

State of South Dakota

SEVENTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 1997

400A0662

HOUSE BILL NO. 1259

Introduced by: The Committee on Judiciary at the request of the Department of Corrections

1 FOR AN ACT ENTITLED, An Act to provide certain provisions regarding inmate assault
2 against Department of Corrections employees.

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

4 Section 1. That chapter 22-18 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Any convicted or adjudicated person under the jurisdiction of the Department of Corrections
7 who spits, throws, smears, or otherwise causes bodily fluids, excrement, or human waste to
8 come in contact with a Department of Corrections employee, or visitor, or volunteer authorized
9 by the Department of Corrections, or person under contract assigned to the Department of
10 Corrections is guilty of a Class 5 felony.

11 Section 2. That chapter 22-18 be amended by adding thereto a NEW SECTION to read as
12 follows:

13 A conviction pursuant to section 1 of this Act shall be punished by a mandatory sentence in
14 the State penitentiary of not less than two years, which sentence may not be suspended.
15 Probation or suspended execution of sentence may not form the basis for reducing the mandatory
16 time of incarceration required by this section.

1 Section 3. That chapter 22-18 be amended by adding thereto a NEW SECTION to read as
2 follows:

3 A penitentiary sentence arising from a conviction pursuant to section 1 of this Act may not
4 commence until the expiration, with no allowance of good time, of the last sentence of
5 imprisonment, pursuant to § 23A-27-36.

6 Section 4. That chapter 22-18 be amended by adding thereto a NEW SECTION to read as
7 follows:

8 An inmate sentenced pursuant to section 1 of this Act shall serve the entire term of the
9 sentence and is not eligible for parole release as authorized under chapter 24-15A.

10 Section 5. That § 22-18-1.1 be amended to read as follows:

11 22-18-1.1. Any person who:

- 12 (1) Attempts to cause serious bodily injury to another, or causes such injury, under
13 circumstances manifesting extreme indifference to the value of human life;
- 14 (2) Attempts to cause, or knowingly causes, bodily injury to another with a dangerous
15 weapon;
- 16 (3) Attempts to cause or knowingly causes any bodily injury to a law enforcement officer
17 or other public officer engaged in the performance of ~~his~~ the officer's duties;
- 18 (4) Assaults another with intent to commit bodily injury which results in serious bodily
19 injury; ~~or~~
- 20 (5) Attempts by physical menace with a deadly weapon to put another in fear of imminent
21 serious bodily harm; or
- 22 (6) Is a convicted or adjudicated person under the jurisdiction of the Department of
23 Corrections and attempts to cause, or knowingly causes bodily harm to a Department
24 of Corrections employee, or authorized visitor, volunteer, or person under contract
25 assigned to the Department of Corrections;

1 is guilty of aggravated assault. Aggravated assault is a Class 3 felony.