

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

871C0258

HOUSE BILL NO. 1062

Introduced by: The Committee on Judiciary at the request of the Chief Justice

1 FOR AN ACT ENTITLED, An Act to revise the duties of magistrate judges.

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

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

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

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

8 23A-6-26. Upon request of a prosecuting attorney, a circuit court judge, in the case of a
9 felony, and a magistrate judge, in the case of a misdemeanor or at the direction of the presiding
10 judge of the circuit in the case of a felony, may issue a warrant for each defendant named in an
11 indictment. A circuit court judge, or magistrate judge in an appropriate case, may issue a
12 summons instead of a warrant upon the request of a prosecuting attorney. Upon like request or
13 direction a court may issue more than one warrant or summons for the same defendant. The
14 warrant or summons shall be delivered to a law enforcement officer or other person authorized
15 by law to execute or serve it. If a defendant fails to appear in response to a summons, a warrant
16 shall be issued.

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

1 23A-6-27. A warrant shall be in the form prescribed by § 23A-2-4 ~~except that it shall be~~
2 ~~signed by a circuit court judge.~~ It shall describe the offense charged in the indictment, and it shall
3 command that the defendant be arrested and brought before the court. The amount of bail, if any,
4 shall be fixed by the court and endorsed on the warrant.

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

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

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

11 23A-6-30. A law enforcement officer executing a warrant shall make return thereof to the
12 ~~circuit~~ court. At the request of a prosecuting attorney any unexecuted warrant may be returned
13 and canceled by the ~~circuit~~ court. On or before the return day the person to whom a summons
14 was delivered for service shall make a return thereof. At the request of a prosecuting attorney
15 made at any time while an indictment is pending, a warrant returned unexecuted and not canceled
16 or a summons returned unserved, or a duplicate thereof, may be delivered to a law enforcement
17 officer or other person for execution or service.