

AN ACT

ENTITLED, An Act to revise the duties of magistrate judges.

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

Section 1. That chapter 23A-6 be amended by adding thereto a NEW SECTION to read as follows:

If directed to do so by the presiding judge of the circuit, a magistrate judge may set bail and take not guilty pleas in felony cases.

Section 2. That § 23A-6-26 be amended to read as follows:

23A-6-26. Upon request of a prosecuting attorney, a circuit court judge, in the case of a felony, and a magistrate judge, in the case of a misdemeanor or at the direction of the presiding judge of the circuit in the case of a felony, may issue a warrant for each defendant named in an indictment. A circuit court judge, or magistrate judge in an appropriate case, may issue a summons instead of a warrant upon the request of a prosecuting attorney. Upon like request or direction a court may issue more than one warrant or summons for the same defendant. The warrant or summons shall be delivered to a law enforcement officer or other person authorized by law to execute or serve it. If a defendant fails to appear in response to a summons, a warrant shall be issued.

Section 3. That § 23A-6-27 be amended to read as follows:

23A-6-27. A warrant shall be in the form prescribed by § 23A-2-4. It shall describe the offense charged in the indictment, and it shall command that the defendant be arrested and brought before the court. The amount of bail, if any, shall be fixed by the court and endorsed on the warrant.

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

23A-6-28. A summons shall be in the same form as a warrant except that it shall summon the defendant to appear before a circuit court judge or magistrate judge, as the case may be, at a stated time and place. The time stated may not be more than ten days from the date the indictment was presented to the court. The summons shall be signed by the judge.

Section 5. That § 23A-6-30 be amended to read as follows:

23A-6-30. A law enforcement officer executing a warrant shall make return thereof to the court. At the request of a prosecuting attorney any unexecuted warrant may be returned and canceled by the court. On or before the return day the person to whom a summons was delivered for service shall make a return thereof. At the request of a prosecuting attorney made at any time while an indictment is pending, a warrant returned unexecuted and not canceled or a summons returned unserved, or a duplicate thereof, may be delivered to a law enforcement officer or other person for execution or service.

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I certify that the attached Act
originated in the

HOUSE as Bill No. 1062

Chief Clerk

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Speaker of the House

Attest:

Chief Clerk

President of the Senate

Attest:

Secretary of the Senate

House Bill No. 1062

File No. _____

Chapter No. _____

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Received at this Executive Office
this ____ day of _____ ,

19__ at ____ M.

By _____
for the Governor

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The attached Act is hereby
approved this _____ day of
_____, A.D., 19__

Governor

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STATE OF SOUTH DAKOTA,
SS.
Office of the Secretary of State

Filed _____, 19__
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State