



# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

661E0050

HOUSE HEALTH AND HUMAN SERVICES  
COMMITTEE ENGROSSED NO. **HB 1002** -  
01/31/2001

Introduced by: Representatives Monroe, McCoy, and Slaughter and Senators Ham and  
Madden at the request of the Interim Judiciary Committee

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the waiver of a  
2 patient's privilege on communications with a physician or psychotherapist.

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

4 Section 1. That § 19-13-11 be amended to read as follows:

5 19-13-11. ~~There is no~~ The privilege under § 19-13-7 as to a communication relevant to an  
6 issue of the physical, mental, or emotional condition of the patient is waived in any proceeding  
7 in which ~~he relies upon~~ the condition as is an element of ~~his~~ the patient's claim or defense or,  
8 after the patient's death, in any proceeding in which any party relies upon the condition as an  
9 element of ~~his~~ a claim or defense.

10 Section 2. That § 19-2-3 be amended to read as follows:

11 19-2-3. In any action or proceeding or quasi-judicial administrative proceeding, ~~whenever~~  
12 if the physical or mental health of any person is in issue, any privilege under § 19-13-7 ~~shall~~  
13 ~~conclusively be deemed to be~~ is waived at trial or for the purpose of discovery under chapter  
14 15-6 if such action or proceeding is civil in nature. However, the waiver of the privilege shall be

1 narrow in scope, closely tailored to the time period or subject matter of the claim. If any party  
2 or the holder of the privileged records objects to the discovery of the privileged communication  
3 on the grounds that disclosure of the communication would subject the party to annoyance,  
4 embarrassment, oppression, or undue burden or expense and that the disclosure of the privileged  
5 communication is not likely to lead to the discovery of relevant evidence, the court shall conduct  
6 an in camera review of the privileged communication to determine whether the communication  
7 is discoverable.

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

400E0232

## SENATE ENGROSSED NO. **HB 1023** - 01/31/2001

Introduced by: The Committee on State Affairs at the request of the Department of  
Corrections

1 FOR AN ACT ENTITLED, An Act to provide for abuse and neglect screening through the  
2 Department of Social Services central registry for certain Department of Corrections  
3 employees and volunteers and for employees and volunteers of certain adolescent treatment  
4 programs.

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

6 Section 1. That chapter 26-8A be amended by adding thereto a NEW SECTION to read as  
7 follows:

8 Upon receipt of names of current or potential employees or volunteers from the Juvenile  
9 Division of the Department of Corrections or any adolescent treatment program operated by the  
10 Department of Human Services, the Department of Social Services shall compare the names to  
11 the central registry for abuse and neglect and report any findings to the requesting program  
12 director or to the Bureau of Personnel human resource manager. Any potential employee or  
13 volunteer under this section shall give written consent prior to completion of the abuse and  
14 neglect screening. Failure to submit to abuse and neglect screening disqualifies an applicant from  
15 employment.

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

400E0209

## SENATE ENGROSSED NO. **HB 1056** - 01/31/2001

Introduced by: The Committee on Judiciary at the request of the Department of Game,  
Fish and Parks

1 FOR AN ACT ENTITLED, An Act to increase the penalty for violation of certain fur dealer  
2 license requirements.

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

4 Section 1. That § 41-6-25 be amended to read as follows:

5 41-6-25. It is a ~~Class 2~~ Class 1 misdemeanor for a person to purchase or contract to purchase  
6 for a commercial purpose the raw skins of fur-bearing animals or unskinned fur-bearing animals,  
7 including jackrabbits, without a fur dealer's license or in violation of the license or the rules of  
8 the Game, Fish and Parks Commission. For purposes of this section, commercial purpose is the  
9 purchase of or contract to purchase the property by persons who hold themselves out as  
10 engaging in the business of purchasing such property and does not include the isolated or  
11 occasional purchase of such property.

12 A fur dealer's license permits the licensee to purchase or contract to purchase the skins of  
13 fur-bearing animals, including jackrabbits, for the purpose of resale or other commercial purpose,  
14 to the extent and in the manner provided by §§ 41-14-22 to 41-14-24, inclusive. A fur dealer's  
15 license is valid for a period of one year from July first to June thirtieth.

1        Any person convicted of issuing an insufficient funds check or no account check shall be  
2        denied a fur dealer's license until such time as all such checks are paid.

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

400E0195

SENATE JUDICIARY COMMITTEE ENGROSSED NO.

**HB 1064** - 01/29/2001

Introduced by: The Committee on Judiciary at the request of the Department of Game,  
Fish and Parks

1 FOR AN ACT ENTITLED, An Act to clarify the law enforcement authority of conservation  
2 officers.

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

4 Section 1. That § 41-15-10 be amended to read as follows:

5 41-15-10. ~~Conservation~~ While performing their lawful duties assigned to them by the  
6 Department of Game, Fish and Parks, conservation officers and their supervisors shall have full  
7 power and authority to serve and execute all warrants and process of law issued by a court in  
8 enforcing the provisions of any law of the state ~~relating to matters under the jurisdiction of the~~  
9 ~~Department of Game, Fish and Parks~~ in the same manner as any constable or sheriff may serve  
10 and execute the same, ~~or~~ While performing their lawful duties assigned to them by the  
11 Department of Game, Fish and Parks, conservation officers and their supervisors have full power  
12 and authority to arrest, without a warrant ~~of~~ any person detected in the act of violating any ~~such~~  
13 laws of this state which they are authorized to enforce. For the purpose of enforcing the game,  
14 fish, parks, and boating laws, ~~they~~ conservation officers and their supervisors may call to their

1 aid any ~~peace~~ law enforcement officer or other persons, and ~~it shall be the duty of~~ all state's  
2 attorneys, ~~peace~~ law enforcement officers, and other persons ~~when~~ shall, if called upon, to  
3 enforce and aid in enforcing such laws. For purposes of this section the term, "conservation  
4 ~~officers" shall be defined to mean those~~ officer, means any game, fish and parks ~~employees~~  
5 employee whose duty is the enforcement of the game, fish ~~and,~~ parks, and boating laws of this  
6 state.

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

905E0521

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

**HB 1126 - 01/31/2001**

Introduced by: Representatives Duenwald, Abdallah, Duniphan, Monroe, Sebert, and Van  
Etten and Senators Daugaard, Albers, Madden, and Vitter

1 FOR AN ACT ENTITLED, An Act to limit the application of implied consent in circumstances  
2 involving an arrest for vehicular homicide or vehicular battery.

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

4 Section 1. That § 32-23-10 be amended to read as follows:

5 32-23-10. Any person who operates any vehicle in this state is considered to have given  
6 consent to the withdrawal of blood or other bodily substance and chemical analysis of the  
7 person's blood, breath, or other bodily substance to determine the amount of alcohol in the  
8 person's blood and to determine the presence of marijuana or any controlled drug or substance.

9 The person shall be requested by the officer to submit to the withdrawal of blood or other  
10 bodily substance for chemical analysis or chemical analysis of the person's breath and shall be  
11 advised by the officer that:

12 (1) If the person refuses to submit to the withdrawal or chemical analysis, no withdrawal  
13 or chemical analysis may be required unless the person has been arrested for a third,  
14 fourth, or subsequent violation of § 32-23-1, constituting a felony offense under

1           § 32-23-4 or 32-23-4.6 or has been arrested for vehicular homicide under § 22-16-41  
2           or vehicular battery under § 22-16-42;

3       (2)   If the person refuses to submit to the withdrawal or chemical analysis, the person's  
4           driver's license shall be revoked for one year, unless pursuant to § 32-23-11.1 the  
5           person pleads guilty to a violation of § 32-23-1 or 32-23-21, prior to a revocation  
6           order being issued; and

7       (3)   The person has the right to have a chemical analysis performed by a technician of the  
8           person's own choosing at the person's own expense, in addition to the test requested  
9           by the officer.

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

158E0332

HOUSE EDUCATION COMMITTEE ENGROSSED NO.

**HB 1149** - 01/31/2001

Introduced by: Representatives Holbeck, Bartling, Begalka, Brown (Richard), Elliott, Garnos, Hunhoff, Jensen, Juhnke, McCoy, Pederson (Gordon), Rhoden, Van Etten, and Wick and Senators Ham, Brosz, and Olson (Ed)

1 FOR AN ACT ENTITLED, An Act to provide that school districts or school bus contracting  
2 companies be notified when the commercial driver license of a school bus driver is suspended  
3 or revoked.

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

5 Section 1. That chapter 32-12 be amended by adding thereto a NEW SECTION to read as  
6 follows:

7 If a person's commercial driver license bearing a school bus endorsement is suspended or  
8 revoked pursuant to this chapter, the Department of Commerce and Regulation shall, upon the  
9 suspension or revocation, notify the Department of Education and Cultural Affairs. The  
10 Department of Education and Cultural Affairs shall notify the school district or school bus  
11 contracting company for which the person is employed of the suspension or revocation. The  
12 notification may be done by first class mail.

13 Section 2. That chapter 32-12 be amended by adding thereto a NEW SECTION to read as  
14 follows:

1        Each school district and school bus contracting company shall report to the Department of  
2 Education and Cultural Affairs, in a manner prescribed by the secretary, the names and social  
3 security numbers of all individuals it employs as bus drivers. The school district and school bus  
4 contracting company shall inform the department of any changes to the list within seven days  
5 after they occur.

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

624E0710

HOUSE EDUCATION COMMITTEE ENGROSSED NO.

**HB 1196 - 01/31/2001**

Introduced by: Representatives Begalka, Flowers, Garnos, Hennies (Thomas), Holbeck,  
and Kooistra and Senator Munson

1 FOR AN ACT ENTITLED, An Act to authorize the funding of textbooks through the school  
2 capital outlay fund.

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

4 Section 1. That § 13-16-6 be amended to read as follows:

5 13-16-6. The capital outlay fund of the school district is a fund provided by law to meet  
6 expenditures of three hundred dollars or more which result in the acquisition or lease of or  
7 additions to real property, plant, or equipment. Such an expenditure shall be for land, existing  
8 facilities, improvement of grounds, construction of facilities, additions to facilities, remodeling  
9 of facilities, or for the purchase or lease of equipment. It may also be used for installment or  
10 lease-purchase payments for the purchase of real property, plant or equipment, which have a  
11 contracted terminal date not exceeding twenty years from the date of the installment contract or  
12 lease-purchase and for the payment of the principal of and interest on capital outlay certificates  
13 issued pursuant to § 13-16-6.2. The total accumulated unpaid principal balances of such  
14 installment contracts and lease-purchase and the outstanding principal amounts of such capital

1 outlay certificates may not exceed three percent of the taxable valuation. The school district shall  
2 provide a sufficient levy each year under the provisions of § 13-16-7 to meet the annual  
3 installment contract, lease-purchase and capital outlay certificate payments, including interest.

4 A school district which contracts its student transportation may expend from the capital  
5 outlay fund an amount not to exceed fifteen percent of the contract amount.

6 The capital outlay fund may be used to purchase textbooks and instructional software.

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

545E0492

## HOUSE TRANSPORTATION COMMITTEE ENGROSSED NO. **HB 1236** - 01/31/2001

Introduced by: Representatives Konold, Abdallah, Broderick, Brown (Richard), Flowers,  
and McCaulley and Senators Munson, Albers, Diedrich (Elmer),  
Hutmacher, Staggers, Sutton (Dan), and Vitter

1 FOR AN ACT ENTITLED, An Act to authorize auction agencies to accept for sale vehicles  
2 owned by vehicle manufacturers under certain conditions.

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

4 Section 1. That § 32-6B-36 be amended to read as follows:

5 32-6B-36. Any auction agency operating under the provisions of this chapter may accept for  
6 sale at its option vehicles which are owned by vehicle dealers regularly licensed in either this or  
7 some other state, or by the following entities if the vehicle is owned and titled by the entity and  
8 acquired incident to its regular business:

9 (1) Any regulated lender as defined in § 54-3-14 or any financing institution licensed  
10 pursuant to chapter ~~54-7~~ 54-4;

11 (2) Any financial institution chartered or licensed in any other jurisdiction; or

12 (3) Any insurance company authorized to do business in either this state or some other  
13 state.

14 An auction agency may also accept from any manufacturer any vehicle that is owned by the

1 manufacturer and that has a manufacturer's certificate of origin or a valid title. Any vehicle with  
2 a manufacturer's certificate of origin sold for a manufacturer may only be offered to the  
3 manufacturer's franchised dealers with the same line vehicle make.

4 Any vehicle dealer, regularly licensed by this or some other state, may purchase any vehicle  
5 from an auction agency, except as otherwise prohibited by this section. Any auction agency that  
6 accepts for sale any vehicle not authorized by this section is guilty of a Class 1 misdemeanor.

7 Section 2. That subdivision (15) of § 32-6B-5 be amended to read as follows:

8 32-6B-5. The following persons are exempt from the provisions of this chapter:

- 9 (15) Any regulated lenders as that term is defined in § 54-3-14, any insurance company  
10 authorized to do business in this state, or any financing institution as defined in and  
11 licensed pursuant to chapter ~~54-7~~ 54-4 that acquires vehicles as an incident to its  
12 regular business;

13

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

680E0698

## HOUSE TRANSPORTATION COMMITTEE ENGROSSED NO. **HB 1249** - 01/31/2001

Introduced by: Representatives Duenwald and Brown (Jarvis) and Senators Drake,  
Diedrich (Elmer), Staggers, and Vitter

1 FOR AN ACT ENTITLED, An Act to clarify certain provisions regarding the use of a vehicle  
2 at certain intersections.

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

4 Section 1. That § 32-26-2 be amended to read as follows:

5 32-26-2. In crossing an intersection of highways or the intersection of a highway by a  
6 railroad right-of-way, the driver of a vehicle shall at all times cause such vehicle to travel on the  
7 right half of the highway unless such right half is obstructed or impassable. However, this section  
8 does not apply to a vehicle passing another vehicle at an intersection of a state highway with a  
9 township road or improved section line unless the intersection is marked as a no-passing zone.

10 A violation of this section is a Class 2 misdemeanor.

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

175E0028

SENATE JUDICIARY COMMITTEE ENGROSSED NO.

**SB 1 - 01/19/2001**

Introduced by: Senators Madden and Ham and Representatives McCoy and Slaughter at  
the request of the Interim Judiciary Committee

1 FOR AN ACT ENTITLED, An Act to require written informed consent before genetic testing.

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

3 Section 1. Terms used in this Act mean:

4 (1) "Genetic information," information derived from a genetic test about a gene, gene  
5 product, or inherited characteristic;

6 (2) "Genetic test," a test of human DNA, RNA, chromosomes, or genes performed in  
7 order to identify the presence or absence of an inherited variation, alteration, or  
8 mutation which is associated with predisposition to disease, illness, impairment, or  
9 other disorder. Genetic test does not mean a routine physical measurement; a  
10 chemical, blood, or urine analysis; a test for drugs or HIV infection; any test  
11 commonly accepted in clinical practice; or any test performed due to the presence of  
12 signs, symptoms, or other manifestations of a disease, illness, impairment, or other  
13 disorder;

14 (3) "Predictive genetic test," a genetic test performed for the purpose of predicting the

1 future probability that the person tested will develop a genetically related disease or  
2 disability.

3 Section 2. No person may order or perform a predictive genetic test without first obtaining  
4 the written, informed consent of the person to be tested. For purposes of this section, written,  
5 informed consent consists of a signed writing executed by the person to be tested or the legally  
6 authorized representative of the person to be tested that includes, at a minimum, all of the  
7 following:

- 8 (1) The nature and purpose of the predictive genetic test;
- 9 (2) The effectiveness and limitations of the predictive genetic test;
- 10 (3) The implications of taking the predictive genetic test, including, the medical risks and  
11 benefits;
- 12 (4) The future uses of the sample taken from the person tested in order to conduct the  
13 predictive genetic test and the information obtained from the predictive genetic test;
- 14 (5) The meaning of the predictive genetic test results and the procedure for providing  
15 notice of the results to the person tested; and
- 16 (6) A listing of who will have access to the sample taken from the person tested in order  
17 to conduct the predictive genetic test and the information obtained from the predictive  
18 genetic test, and the person's right to confidential treatment of the sample and the  
19 information.

20 Section 3. If a person to be tested or the person's legally authorized representative signs a  
21 copy of the informed consent form developed pursuant to section 2 of this Act, the person  
22 obtaining the informed consent shall give the person to be tested a copy of the signed informed  
23 consent form and shall include the original signed informed consent form in the medical record  
24 of the person tested.

1           Section 4. Nothing in this Act alters the ability to perform genetic tests done in pursuance  
2   of a lawful criminal investigation or court order.