

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

367E0176

SENATE JUDICIARY COMMITTEE ENGROSSED NO.

HB 1075 - 02/07/2001

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

1 FOR AN ACT ENTITLED, An Act to modify certain procedures for grand jury returns.

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

3 Section 1. That § 23A-5-18 be amended to read as follows:

4 23A-5-18. A quorum of six grand jurors must be present before any evidence or testimony
5 may be received or any other business conducted. An indictment may be found only ~~when~~ if there
6 is probable cause to believe that an offense has been committed and that the defendant
7 committed it. An indictment may be found only upon the concurrence of six or more jurors. The
8 names of only those witnesses examined before the grand jury in relation to the particular
9 indictment shall be listed on that indictment before it is ~~presented to~~ filed with the court. An
10 indictment shall be returned by the grand jury to a circuit judge in open court, or, filed with the
11 clerk of courts, endorsed a true bill.

12 If six grand jurors do not concur in finding an indictment against a defendant who is in
13 custody but who has not had a preliminary hearing, the complaint or information and the certified
14 record of the proceedings before the committing magistrate transmitted to them ~~must~~ shall be
15 returned to the court, with an endorsement thereon, signed by the foreman, that the charge is

- 1 dismissed. The dismissal of the charge does not prevent its being again submitted to a grand jury
- 2 as often as a court may direct, but without such direction it cannot again be submitted.