILL HISTORY**

2 1/29/97 First read in House and referred to Judiciary. H.J. 198

3 2/6/97 Scheduled for Committee hearing on this date.

4 2/6/97 Judiciary Do Pass Amended, Passed, AYES 8, NAYS 4. H.J. 360

5 2/11/97 Deferred to another day. H.J. 421

6 2/12/97 Deferred to another day. H.J. 450

7 2/13/97 House of Representatives Do Pass Amended, Passed, AYES 60, NAYS 8. H.J. 465

8 2/13/97 House of Representatives Title Amended. H.J. 466

9 2/14/97 First read in Senate and referred to Judiciary. S.J. 460

10 2/21/97 Scheduled for Committee hearing on this date.

11 2/21/97 Judiciary Do Pass, Passed, AYES 6, NAYS 1. S.J. 591

12 2/24/97 Motion to Amend, Passed. S.J. 618

13 2/24/97 Senate Do Pass Amended, Passed, AYES 34, NAYS 0. S.J. 618