

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

824I0768

SENATE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **HB 1282** - 02/28/2003

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

Introduced by: Representatives Peterson (Bill), Madsen, Michels, and Olson (Mel) and Senators Bogue, Brown, and Moore

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the official records
2 and the notification requirements relating to a pardon.

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

4 Section 1. That § 24-14-11 be amended to read as follows:

5 24-14-11. Any person who has been granted a pardon under the provisions of this chapter
6 shall be released from all disabilities consequent on ~~such~~ the person's conviction. Upon the
7 granting of a pardon under the provisions of this chapter, the Governor shall order that all official
8 records relating to the pardoned person's arrest, indictment or information, trial, finding of guilt,
9 and receipt of a pardon shall be sealed. ~~The effect of such order is to restore such~~ The receipt
10 of any pardon, which was granted without following the provisions of this chapter, may not be
11 sealed. The pardon restores the person, in the contemplation of the law, to the status the person
12 occupied before arrest, indictment, or information. No person as to whom such order has been
13 entered may be held thereafter under any provision of any law to be guilty of perjury or of giving
14 a false statement by reason of such person's failure to recite or acknowledge such arrest,



1 indictment, information, or trial in response to any inquiry made of such person for any purpose.

2 For the sole purpose of consideration of the sentence of a defendant for subsequent offenses
3 or the determination of whether the defendant is a habitual offender under chapter 22-7 or 32-23,
4 the pardoned offense shall be considered a prior conviction.

5 The court shall forward a nonpublic record of disposition to the Division of Criminal
6 Investigation. The nonpublic record shall be retained solely for use by law enforcement agencies,
7 prosecuting attorneys, and courts in sentencing such person for any subsequent offense and in
8 determining whether or not, in any subsequent proceeding, the person is an habitual offender
9 under chapter 22-7 or 32-23.

10 Section 2. That § 24-14-4 be amended to read as follows:

11 24-14-4. Any applicant shall, upon notice of hearing from the board for clemency
12 consideration, ~~publish once, at a time between one and two weeks prior to the hearing, in some~~
13 ~~newspaper of general circulation in~~ each week for three consecutive weeks in all official
14 newspapers designated by the county where the offense was committed or, if no such newspaper
15 ~~exists, shall post in a conspicuous place on the door of the courthouse of such county, the name~~
16 of the person on whose behalf the application is made, the public offense for which he was
17 convicted, the time of his conviction, and the term of imprisonment. The last publication shall
18 be published at least twenty days before the hearing. The affidavit of the publisher of the paper
19 or the person posting the notice showing that notice has been published or posted shall
20 accompany the application. This notice requirement does not apply to an inmate who has been
21 released from the state penitentiary for at least five years and who was convicted of not more
22 than one felony, if the felony for which he was convicted is not punishable by life imprisonment.

23 Section 3. That chapter 24-14 be amended by adding thereto a NEW SECTION to read as
24 follows:

1 Upon receipt of an application for clemency, the board of pardons and paroles shall make a
2 good faith effort to notify, in writing, any victim as defined in § 23A-28C-4.

3 Section 4. That § 24-14-9 be amended to read as follows:

4 24-14-9. Applications for exceptional pardons shall be in accordance with §§ 24-14-3 ~~and,~~
5 24-14-5, and section 3 of this Act. The notice requirement contained in § 24-14-4 ~~shall~~ does not
6 apply to exceptional pardons.