

State of South Dakota

EIGHTIETH
LEGISLATIVE ASSEMBLY, 2005

400L0258

SENATE JUDICIARY COMMITTEE ENGROSSED NO.

SB 15 - 01/14/2005

Introduced by: The Committee on Commerce at the request of the Department of Labor

1 FOR AN ACT ENTITLED, An Act to provide that certain submissions constitute waiver of the
2 right to change a hearing examiner in certain contested cases regarding workers'
3 compensation.

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

5 Section 1. That chapter 62 be amended by adding thereto a NEW SECTION to read as
6 follows:

7 Notwithstanding § 62-7-12.2, the submission to a hearing examiner of argument or proof
8 in support of a motion or application constitutes a waiver of the right thereafter to file an
9 informal request to disqualify the hearing examiner by any party or the party's counsel who
10 submitted the argument or proof. The waiver shall continue until the final determination of the
11 action and includes all subsequent motions, hearings, proceedings, and all proceedings to
12 enforce, amend, or vacate any order.



State of South Dakota

EIGHTIETH
LEGISLATIVE ASSEMBLY, 2005

400L0295 **SENATE COMMERCE COMMITTEE ENGROSSED NO.**
SB 20 - 01/14/2005

Introduced by: The Committee on State Affairs at the request of the Public Utilities
Commission

1 FOR AN ACT ENTITLED, An Act to prohibit a mobile telecommunications service provider
2 from including a subscriber's telephone number in a wireless directory assistance service
3 database without the subscriber's authorization.

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

5 Section 1. That § 49-31-1 be amended by adding thereto NEW SUBDIVISIONS to read as
6 follows:

7 "Mobile telecommunications service," any commercially available interconnected mobile
8 phone service that provides access to the public switched telephone network through mobile
9 communications devices employing radio wave technology to transmit calls;

10 "Wireless telephone number information," the telephone number, electronic address, and
11 any other identifying information by which a calling party may reach a subscriber of mobile
12 telecommunications service, and that is assigned by a mobile telecommunications service
13 provider to a subscriber, and includes the subscriber's name and address.

14 Section 2. That chapter 49-31 be amended by adding thereto a NEW SECTION to read as
15 follows:



1 No provider of mobile telecommunications service, or any direct or indirect affiliate or agent
2 of a provider, may include the wireless telephone number information of a South Dakota
3 subscriber in a wireless directory assistance service database or publish, sell, or otherwise
4 disseminate the contents of a wireless directory assistance service database unless:

5 (1) The mobile telecommunications service provider provides a conspicuous separate
6 notice to the subscriber informing the subscriber of the right not to be listed in a
7 wireless directory assistance service; and

8 (2) The mobile telecommunications services provider obtains express prior authorization
9 for listing from the subscriber, separate from any authorization obtained to provide
10 such subscriber with mobile telecommunications service, or any calling plan or
11 service associated with the mobile telecommunications service, and the authorization
12 has not been subsequently withdrawn.

13 Section 3. That chapter 49-31 be amended by adding thereto a NEW SECTION to read as
14 follows:

15 No person may charge a subscriber for making the choice to not be listed in a wireless
16 directory assistance database or for removing the subscriber's mobile telecommunications
17 service telephone number from a wireless directory assistance database at the subscriber's
18 request.

State of South Dakota

EIGHTIETH
LEGISLATIVE ASSEMBLY, 2005

400L0381

SENATE JUDICIARY COMMITTEE ENGROSSED NO. **SB 59** - 01/14/2005

Introduced by: The Committee on Judiciary at the request of the Department of Corrections

1 FOR AN ACT ENTITLED, An Act to permit the involuntary feeding or hydration of a prisoner.

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

3 Section 1. The supervisor of a jail, as defined in § 24-11-1, or a prison warden may attempt
4 to prevent a prisoner from causing severe harm or death to himself or herself by refusing
5 sufficient nutrition or hydration. A prisoner may be involuntarily fed or hydrated if it is
6 determined, pursuant to the provisions of this Act, that the prisoner is likely to cause severe
7 harm to himself or herself by refusing sufficient nutrition or hydration. No supervisor of a jail
8 or prison warden may prevent medically imposed fasts for the purpose of conducting medical
9 tests or procedures or religious fasts for a reasonable length of time.

10 Section 2. Prior to involuntary feeding or hydration, the prisoner shall receive a hearing
11 before a panel consisting of two medical representatives and a representative of the jail or
12 prison. The medical representatives shall be a physician, physician assistant, or nurse
13 practitioner. No panel member may have participated in the prisoner's current diagnosis,
14 evaluation, or treatment. The prisoner has the right to notice of the hearing at least forty-eight
15 hours in advance, the right to attend the hearing, the right to present evidence and cross-examine



1 witnesses, and the right to representation by a disinterested lay advisor.

2 Section 3. The hearing panel:

- 3 (1) May engage in a confidential review of the prisoner's medical records;
- 4 (2) Shall receive a description of the proposed course of treatment for the involuntary
5 feeding or hydration of the prisoner and testimony of the circumstances of the
6 situation from the attending physician; and
- 7 (3) May ask for testimony by other medical personnel, mental health personnel, or jail
8 or prison staff who have knowledge of the circumstances of the prisoner's lack of
9 nutrition or hydration.

10 Section 4. The panel may order involuntary feeding or hydration by a majority vote. The
11 panel shall provide its decision in writing to the attending physician, the supervisor of the jail
12 or prison warden, and the prisoner. The prisoner may appeal an adverse decision of the panel
13 to the supervisor of the jail in which the prisoner is confined or the secretary of corrections if
14 the prisoner is confined in a Department of Corrections facility. The prisoner may appeal the
15 decision of the jail supervisor or secretary of corrections to circuit court pursuant to chapter 1-
16 26.

17 Section 5. In an emergency, involuntary feeding or hydration of a prisoner may be
18 administered without panel review for up to three days if two medical representatives who are
19 a physician, physician assistant, or nurse practitioner order the treatment. Involuntary feeding
20 for a greater length of time requires the approval of the panel.

21 Section 6. If involuntary feeding or hydration of a prisoner exceeds ten days, a physician
22 who is not the attending physician shall review the prisoner's current case and at subsequent
23 intervals not to exceed three days, make a written determination whether the involuntary feeding
24 or hydration shall be continued. The physician's written determination shall be provided to the

1 attending physician, the supervisor of the jail or prison warden, and the prisoner.

2 Section 7. A jail or prison shall maintain records of any involuntary feeding or hydration of
3 prisoners. The records shall include any available medical history of a prisoner's prior refusal
4 of adequate nutrition or hydration, current and prior illnesses, and may include such other
5 information as deemed necessary by the jail or prison to facilitate management of prisoners.

6 Section 8. No person who serves on the hearing panel, who is the attending physician, who
7 is the supervisor of the jail or prison warden, or who participates in the involuntarily feeding or
8 hydrating of a prisoner may be held civilly or criminally liable for the involuntarily feeding or
9 hydrating of a prisoner pursuant to this Act if the person performs these duties in good faith and
10 in a reasonable manner according to generally accepted medical or other professional practices.