

State of South Dakota

EIGHTIETH LEGISLATIVE ASSEMBLY, 2005

178L0306

HOUSE BILL NO. **1070**

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

1 FOR AN ACT ENTITLED, An Act to provide for the arrest and detention of certain
2 probationers believed to be in violation of their probation conditions by court service
3 officers or law enforcement officers.

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

5 Section 1. That § 23A-27-21 be amended to read as follows:

6 23A-27-21. ~~The court services officer shall immediately submit to the court having~~
7 ~~jurisdiction of a case the failure of any person in his charge to comply with his directives or with~~
8 ~~any conditions imposed by the court. Whenever the court services officer is satisfied that for any~~
9 ~~reason the purposes or objects of a court's suspension or probation are not being served, or when~~
10 ~~it appears to him necessary in order to prevent escape or enforce discipline, he may, without~~
11 ~~order or warrant, take and detain a probationer and place him in custody and shall immediately~~
12 ~~submit to the court having jurisdiction of the case such fact, together with reasons why he~~
13 ~~believes the purposes and objects of such suspension or probation are not being served. The~~
14 ~~court shall thereupon consider the recommendations of the court services officer and make~~
15 ~~suitable disposition thereof which may include revocation of probation or suspension. A court~~
16 ~~services officer may arrest and take into custody a person on probation or suspended sentence~~



1 without a warrant if that court services officer has probable cause to believe that:

2 (1) The person has violated the terms and conditions of suspension or probation;

3 (2) The person has failed to comply with the court services officer's directives;

4 (3) The purpose or objects of suspension or probation are not being served; or

5 (4) The arrest or taking into custody appears necessary in order to prevent escape,
6 enforce discipline, or protect the community.

7 Section 2. That chapter 23A-27 be amended by adding thereto a NEW SECTION to read
8 as follows:

9 A court services officer may issue a verbal or written order authorizing a law enforcement
10 officer to aid a court services officer in making an arrest or taking a person into custody
11 pursuant to § 23A-27-21.

12 Section 3. That chapter 23A-27 be amended by adding thereto a NEW SECTION to read
13 as follows:

14 If a court services officer has probable cause to believe a person on probation has violated
15 the terms and conditions of probation, the court services officer may issue a detainer authorizing
16 anyone having the person in custody to detain the person for up to forty-eight hours, excluding
17 Saturdays, Sundays, and holidays, for the purpose of obtaining a warrant, revocation, bond
18 hearing, or court order. The person shall be released after forty-eight hours, excluding Saturdays,
19 Sundays, and holidays, unless a warrant or court order for further detention has been issued.