

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

176I0075

HOUSE BILL NO. 1179

Introduced by: Representatives Williamson, Bartling, Lange, Olson (Mel), Peterson (Bill),
and Solum and Senators Earley, de Hueck, Moore, and Symens

1 FOR AN ACT ENTITLED, An Act to repeal certain provisions prohibiting disclosures by a
2 state agency of information concerning a private entity.

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

4 Section 1. That § 1-27-28 be repealed.

5 ~~1-27-28. Terms used in §§ 1-27-29 to 1-27-32, inclusive, mean:~~

6 ~~(1) "Private entity," any person or entity that is not a public entity as defined by~~
7 ~~subdivision 3-21-1(2);~~

8 ~~(2) "State agency," each association, authority, board, commission, committee, council,~~
9 ~~department, division, state office, task force, and their officers, legal representatives,~~
10 ~~consultants, or other agents. The term does not include the Legislature, the Unified~~
11 ~~Judicial System, any law enforcement agency, or any unit of local government.~~

12 Section 2. That § 1-27-29 be repealed.

13 ~~1-27-29. A state agency which is authorized by law to investigate, examine, or audit the~~
14 ~~papers, books, records, financial condition, or other information held by or concerning a private~~
15 ~~entity may not disclose that it is conducting such an investigation, examination, or audit, except~~



1 as provided by §§ 1-27-28 to 1-27-32, inclusive.

2 Section 3. That § 1-27-30 be repealed.

3 ~~—1-27-30. All information obtained from or concerning the private entity by the state agency~~
4 ~~as a result of such an investigation, examination, or audit is confidential, except as provided by~~
5 ~~§§ 1-27-28 to 1-27-32, inclusive.~~

6 Section 4. That § 1-27-31 be repealed.

7 ~~—1-27-31. A state agency may not disclose that it is investigating, examining, or auditing a~~
8 ~~private entity, and may only disclose the information obtained from such an investigation,~~
9 ~~examination, or audit as follows:~~

10 ~~—(1)—To the private entity being investigated, examined, or audited;~~

11 ~~—(2)—To those persons whom the private entity has authorized in writing to receive such~~
12 ~~information;~~

13 ~~—(3)—To the officers, employees, or legal representatives of any other state agency which~~
14 ~~requests the information in writing for the purpose of investigating and enforcing civil~~
15 ~~or criminal matters. The written request will specify the particular information desired~~
16 ~~and the purpose for which the information is requested;~~

17 ~~—(4)—To any administrative or judicial body if the information is directly related to the~~
18 ~~resolution of an issue in the proceeding, or pursuant to an administrative or judicial~~
19 ~~order. However, no person may use a subpoena, discovery, or other applicable~~
20 ~~statutes to obtain such information;~~

21 ~~—(5)—To another state pursuant to an agreement between the State of South Dakota and~~
22 ~~the other state, but only if the other state agrees to keep the information confidential~~
23 ~~as set forth in §§ 1-27-28 to 1-27-32, inclusive;~~

24 ~~—(6)—To the attorney general, state's attorney, or any state, federal, or local law~~

1 enforcement officer;

2 ~~—(7)—To a federal agency pursuant to the provisions of federal law;~~

3 ~~—(8)—To the extent necessary to submit any final reports or filings which are otherwise~~
4 ~~required by law to be prepared or filed;~~

5 ~~—(9)—For investigations to protect the natural resources of the state; or~~

6 ~~—(10)—To comply with federal law, rules, or program delegation requirements.~~

7 Section 5. That § 1-27-32 be repealed.

8 ~~—1-27-32. Disclosure of information made confidential by §§ 1-27-28 to 1-27-32, inclusive,~~
9 ~~except as provided in § 1-27-31, is a Class 6 felony.~~