

# State of South Dakota

SEVENTY-SECOND SESSION  
LEGISLATIVE ASSEMBLY, 1997

400A0244

## SENATE BILL NO. 63

Introduced by: The Committee on Health and Human Services at the request of the Department  
of Social Services

1 FOR AN ACT ENTITLED, An Act to extend medical assistance recovery to estates of surviving  
2 spouses of certain deceased medical assistance recipients.

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

4 Section 1. That § 28-6-23 be amended to read as follows:

5 28-6-23. Any payment of medical assistance by or through the Department of Social Services  
6 to an individual who is an inpatient in a nursing facility, an intermediate care facility for the  
7 mentally retarded, or other medical institution, is a debt due to the department. Any payment on  
8 behalf of any person fifty-five years of age or older for nursing facility services, home and  
9 community based services, intermediate care facility services for the mentally retarded, hospital  
10 and prescription drug services, is a debt due the department. The Department of Social Services  
11 shall establish a system of recovery of medical assistance correctly paid by or through the  
12 department. The Department of Social Services may file a claim against the estate of the  
13 surviving spouse of a medical assistance recipient to satisfy the debt established under this  
14 section. The secretary of social services shall adopt rules, pursuant to chapter 1-26, to define the  
15 scope of recoveries, establish hardship limitations on recoveries, establish limits on recoveries,

1 and provide rules required to obtain federal financial participation in the medical assistance  
2 program.

3 For the purposes of this section, a surviving spouse is a person who was married to the  
4 deceased medical assistance recipient when the recipient became eligible for medical assistance  
5 and who has not remarried after the recipient's death.