

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

400E0190

SENATE ENGROSSED NO. **HB 1060** - 02/12/2001

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 revise the method for and the limitations on imposition
2 of various civil damages for unlawfully taking wild animals.

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

4 Section 1. That § 41-1-5.1 be amended to read as follows:

5 41-1-5.1. Any person, other than a minor under the age of sixteen years, who willfully and
6 unlawfully kills, destroys, takes, or possesses in this state any wild animal designated by this
7 section:

8 (1) Without an applicable and valid big game or small game license; or

9 (2) At a time or place when and where taking or possession of such regulated wild animal
10 is prohibited; or

11 (3) In excess of the legal limit of big game if exceeded by one or more; or

12 (4) In excess of the legal daily or possession limit of small game bird or fish if exceeded
13 by two or more;

14 is liable to the state for civil damages, ~~which are.~~

15 The civil damages are five thousand dollars for each elk, mountain lion, or buffalo; ten

1 thousand dollars for each mountain goat or mountain sheep; one thousand dollars for each deer,
2 antelope, or bobcat; two hundred dollars for each turkey; two hundred dollars for each
3 paddlefish; one hundred dollars for each small game bird; and fifty dollars for each fish for any
4 species, other than paddlefish, with an established daily limit of less than twenty-five.

5 If a person has taken or is in possession of more than two times the lawful daily or possession
6 limit of a regulated wild animal, such person is liable for twice the damages provided in this
7 section.

8 However, the return uninjured of the ~~big game~~ wild animal to the place where captured, or
9 to such other place as the Department of Game, Fish and Parks may direct, constitutes a
10 discharge of such damages. ~~However~~ Moreover, the provisions of this section do not apply to
11 any person, who, after providing written notice received by the Department of Game, Fish and
12 Parks, forty-eight hours in advance, takes reasonable actions to protect the person's land,
13 livestock, or crops from serious and extraordinary damages caused by elk, deer, antelope, wild
14 turkey, or mountain lion. Nothing in this section or any other provision of law prevents any
15 person from taking any action necessary to protect the personal safety of that person or any other
16 person who is in immediate danger of harm from a mountain lion or other animal specified in this
17 section.

18 Section 2. That § 41-1-5.2 be amended to read as follows:

19 41-1-5.2. The liquidated damages provided for in this chapter and taxable costs may be
20 collected by the Department of Game, Fish and Parks in a civil suit brought by it, in the name of
21 the State of South Dakota, against the person claimed to be liable therefor. Conviction of a
22 criminal offense for the same incident leading to the charges specified in §§ 41-1-5.1 ~~and~~
23 ~~41-1-5.3 to 41-1-5.5, inclusive~~; is prima facie evidence of the defendant's civil liability. Failure
24 to obtain conviction on a criminal charge is not a bar to a separate civil action for such liquidated

1 damages.

2 The department, collecting such liquidated damages and taxable costs, shall deposit them in
3 the Department of Game, Fish and Parks fund. Any other public agency or department of the
4 state, collecting liquidated damages and taxable costs, shall remit the moneys collected, less the
5 agreed collection fee, to the state treasurer who shall deposit them in the Department of Game,
6 Fish, and Parks fund.

7 The judgment and liquidated damages may be collected by an agent. Fees to agents
8 authorized to collect on a judgment under this section may not exceed fifty percent of the total
9 amount collected. With approval of the department, agreed collection fees may be deducted from
10 the moneys collected when remitted or may be paid on warrants drawn by the state auditor on
11 itemized vouchers approved by the secretary of game, fish and parks and submitted
12 simultaneously with the moneys collected.

13 Section 3. That § 41-1-5.3 be repealed.

14 ~~41-1-5.3. Any person, other than a minor under the age of sixteen years, who willfully and~~
15 ~~unlawfully kills, destroys, takes, or possesses any small game bird or wild turkey during a closed~~
16 ~~season or without a license is liable to the state for civil damages of one hundred dollars for each~~
17 ~~small game bird and two hundred dollars for each turkey. However, the provisions of this section~~
18 ~~do not apply to any person, who, after providing written notice received by the Department of~~
19 ~~Game, Fish and Parks, forty-eight hours in advance, takes reasonable actions to protect the~~
20 ~~person's land or crops from serious and extraordinary damages caused by wild turkeys.~~

21 Section 4. That § 41-1-5.4 be repealed.

22 ~~41-1-5.4. Any person, other than a minor under the age of sixteen years, who willfully and~~
23 ~~unlawfully kills, destroys, takes, or possesses five or more small game birds or two or more wild~~
24 ~~turkeys in excess of the legal limit during an open season is liable to the state for civil damages~~

1 of one hundred dollars per each small game bird and two hundred dollars for each turkey in
2 excess of the legal limit. However, the provisions of this section do not apply to any person,
3 who, after providing written notice received by the Department of Game, Fish and Parks, forty=
4 eight hours in advance, takes reasonable actions to protect the person's land or crops from
5 serious and extraordinary damages caused by wild turkeys.

6 Section 5. That § 41-1-5.5 be repealed.

7 ~~41-1-5.5. Any person, other than a minor under the age of sixteen years, who willfully and~~
8 ~~unlawfully kills, destroys, takes or possesses five or more fish in excess of the daily or possession~~
9 ~~limit for any species with a daily limit less than ten is liable to the state for civil damages of fifty~~
10 ~~dollars per each fish in excess of the legal limit.~~

11 Section 6. That § 41-1-5.6 be amended to read as follows:

12 41-1-5.6. A statement generally outlining the civil liability provisions of §§ 41-1-5.1 to
13 ~~41-1-5.5, inclusive,~~ shall be printed on the reverse of the citation given by an arresting officer at
14 the time of the arrest to the person violating game and fish statutes. Acknowledgment of receipt
15 of the information concerning civil liability by the defendant is to be noted specifically through
16 a specific receipt form to draw attention to civil penalties.

17 No person who has been prosecuted for a criminal offense may be held liable for civil
18 damages pursuant to §§ 41-1-5.1 to ~~41-1-5.5, inclusive,~~ and 41-1-5.2 arising from the same
19 offense or incident if ~~he~~ the person has not received the warnings required in this section.

20 Section 7. That § 41-1-5.8 be repealed.

21 ~~41-1-5.8. If a person has taken or is in possession of more than two times the lawful daily~~
22 ~~or possession limit of a regulated wild animal, the liquidated damages as determined and~~
23 ~~provided for in §§ 41-1-5.1 and 41-1-5.3 to 41-1-5.5, inclusive, shall be doubled.~~

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.

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

367E0180

SENATE JUDICIARY COMMITTEE ENGROSSED NO.

HB 1077 - 02/07/2001

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

1 FOR AN ACT ENTITLED, An Act to permit the court to impose certain costs and fees as part
2 of the disposition for a child adjudicated as a child in need of supervision.

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

4 Section 1. That § 26-8B-6 be amended to read as follows:

5 26-8B-6. If a child has been adjudicated as a child in need of supervision, the court shall enter
6 a decree of disposition according to the least restrictive alternative available in keeping with the
7 best interests of the child. The decree shall contain one or more of the following alternatives:

8 (1) The court may place the child on probation or under protective supervision in the
9 custody of one or both parents, guardian, custodian, relative, or another suitable
10 person under conditions imposed by the court;

11 (2) The court may require as a condition of probation that the child report for assignment
12 to a supervised work program, provided the child is not placed in a detention facility
13 and is not deprived of the schooling that is appropriate to the child's age, needs, and
14 specific rehabilitative goals. The supervised work program shall be of a constructive
15 nature designed to promote rehabilitation, shall be appropriate to the age level and

1 physical ability of the child and shall be combined with counseling by a court services
2 officer or other guidance personnel. The supervised work program assignment shall
3 be made for a period of time consistent with the child's best interests, but may not
4 exceed ninety days;

5 (3) If the court finds that the child has violated a valid court order, the court may place
6 the child in a detention facility, for purposes of disposition if:

7 (a) The child is not deprived of the schooling that is appropriate for the child's age,
8 needs, and specific rehabilitative goals;

9 (b) The child had a due process hearing before the order was issued;

10 (c) Before the issuance of such order, a local interagency team, authorized
11 pursuant to § 27A-15-56 shall review the behavior of the child and the
12 circumstances under which such child was brought before the court and made
13 subject to such order; determine the reasons for the behavior that caused such
14 child to be brought before the court and made subject to such order; determine
15 that all dispositions, including treatment, other than placement in a detention
16 facility or the Department of Corrections, have been exhausted or are clearly
17 inappropriate; and submit to the court a written report stating the results of the
18 review and determinations made;

19 (4) The court may require the child to pay for any damage done to property or for
20 medical expenses under conditions set by the court if payment can be enforced
21 without serious hardship or injustice to the child;

22 (5) The court may commit the child to the Department of Corrections for placement in
23 a juvenile correctional facility, foster home, group home, group care center, or
24 residential treatment center pursuant to chapter 26-11A. Prior to placement in a

1 juvenile correctional facility, an interagency team comprised of representatives from
2 the Department of Human Services, Department of Social Services, Department of
3 Education and Cultural Affairs, and the Department of Corrections shall make a
4 written finding that placement at a Department of Corrections facility is the least
5 restrictive placement commensurate with the best interests of the child. Subsequent
6 placement in any other Department of Corrections facility may be authorized without
7 an interagency review;

8 (6) The court may place a child in an alternative educational program;

9 (7) The court may order the child to be examined and treated at the Human Services
10 Center;

11 (8) The court may impose a fine not to exceed five hundred dollars;

12 (9) The court may order the suspension or revocation of the child's driving privilege or
13 restrict the privilege in such manner as it sees fit or as required by § 32-12-52.4;

14 (10) The court may assess or charge the same costs and fees as permitted by §§ 16-2-41,
15 23-3-52, 23A-27-26, and 23A-27-27 against the child, parent, guardian, custodian,
16 or other party responsible for the child.

17 No adjudicated child in need of supervision may be incarcerated in a detention facility except
18 as provided in subdivision (3) or (5) of this section.

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

367E0178

SENATE JUDICIARY COMMITTEE ENGROSSED NO.

HB 1079 - 02/07/2001

This bill has been extensively amended (houghoused) and may no longer be consistent with the original intention of the sponsor.

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

1 FOR AN ACT ENTITLED, An Act to determine the venue of the offense of underage
2 possession or consumption of alcoholic beverages.

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

4 Section 1. That § 35-9-6 be amended to read as follows:

5 35-9-6. In any arrest, citation, or prosecution, ~~or adjudication~~ arising from a violation of
6 § 35-9-2, if the person is apprehended for:

7 (1) The purchase or attempted purchase of alcoholic beverages, the ~~situs~~ venue is the
8 locality where the purchase or attempted purchase occurred;

9 (2) The possession or consumption of alcoholic beverages, the ~~situs~~ venue is the locality
10 where the person was apprehended or any other locality where the person possessed
11 or consumed any portion of the alcoholic beverages.

12 Section 2. That chapter 35-9 be amended by adding thereto a NEW SECTION to read as
13 follows:

14 In any juvenile adjudication arising from a violation of § 35-9-2, if the person is apprehended

1 for:

2 (1) The purchase or attempted purchase of alcoholic beverages, the venue is the locality
3 where the purchase or attempted purchase occurred or the juvenile's county of
4 residence;

5 (2) The possession or consumption of alcoholic beverages, the venue is the locality where
6 the juvenile was apprehended or any other locality where the juvenile possessed or
7 consumed any portion of the alcoholic beverages or the juvenile's county of residence.

8 However, no transfer to the juvenile's county of residence may occur unless the state's
9 attorney of the juvenile's county of residence affirmatively consents to the transfer.

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

921E0463

HOUSE EDUCATION COMMITTEE ENGROSSED NO.

HB 1181 - 02/09/2001

Introduced by: Representatives Hennies (Thomas), Garnos, and Kooistra and Senator Ham

1 FOR AN ACT ENTITLED, An Act to place certain restrictions on the excusing of students
2 from school attendance to receive alternative instruction.

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

4 Section 1. That § 13-27-2 be amended to read as follows:

5 13-27-2. Upon receipt of an application from the parent or guardian of the child for the
6 reasons set forth in § 13-27-3, school boards of all school districts shall excuse a child from
7 school attendance in executive session using a case number. The application for excuse shall be
8 filed no later than thirty days before the alternative instruction is to begin. The time restriction
9 does not apply in the case of students who begin residence in the school district less than thirty
10 days before the alternative instruction is to begin. A parent or guardian may appeal to the school
11 board for a waiver of the thirty-day requirement if the situation warrants it. Until the processing
12 of the application for excuse or the waiver of the thirty-day requirement is complete, the child
13 is not truant, and the parent or guardian of the child is not in violation of § 13-27-11. School
14 boards of all school districts may excuse a child from public school attendance for the reasons
15 set forth in §§ 13-27-6 and 13-27-6.1.

1 Section 2. That § 13-32-4.3 be amended to read as follows:

2 13-32-4.3. If any student is under suspension or expulsion in a school district, the student
3 may not enroll in any school district or be excused from school attendance pursuant to § 13-27-3
4 until the suspension or expulsion has expired. The superintendent or school administrator of any
5 school district may prohibit a student from enrolling in that school district if the student is under
6 suspension or expulsion in a school in another state or in a nonpublic school in this state. Upon
7 receiving a request for a student's permanent school records from the receiving district, the
8 sending school shall provide the receiving district with written notice of any suspension or
9 expulsion.

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

400E0740

HOUSE JUDICIARY COMMITTEE ENGROSSED NO. **HB 1194** - 02/07/2001

Introduced by: Representatives Smidt and Hansen (Tom) and Senators Bogue and Greenfield

1 FOR AN ACT ENTITLED, An Act to increase certain penalties for unlawful use of computers
2 and computer networks.

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

4 Section 1. That § 43-43B-1 be amended to read as follows:

5 43-43B-1. A person is guilty of unlawful use of a computer system, software, or data if he
6 the person:

7 (1) Knowingly obtains the use of, ~~or~~ accesses (or exceeds authorized access), a computer
8 system, or any part thereof, without the consent of the owner;

9 (2) Knowingly ~~alters or destroys computer programs or data without the consent of the~~
10 ~~owner; or~~

11 ~~(3) Knowingly obtains use of, alters, accesses or destroys a computer system, or any part~~
12 ~~thereof, as part of a deception for the purpose of obtaining money, property or~~
13 ~~services from the owner of a computer system or any third party; or~~

14 ~~(4) Knowingly uses or discloses to another or attempts to use or disclose to another the~~

1 ~~numbers, codes, passwords or other means of access to a computer, computer~~
2 ~~program or computer system without the consent of the owner~~ obtains the use of,
3 accesses (or exceeds authorized access), a computer system, or any part thereof,
4 without the consent of the owner, and such access or use includes access to
5 confidential data or material;

6 (3) Knowingly copies or obtains information from a computer system, or compromises
7 any security controls for such computer system, or uses or discloses to another, or
8 attempts to use or disclose to another, the numbers, codes, passwords, or other means
9 of access to a computer system without the consent of the owner;

10 (4) Knowingly disrupts, denies, or inhibits access to software or data without the consent
11 of the owner;

12 (5) Knowingly disrupts, denies, or inhibits access to a computer system, without consent
13 of the owner;

14 (6) Knowingly modifies, changes, or alters software or data, without the consent of the
15 owner;

16 (7) Knowingly obtains use of, alters, accesses (or exceeds authorized access), destroys,
17 disables, or inhibits access to a computer system, as part of a deception for the
18 purpose of obtaining money, property, or services from the owner of a computer
19 system, or any third party;

20 (8) Knowingly destroys or disables a computer system, without consent of the owner; or

21 (9) Knowingly destroys or disables software or computer data, without consent of the
22 owner.

23 Section 2. That § 43-43B-2 be amended to read as follows:

24 43-43B-2. Terms used in this chapter, ~~unless the context requires otherwise,~~ mean:

- 1 (1) "Access," to instruct, communicate with, store data in, retrieve data from a ~~computer,~~
2 ~~computer system or computer network;~~
- 3 (2) "Computer," an internally programmed, general purpose digital device capable of
4 automatically accepting data, processing data and supplying the results of the
5 operation;
- 6 (3) "~~Computer program~~ Software," a series of coded instructions or statements in a form
7 acceptable to a computer system, which causes the computer system to process data
8 in order to achieve a certain result;
- 9 (4) "Computer system," ~~a set of related, connected devices, including a computer and~~
10 ~~other devices, including but not limited to~~ shall include any one or more computers,
11 computer networks, other related devices, data input and output and storage devices,
12 data communications links, ~~and computer programs and data, that make the system~~
13 ~~capable of performing the special purpose data processing tasks for which it is~~
14 ~~specified;~~
- 15 (5) "Computer network," a set of related, connected network electronics and
16 communications links that allows any one or more computer system to communicate
17 amongst or between themselves;
- 18 (5A) "Data," digitized information in any form that may be accessed by a computer system,
19 regardless of whether the information is in transmission or stored on a computer
20 system, diskette, compact diskette, cd-rom, tape, or in any other medium;
- 21 (6) "Destroy," to make unusable, render inoperable, render unable to accept or process
22 data, or supply results, render unable to perform data processing tasks or cause
23 computer networks to be unable to transfer data between computer systems for any
24 amount of time.

1 Section 3. That § 43-43B-3 be amended to read as follows:

2 ~~43-43B-3. A person convicted of a violation of subdivision 43-43B-1 (1), (2), or (4) where~~
3 ~~the value of the use, alteration, destruction, access or disclosure is one thousand dollars or less~~
4 ~~is guilty~~ Violations of the provisions of § 43-43B-1 are punishable as follows:

5 (1) For a violation of subdivision (1), a Class 1 misdemeanor;

6 (2) For a violation of subdivision (2) or (3), a Class 6 felony;

7 (3) For a violation of subdivision (4), a Class 5 felony;

8 (4) For a violation of subdivision (5) or (6), a Class 4 felony;

9 (5) For a violation of subdivision (8) or (9), a Class 3 felony;

10 (6) For a violation of subdivision (7), a Class 2 felony.

11 Section 4. That § 43-43B-4 be repealed.

12 ~~—43-43B-4. A person convicted of a violation of subdivision 43-43B-1 (1), (2), or (4) where~~
13 ~~the value of the use, alteration, destruction, access or disclosure is more than one thousand~~
14 ~~dollars is guilty of a Class 6 felony.~~

15 Section 5. That § 43-43B-5 be repealed.

16 ~~—43-43B-5. A person convicted of a violation of subdivision 43-43B-1 (3) where the value of~~
17 ~~the money, property or services obtained is one thousand dollars or less is guilty of a Class 1~~
18 ~~misdemeanor.~~

19 Section 6. That § 43-43B-6 be repealed.

20 ~~—43-43B-6. A person convicted of a violation of subdivision 43-43B-1 (3) where the value of~~
21 ~~the money, property or services obtained is more than one thousand dollars shall be guilty of a~~
22 ~~Class 4 felony.~~

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

372E0753

HOUSE EDUCATION COMMITTEE ENGROSSED NO.

HB 1237 - 02/09/2001

Introduced by: Representatives McCaulley, Koistinen, Lange, McCoy, Monroe, Napoli, Smidt, Van Etten, Van Gerpen, and Wick and Senators Staggers, Koskan, and Olson (Ed)

1 FOR AN ACT ENTITLED, An Act to authorize certain students in alternative instruction to
2 participate in public school interscholastic contests and competition.

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

4 Section 1. That chapter 13-27 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Any student excused from school attendance pursuant to §§ 13-27-2 and 13-27-3 may
7 participate in public school interscholastic contests and competitions if:

8 (1) The parents or guardians of a student in alternative instruction who seek to be
9 qualified to participate in public school interscholastic contests or competitions make
10 a notarized written request to the school board of the school district where the child
11 resides. The notarized request shall identify the activity or activities in which the
12 student seeks to participate;

13 (2) The student meets the requirements of § 13-27-3. Evidence of compliance shall be
14 kept in the student's cumulative academic record and shall be made available to the

1 school district for examination upon parental or guardian request for student
2 participation in interscholastic contests or competitions;

3 (3) The student meets equivalent academic and physical requirements for students beyond
4 compulsory attendance age attending the public schools to qualify for participation
5 in interscholastic contests or competitions. Evidence of compliance shall be kept in
6 the student's cumulative academic record and shall be made available to the school
7 district for examination upon parental or guardian request for student participation in
8 interscholastic contests and competitions; and

9 (4) Parents or guardians provide a notarized affidavit stating that the evidence in the
10 student's cumulative academic record is factually accurate and that the record is the
11 work of the student named in the academic record.

12 Qualification of any student for participation in interscholastic contests or competitions is
13 limited to one school term at a time and may not be granted for the student in the first year of
14 alternative instruction. Requalification may be requested for any subsequent school year.
15 Standards of behavior that qualify or disqualify any student to participate during a school term
16 are the same for all participating students.

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

355E0505

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

HB 1241 - 02/09/2001

Introduced by: Representatives Hunhoff, Abdallah, Broderick, Brown (Jarvis), Brown (Richard), Frost, Heineman, Hennies (Thomas), Juhnke, McCaulley, McCoy, Michels, Murschel, and Valandra and Senators de Hueck, Albers, Ham, Hutmacher, Kleven, Koetzle, Madden, Moore, Munson, Volesky, and Whiting

1 FOR AN ACT ENTITLED, An Act to revise the elements of the crime of stalking to include
2 certain forms of harassing communications.

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

4 Section 1. That § 22-19A-1 be amended to read as follows:

5 22-19A-1. Any person:

6 (1) Who willfully, maliciously, and repeatedly follows or harasses another person; or

7 (2) Who makes a credible threat to another person with the intent to place that person in
8 reasonable fear of death or great bodily injury; or

9 (3) Who willfully, maliciously, and repeatedly harasses another person by means of any
10 verbal, electronic, mechanical, telegraphic, or written communication;

11 is guilty of the crime of stalking. Stalking is a Class 1 misdemeanor.

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

247E0029

HOUSE ENGROSSED NO. **SB 2** - 02/05/2001

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

1 FOR AN ACT ENTITLED, An Act to prohibit employers from obtaining, seeking, or using
2 genetic information.

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

4 Section 1. That chapter 60-2 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 It is an unlawful employment practice for an employer to seek to obtain, to obtain, or to use
7 genetic information, as defined in section 2 of this Act, of an employee or a prospective
8 employee to distinguish between or discriminate against employees or prospective employees or
9 restrict any right or benefit otherwise due or available to an employee or a prospective employee.
10 However, it is not an unlawful employment practice for an employer to seek to obtain, to obtain,
11 or to use genetic information if:

- 12 (1) The employer is a law enforcement agency conducting a criminal investigation; or
13 (2) The employer relies on the test results from genetic information obtained by law
14 enforcement through a criminal investigation, the employer legally acquires the test
15 results, the employer keeps the test results confidential except as otherwise required

1 by law, and the employer uses the test results for the limited purpose of taking
2 disciplinary action against the employee.

3 Any employee or prospective employee claiming to be aggrieved by this unlawful employment
4 practice may bring a civil suit for damages in circuit court. The court may award reasonable
5 attorney fees and costs in addition to any judgment awarded to the employee or prospective
6 employee.

7 Section 2. That chapter 60-2 be amended by adding thereto a NEW SECTION to read as
8 follows:

9 For the purposes of this Act, genetic information is information about genes, gene products,
10 and inherited characteristics that may derive from the individual or a family member. This includes
11 information regarding carrier status and information derived from laboratory tests that identify
12 mutations in specific genes or chromosomes, physical medical examinations, family histories, and
13 direct analysis of genes or chromosomes.

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

552E0462 **SENATE AGRICULTURE AND NATURAL RESOURCES**
COMMITTEE ENGROSSED NO. SB 94 - 01/25/2001

Introduced by: Senators Bogue, Duxbury, Koetzle, McCracken, Moore, Reedy, and
Sutton (Dan) and Representatives Jaspers, Bartling, Hennies (Thomas),
Jensen, Kloucek, McCaulley, Michels, Monroe, Nachtigal, Rhoden, Sebert,
and Slaughter

1 FOR AN ACT ENTITLED, An Act to establish a statute of limitations for veterinary services.

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

3 Section 1. An action against a veterinarian or any member of a veterinarian's staff for
4 malpractice, error, mistake, or failure to cure, whether based upon contract or tort, may be
5 commenced only within three years after the alleged malpractice, error, mistake, or failure to
6 cure has occurred. However, the provisions of this section do not prohibit any counterclaim for
7 malpractice, error, mistake, or failure to cure, as a defense to any action for services brought by
8 a veterinarian.

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

400E0755

SENATE ENGROSSED NO. **SB 250** - 02/07/2001

Introduced by: Senators Bogue, Duxbury, Greenfield, and Moore and Representatives
Jaspers, Broderick, Brown (Jarvis), Brown (Richard), Flowers, Michels,
and Pederson (Gordon)

1 FOR AN ACT ENTITLED, An Act to provide that taking money or property from patients or
2 inmates by certain institution employees constitutes theft.

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

4 Section 1. Any employee of the Department of Corrections or Department of Human
5 Services who, for personal benefit, takes, borrows, or steals anything with a value of five dollars
6 or more in property or money, from a patient, juvenile, or inmate who is under the care or
7 supervision of the Department of Corrections or the Department of Human Services, is guilty
8 of a Class 1 misdemeanor theft.

9 Section 2. For purposes of this Act, an employee of the Department of Corrections or the
10 Department of Human Services means any person employed by the department, full or part time,
11 including an individual under contract assigned to the department, an employee of another state
12 agency assigned to the department, or a volunteer working in a department facility or for a
13 department agency or program.