

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

394I0114

SENATE JUDICIARY COMMITTEE ENGROSSED NO.

HB 1048 - 02/03/2003

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

1 FOR AN ACT ENTITLED, An Act to make threatening court services officers a crime.

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

3 Section 1. That § 22-11-15 be amended to read as follows:

4 22-11-15. Any person who, directly or indirectly, utters or addresses any threat or
5 intimidation to any judicial or ministerial officer, juror, ~~referee, arbitrator, umpire, or director of~~
6 ~~equalization~~, or other person authorized by law to hear or determine any controversy, or any
7 court services officer, with intent to induce ~~him~~ such person either to do any act not authorized
8 by law, or to omit or delay the performance of any duty imposed upon ~~him~~ such person by law,
9 or for having performed any duty imposed upon ~~him~~ such person by law, is guilty of a Class 5
10 felony.



State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

394I0117

SENATE JUDICIARY COMMITTEE ENGROSSED NO.

HB 1049 - 02/03/2003

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

1 FOR AN ACT ENTITLED, An Act to invest the court with discretion to provide for the
2 overnight supervision of juries.

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

4 Section 1. That § 23A-25-5 be amended to read as follows:

5 23A-25-5. Before the jurors retire for deliberation, one or more officers ~~must~~ shall be sworn
6 to keep ~~them~~ the jurors together in some private and convenient place, with such suitable food
7 and drink as the court shall direct. The court may, in its discretion, ~~permit the jurors to separate~~
8 either sequester the jurors during the adjournment of court overnight, under supervision of the
9 officer or such officers, or allow the jurors to separate overnight during the adjournment of the
10 court without supervision after proper admonishment. The While supervising the jurors, the
11 officers ~~shall~~ may not permit any person (including themselves) to communicate with the jurors
12 or to ask whether ~~they~~ the jurors have agreed upon a verdict except by order of court. The
13 officers shall return the jurors into court when ~~they have~~ the jury has agreed upon a verdict.



State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

445I0358

HOUSE LOCAL GOVERNMENT COMMITTEE ENGROSSED NO. **HB 1056** - 02/04/2003

Introduced by: Representatives Teupel and Madsen and Senator Apa

1 FOR AN ACT ENTITLED, An Act to define the premises of a licensee that may be issued an
2 on-sale license outside a municipality.

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

4 Section 1. That chapter 35-4 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 The premises of a retailer licensed pursuant to subdivision 35-4-2(6) shall be described on
7 the application for the license and may include any hotel with at least fifty rooms that are suitable
8 lodging accommodations, any convention center and related facility, and any full-service
9 restaurant under common ownership and management before January 1, 2003, separated only
10 by a scenic public right of way and a linear distance of no more than five hundred feet. For
11 purposes of this section, a full-service restaurant has facilities for the serving of prepared meals
12 from a fixed restaurant area with a separate kitchen and a simultaneous seating capacity of at
13 least sixty patrons.



State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

673I0302

SENATE JUDICIARY COMMITTEE ENGROSSED NO.

HB 1060 - 02/03/2003

Introduced by: Representatives Hennies, Cutler, Lintz, Madsen, Nesselhuf, and Schafer and
Senators Albers, Abdallah, Duniphan, Ham, Kelly, and Kooistra

1 FOR AN ACT ENTITLED, An Act to require annual reregistration of certain sex offenders.

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

3 Section 1. That chapter 22-22 be amended by adding thereto a NEW SECTION to read as
4 follows:

5 Any person who is subject to the provisions of § 22-22-31 shall annually reregister in the
6 same manner as may be provided by law for initial registration. Such person shall reregister
7 during the calendar month during which the registrant was born. However, if such person has
8 previously registered pursuant to the provisions of § 22-22-31 within ninety days immediately
9 prior to the date of such person's birth, no subsequent reregistration is required pursuant to this
10 section during the current annual reregistration cycle.

11 A violation of this section is a Class 1 misdemeanor. However, any subsequent violation is
12 a Class 6 felony.

13 Section 2. That § 22-22-37 be repealed.

14 ~~22-22-37. Any person required to register pursuant to §§ 22-22-30 to 22-22-39, inclusive,~~
15 ~~shall annually register with the local law enforcement agency having jurisdiction of the person's~~



1 ~~residence verifying the information given pursuant to § 22-22-32. A violation of this section is~~
2 ~~a Class 1 misdemeanor. Any second or subsequent violation of this section is a Class 6 felony.~~

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

556I0285

SENATE ENGROSSED NO. **HB 1061** - 02/05/2003

Introduced by: Representatives Hennies, Madsen, and McCaulley and Senators Vitter, Abdallah, Albers, Duniphan, Reedy, and Sutton (Dan)

1 FOR AN ACT ENTITLED, An Act to provide for the crime of bestiality and to prescribe certain
2 penalties therefor.

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

4 Section 1. That chapter 22-22 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 No person, for the purpose of that person's sexual gratification, may:

- 7 (1) Engage in a sexual act with an animal; or
8 (2) Coerce any other person to engage in a sexual act with an animal; or
9 (3) Use any part of the person's body or an object to sexually stimulate an animal; or
10 (4) Videotape a person engaging in a sexual act with an animal; or
11 (5) Kill or physically abuse an animal.

12 Any person who violates any provision of this section is guilty of the crime of bestiality.

13 Bestiality is a Class 6 felony. However, if any person has been previously convicted of a sex
14 crime pursuant to § 22-22-30, any subsequent violation of this section is a Class 5 felony.

15 Section 2. That chapter 22-22 be amended by adding thereto a NEW SECTION to read as



1 follows:

2 For the purposes of section 1 of this Act, the term, sexual act with an animal, means any act
3 between a person and an animal involving direct physical contact between the genitals of one and
4 the mouth or anus of the other, or direct physical contact between the genitals of one and the
5 genitals of the other. A sexual act with an animal may be proved without evidence of penetration.

6 Section 3. That chapter 22-22 be amended by adding thereto a NEW SECTION to read as
7 follows:

8 The provisions of section 1 of this Act do not apply to or prohibit normal, ordinary, or
9 accepted practices involved in animal husbandry, artificial insemination, or veterinary medicine.

10 Section 4. That § 22-22-30 be amended to read as follows:

11 22-22-30. For the purposes of §§ 22-22-31 to 22-22-39, inclusive, a sex crime is any of the
12 following crimes regardless of the date of the commission of the offense or the date of
13 conviction:

- 14 (1) Rape as set forth in § 22-22-1;
- 15 (2) Sexual contact with a minor under sixteen as set forth in § 22-22-7 if committed by
16 an adult and the adult is convicted of a felony;
- 17 (3) Sexual contact with a person incapable of consenting as set forth in § 22-22-7.2 if
18 committed by an adult;
- 19 (4) Incest as set forth in § 22-22-19.1 if committed by an adult;
- 20 (5) Possessing, manufacturing, or distributing child pornography as set forth in
21 § 22-22-24.2;
- 22 (6) Sale of child pornography as set forth in § 22-22-24;
- 23 (7) Sexual exploitation of a minor as set forth in § 22-22-24.3;
- 24 (8) Kidnapping, as set forth in § 22-19-1, if the victim of the criminal act is a minor;

- 1 (9) Promotion of prostitution of a minor as set forth in subdivision 22-23-2 (2);
- 2 (10) Criminal pedophilia as set forth in § 22-22-30.1;
- 3 (11) Felony indecent exposure as set forth in former § 22-24-1 or indecent exposure as set
- 4 forth in § 22-24-1.2;
- 5 (12) Solicitation of a minor as set forth in § 22-22-24.5;
- 6 (13) Bestiality as set forth in section 1 of this Act;
- 7 (14) An attempt to commit any of the crimes listed in this section;
- 8 ~~(14)~~(15) Any crime committed in a place other than this state which would constitute
- 9 a sex crime under this section if committed in this state;
- 10 ~~(15)~~(16) Any federal crime or court martial that would constitute a sex crime under
- 11 federal law; or
- 12 ~~(16)~~(17) Any crime committed in another state if that state also requires that anyone
- 13 convicted of that crime register as a sex offender in that state.

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

409I0372

HOUSE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **HB 1121** - 02/05/2003

Introduced by: Representatives Olson (Mel), Cutler, Gillespie, Hennies, Hunhoff, Madsen, McCoy, Peterson (Bill), Schafer, and Sebert and Senators Olson (Ed), Diedrich (Larry), Duniphan, Moore, and Sutton (Dan)

1 FOR AN ACT ENTITLED, An Act to clarify certain restrictions concerning sex discrimination
2 in certain employment matters.

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

4 Section 1. That chapter 20-13 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 No employment decision in which the sex of the person is considered may be deemed
7 discriminatory conduct under this chapter if the employment requires monitoring or supervising
8 any single-sex bathroom, locker room, or changing room. This section does not afford the right
9 of same sex observational privacy to prisoners.



State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

373I0371

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

HB 1146 - 02/05/2003

Introduced by: Representatives Cutler, Gillespie, Hennies, Olson (Mel), Peterson (Bill),
Schafer, and Sebert and Senators Diedrich (Larry), Duniphan, Moore, Olson
(Ed), and Sutton (Dan)

1 FOR AN ACT ENTITLED, An Act to limit a perpetrator's right to recover for injuries received
2 in the course of committing a crime and to revise the definition of crime.

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

4 Section 1. That § 22-48-1 be amended to read as follows:

5 22-48-1. Terms used in this section mean:

- 6 (1) "Convicted," includes a finding of guilt, whether or not the adjudication of guilt is
7 stayed or executed, an unwithdrawn judicial admission of guilt or guilty plea, a no
8 contest plea, a judgment of conviction, an adjudication as a delinquent child, or an
9 admission to a juvenile delinquency petition;
- 10 (2) "Course of criminal conduct," includes the acts or omissions of the perpetrator in
11 carrying out the crime of which convicted or of a victim in resisting criminal conduct;
- 12 (3) "Crime," includes an offense named in §§ 22-11-3, 22-11-4, 22-11-6, 22-11-9.1,
13 22-16-4, 22-16-7, 22-16-9, 22-16-15, 22-16-20, 22-18-1, 22-18-1.1, 22-19-1,
14 22-19A-1, 22-19A-2, 22-22-1, 22-22-7, 22-30-1, 22-30A-4, 22-32-1, 22-32-3,



1 22-32-8, chapter 22-33, or an attempt to commit any of these offenses. The term
2 includes a crime in other states which would have been within this definition if the
3 crime had been committed in this state;

4 (4) "Perpetrator," any person who has engaged in criminal conduct and includes a person
5 convicted of a crime;

6 (5) "Victim," a person who was the object of another's criminal conduct and includes a
7 person at the scene of an emergency who gives reasonable assistance to another
8 person who is exposed to or has suffered grave physical harm.

9 Section 2. That chapter 22-48 be amended by adding thereto a NEW SECTION to read as
10 follows:

11 If the perpetrator claims that the victim used unreasonable force, before any discovery
12 relating to the claim may be commenced and before the claim may be submitted to the trier of
13 fact, the court, after hearing, must find, based on clear and convincing evidence, that there is a
14 reasonable basis to believe that the victim used unreasonable force.

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

400I0586

HOUSE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **HB 1159** - 02/05/2003

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

1 FOR AN ACT ENTITLED, An Act to make leaving employment due to domestic abuse good

2 cause for voluntarily leaving employment for unemployment benefit purposes.

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

4 Section 1. That § 61-6-13.1 be amended to read as follows:

5 61-6-13.1. "Good cause" for voluntarily leaving employment is restricted to leaving
6 employment because:

7 (1) Continued employment presents a hazard to the employee's health. However, this
8 subdivision applies only if:

9 (a) Prior to the separation from the employment the employee is examined by a
10 licensed practitioner of the healing arts, as defined in chapter 36-4 or 36-5, and
11 advised that continued employment presents a hazard to his health; and

12 (b) The health hazard is supported by a certificate signed by the licensed
13 practitioner of the healing arts.

14 The secretary of labor may request an additional certificate signed by another licensed
15 practitioner of the healing arts, as defined in chapter 36-4 or 36-5;



1 (2) The employer required the employee to relocate ~~his~~ the employee's residence to hold
2 ~~his~~ the employee's job;

3 (3) The employer's conduct demonstrates a substantial disregard of the standards of
4 behavior that the employee has a right to expect of ~~his~~ an employer or the employer
5 has breached or substantially altered the contract for employment;

6 (4) An individual accepted employment while on lay off and subsequently quit ~~such~~ the
7 employment to return to work for ~~his~~ the individual's regular employer; or

8 (5) The employee's religious belief mandates it. This provision does not apply, however,
9 if the employer has offered to the employee reasonable accommodations taking into
10 consideration the employee's religious beliefs if this offer is made before the employee
11 leaves the employment; or

12 (6) Leaving is necessary to protect the individual from domestic abuse. However, this
13 subdivision applies only if:

14 (a) The employee reports the abusive situation to law enforcement within forty-
15 eight hours of any occurrence and cooperates fully with law enforcement in any
16 subsequent investigation and criminal charge relating to the abusive situation.
17 Upon request by the department, the law enforcement agency shall complete
18 and return to the department a certification form indicating whether the
19 employee has complied with the requirements of this subdivision;

20 (b) The employee has left the abusive situation and remains separate from the
21 situation; and

22 (c) The employee made reasonable efforts to preserve the employment before
23 quitting.

24 Any person found to have good cause for leaving employment due to domestic abuse as set

1 forth in subdivision (6) and who returns to the abusive situation is ineligible for benefits.

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

419I0131

SENATE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **SCR 3** - 02/03/2003

Introduced by: Senators LaPointe, Abdallah, Albers, Bogue, Brown, de Hueck, Duniphan, Earley, Greenfield, Ham, Jaspers, Kelly, Kleven, Knudson, Kooistra, Koskan, McCracken, Moore, Napoli, Olson (Ed), Schoenbeck, Sutton (Duane), and Vitter and Representatives Juhnke, Garnos, McCaulley, Teupel, and Valandra

1 A CONCURRENT RESOLUTION, Petitioning the Secretary of the United States Department
2 of Transportation to promulgate a regulation placing all of Jones, Mellette, and Todd
3 Counties within the central standard time zone.

4 WHEREAS, Mellette and Todd Counties and the western portion of Jones County are
5 currently located in the mountain standard time zone; and

6 WHEREAS, the vast majority of the residents of these counties observe central standard time
7 instead of the mountain standard time because of their commercial and social ties to communities
8 located in the central standard time zone; and

9 WHEREAS, there would be much less confusion and it would be much more convenient for
10 the commerce of these counties if these counties were located in the central standard time zone:

11 NOW, THEREFORE, BE IT RESOLVED, by the Senate of the Seventy-eighth Legislature
12 of the State of South Dakota, the House of Representatives concurring therein, that the
13 Secretary of the United States Department of Transportation review the present location of the
14 time zone boundary through central South Dakota, pursuant to 15 U.S.C. § 261, and give



1 serious consideration to revising federal regulations to place all of Jones County, Mellette
2 County, and Todd County, South Dakota, within the central standard time zone; and

3 BE IT FURTHER RESOLVED, that the Secretary of the Senate send copies of this
4 Resolution to the United States Secretary of Transportation and to each member of the South
5 Dakota Congressional Delegation.