

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

476C0316

HOUSE BILL NO. 1020

Introduced by: Representatives Brown (Jarvis), Apa, Duniphan, and Fitzgerald and Senators Albers, Moore, and Whiting at the request of the Interim Judiciary Committee

1 FOR AN ACT ENTITLED, An Act to provide a general diversion program within the office of
2 the state's attorney for certain misdemeanor offenses.

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

4 Section 1. Each state's attorney may create within the office of the state's attorney a deferred
5 prosecution program for misdemeanor offenses other than driving while intoxicated. A state's
6 attorney may refer such general misdemeanor cases to the deferred prosecution program.

7 Section 2. Upon receipt of a general misdemeanor case other than driving while intoxicated,
8 the state's attorney shall determine if the case is one which is appropriate to be referred to the
9 deferred prosecution program.

10 Section 3. Upon referral of a complaint to the deferred prosecution program, a state's
11 attorney shall mail a notice of the action to the person charged. The notice shall contain the
12 following:

- 13 (1) The alleged offense;
- 14 (2) The proposed restitution or community service;
- 15 (3) The date before which the defendant must contact the office of the state's attorney
16 concerning the alleged offense; and

1 (4) A statement of the penalties which may result from a conviction for the alleged
2 offense.

3 Section 4. A state's attorney may collect a fee of not more than fifty dollars if the office of
4 the state's attorney administers a case under a deferred prosecution program.

5 Section 5. The state's attorney may enter into a written agreement with the person to defer
6 prosecution of an alleged offense, pursuant to section 2 of this Act, for a period to be determined
7 by the state's attorney, not to exceed one hundred eighty days, pending completion of any agreed
8 public service, payment of any agreed restitution, and payment of liquidated costs due under
9 § 23-3-52.

10 Section 6. All fees collected under section 4 of this Act shall be deposited in the county
11 treasury in a special fund to be administered by the office of the state's attorney. The money in
12 such fund may be used only for expenditures associated with the investigation, prosecution, and
13 deferred prosecution of offenses pursuant to this chapter and for travel and training expenditures
14 incurred relative to the official duties of the office of the state's attorney. Restitution of sums
15 equal to the fee provided by § 23-3-52 shall be deposited with the office of the clerk of courts
16 and transmitted and disposed of in the same manner as is provided in § 23-3-53.