

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

445M0117

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

HB 1100 - 01/30/2006

Introduced by: Representatives Murschel, Cutler, Dykstra, Gillespie, Haverly, Hennies, McCoy, McLaughlin, Miles, O'Brien, Olson (Ryan), Rhoden, Roberts, Schafer, Thompson, Tornow, Wick, and Willadsen and Senators Abdallah, Adelstein, Bartling, Dempster, Duniphan, Kelly, Schoenbeck, and Sutton (Dan)

1 FOR AN ACT ENTITLED, An Act to provide for the establishment of standards for persons
2 conducting home studies for purposes of child custody and visitation.

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

4 Section 1. The South Dakota Supreme Court shall promulgate court rules establishing
5 standards that must be met by any person who conducts a home study, evaluates issues
6 regarding visitation or child custody based on the home study, or testifies, based on conducting
7 or evaluating the home study, in any divorce or separate maintenance action or any other
8 custody action or proceeding. The standards shall provide minimum requirements for any person
9 performing the functions described in this section.

10 The provisions of this section do not apply to chapters 26-7A, 26-8A, 26-8B, and 26-8C.



State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

717M0562

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

HB 1109 - 01/27/2006

Introduced by: Representatives Miles, Cutler, Murschel, and Weems and Senators Bartling, Abdallah, Dempster, and Knudson

1 FOR AN ACT ENTITLED, An Act to provide civil immunity to qualified mental health
2 professionals designated by the chairs of the county board of mental illness.

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

4 Section 1. That chapter 27A-7 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Any person serving as the qualified mental health professional as designated by the chair of
7 the county board of mental illness, whose examinations and testimony under Title 27A are
8 conducted in good faith, is immune from any civil liability for such examinations and testimony.
9 The immunity from civil liability under this section does not apply if injury results from gross
10 negligence or willful or wanton misconduct.



State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

336M0588

HOUSE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **HB 1113** - 01/30/2006

Introduced by: Representatives Deadrick and Rhoden and Senators Earley and Bogue

1 FOR AN ACT ENTITLED, An Act to exempt claims related to wildland fire operations outside
2 the state from certain workers' compensation provisions.

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

4 Section 1. That § 62-1-5.2 be amended to read as follows:

5 62-1-5.2. Any firefighter who is a member of any county, municipal, special purpose district,
6 township, or private nonprofit corporation operating as a fire department that has on file a
7 cooperative fire suppression agreement with the South Dakota Department of Agriculture, and
8 has been approved by the governing body for assignment to the state, is eligible for workers'
9 compensation benefits from the state if injured during a period of time commencing from the
10 time dispatched by the secretary of agriculture or the secretary's designee until the time the
11 firefighter returns to the location from which the firefighter was originally dispatched by the
12 secretary of agriculture ~~or the secretary's designee~~. In the event of injury or death, the firefighter
13 shall, for the purpose of computing compensation, be considered to be earning a wage that
14 would entitle that person to the maximum compensation for death or injury allowable under this
15 title; but in no event may payments to any firefighter exceed the maximum limitations for



1 benefits as set out in this title.

2 For purposes of determining compensation any remuneration received by a member who
3 voluntarily serves the department may not be considered.

4 No firefighter under this section may be deemed a state employee for any purpose other than
5 eligibility to receive workers' compensation from the state under this section.

6 Eligibility for state workers compensation benefits provided by this section does not apply
7 if a firefighter's claim arises from services rendered while dispatched to a wildland fire outside
8 the State of South Dakota, unless the fire is a threat to resources within South Dakota.

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EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

970M0301

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

HB 1134 - 01/27/2006

Introduced by: Representatives Hanks, Brunner, Buckingham, Davis, Frost, Fryslie, Garnos, Hackl, Klautt, Krebs, McCoy, Rave, and Rhoden and Senators Lintz, Bogue, and Duenwald

1 FOR AN ACT ENTITLED, An Act to to revise certain provisions regarding the justifiable use
2 of force.

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

4 Section 1. That § 22-5-9 be amended to read as follows:

5 22-5-9. Any person may lawfully resist, by force or violence, the commission of any public
6 offense as follows:

7 (1) Any person, ~~about to be injured~~ upon threat of bodily injury, may make sufficient
8 resistance to prevent an offense against his or her person or the person of any family
9 or household member ~~thereof~~, or to prevent an illegal attempt by force to take or
10 injure property in his or her lawful possession; and

11 (2) Any person may make sufficient resistance in aid or defense of a any other person,
12 ~~about to be injured~~ threatened with bodily injury, to prevent such offense.

13 Section 2. That § 22-18-4 be amended to read as follows:

14 22-18-4. ~~To use or attempt to use or offer to use force or violence upon or toward the person~~



1 ~~of another is not unlawful if committed either by any person about to be injured, or by any other~~
2 ~~person in the aid or defense of a person about to be injured, in preventing or attempting to~~
3 ~~prevent an offense against his or her own person, or in preventing any trespass or other unlawful~~
4 ~~interference with real or personal property in his or her lawful possession. However, the force~~
5 ~~or violence used cannot be more than that sufficient to prevent such offense. Any person is~~
6 ~~justified in the use of force or violence against another person when, and to the extent that, the~~
7 ~~person reasonably believes that such conduct is necessary to prevent or terminate the other~~
8 ~~person's trespass on, or other tortious or criminal interference with real property or personal~~
9 ~~property, lawfully in his or her possession or in the possession of another who is a member of~~
10 ~~his or her immediate family or household or of a person whose property he or she has a legal~~
11 ~~duty to protect. However, the person is justified in the use of deadly force only as provided in~~
12 ~~§§ 22-16-34 and 22-16-35. A person does not have a duty to retreat if the person is in a place~~
13 ~~where he or she has a right to be. The force or violence used pursuant to this section cannot be~~
14 ~~more than that sufficient to prevent such offense.~~

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

758M0168

HOUSE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **HB 1157** - 01/27/2006

Introduced by: Representatives Olson (Ryan), Boomgarden, Bradford, Buckingham, Davis, Elliott, Fryslie, Gassman, Gillespie, Glenski, Glover, Haley, Halverson, Hanks, Hargens, Hennies, Jerke, Kroger, Lange, McLaughlin, Miles, Nelson, Novstrup, O'Brien, Roberts, Sigdestad, Street, Thompson, Valandra, and Van Norman and Senators Adelstein, Broderick, Duenwald, Kloucek, Kooistra, Moore, Nesselhuf, Olson (Ed), Peterson (Jim), Sutton (Dan), and Two Bulls

1 FOR AN ACT ENTITLED, An Act to extend opportunity scholarship eligibility to South
2 Dakota students who attend college or technical school out-of-state and then return to South
3 Dakota to attend school.

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

5 Section 1. That § 13-55-31 be amended to read as follows:

6 13-55-31. In order to be eligible for a South Dakota opportunity scholarship award, a student
7 shall:

8 (1) Be a resident of South Dakota at the time of graduation from high school;

9 (2) Have a composite score of 24, or higher, on the test administered by the American
10 College Testing Program or a verbal-mathematics score of 1070-1100, on the
11 Scholastic Assessment Test and the ACT or SAT test shall be taken before the
12 student graduates from high school;

13 (3) Meet the high school course requirements as provided in Board of Regents Policy



1 Number 2:3(2)(F) as in effect on January 1, 2003;

2 (4) Attend a university, college, or technical school that is accredited by the North
3 Central Association of Colleges and Schools and that provides instruction from a
4 campus located in South Dakota; and

5 (5) Enter into the program within five years of graduation from high school or within one
6 year of the student's release from active duty with an active component of the armed
7 forces if the release is within five years of the student's graduation from high school.

8 ~~However, eligibility is lost if~~ If a student attends full-time a regionally accredited
9 university, college, or technical school located outside South Dakota and within the
10 five two years following high school graduation or within the one year two years
11 following release from active military service returns to the state to attend full-time
12 a regionally accredited university, college, or technical school, the student is eligible
13 to receive a partial award.

14 A student is eligible to participate in the South Dakota opportunity scholarship program for
15 the equivalent of four academic years (eight consecutive spring and fall terms) or until the
16 attainment of a baccalaureate or technical degree, whichever comes first. However, the
17 executive director of the Board of Regents may grant exceptions to the continuous enrollment
18 requirements for good cause shown.

19 A student who would have been eligible for the scholarship, but who applies after
20 completing one or more semesters of full-time work at an accredited institution, may be
21 admitted to the program only if the student has complied with the same grade point and credit
22 hour requirements that would apply to program participants. Admission granted under these
23 circumstances may not be retroactive, and eligibility for participation in the program shall be
24 reduced by one semester for each semester of work completed prior to admission to the

1 program.

2 Section 2. That § 13-55-33 be amended to read as follows:

3 13-55-33. One-half of the annual scholarship award shall be paid to public institutions on
4 behalf of eligible students there enrolled or directly to eligible students enrolled at nonpublic
5 institutions at the beginning of the fall semester and the other half shall be paid at the beginning
6 of the spring semester. The amount of the annual award shall be as follows:

7 (1) One thousand dollars for the first year of attendance;

8 (2) One thousand dollars for the second year of attendance;

9 (3) One thousand dollars for the third year of attendance;

10 (4) Two thousand dollars for the fourth year of attendance unless the student attended
11 full-time a regionally accredited university, college, or technical school located
12 outside South Dakota prior to admission to the program, in which case the award
13 shall be one thousand dollars.

14 If, in any year, the total funds available to finance the scholarship awards are insufficient to
15 permit each eligible recipient to receive the full amount provided in this section, the available
16 moneys shall be prorated and distributed to each recipient in proportion to the entitlement
17 contemplated by this section. The total amount of the scholarship may not exceed five thousand
18 dollars.

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562M0393

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

HB 1165 - 01/30/2006

Introduced by: Representatives Rave, Cutler, Deadrick, Gillespie, Haley, Michels, Murschel,
and O'Brien and Senators Gray, Bogue, Knudson, Koetzle, and Schoenbeck

1 FOR AN ACT ENTITLED, An Act to establish a workers compensation small claims
2 procedure.

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

4 Section 1. That chapter 62-2 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 The department shall establish a small claims procedure for medical expense claims not
7 exceeding eight thousand dollars. The procedure may only be used for a medical expense claim
8 incurred after the department has held a hearing and has adjudicated the underlying injury as
9 compensable or after the department has approved an agreement as to compensation or a
10 memorandum of payment for permanent partial disability.

11 Section 2. That chapter 62-2 be amended by adding thereto a NEW SECTION to read as
12 follows:

13 The department shall, by rules promulgated pursuant to chapter 1-26, provide for the
14 manner in which the disputed claims shall be presented and the forms required from the
15 claimant and from employers.



1 Section 3. That chapter 62-2 be amended by adding thereto a NEW SECTION to read as
2 follows:

3 Any claimant pursuant to this Act shall initiate a claim by completing a form provided by
4 the department.

5 Section 4. That chapter 62-2 be amended by adding thereto a NEW SECTION to read as
6 follows:

7 The department shall send notice to the party claimed against by registered or certified mail,
8 return receipt.

9 Section 5. That chapter 62-2 be amended by adding thereto a NEW SECTION to read as
10 follows:

11 Any party claimed against may assert any setoff or counterclaim that is within the
12 jurisdiction of the department.

13 Section 6. That chapter 62-2 be amended by adding thereto a NEW SECTION to read as
14 follows:

15 The department shall conduct the hearings in accordance with chapter 1-26. The department
16 shall expedite any hearing to the extent possible.

17 Section 7. That chapter 62-2 be amended by adding thereto a NEW SECTION to read as
18 follows:

19 Any medical record, correspondence, medical bill, and expert report and correspondence is
20 admissible as evidence. Nothing in this Act precludes an employer or insurer from obtaining an
21 examination pursuant to § 62-7-1.

22 Section 8. That chapter 62-2 be amended by adding thereto a NEW SECTION to read as
23 follows:

24 Upon the request of any party claimed against, the claimant shall provide an executed

1 medical release in a form prescribed by the department, sufficiently in advance of the hearing
2 to allow the party claimed against to obtain such medical records as it deems appropriate. Any
3 party shall disclose to the other party any medical record that is within the party's possession and
4 is relevant to the claim in dispute.

5 Section 9. That chapter 62-2 be amended by adding thereto a NEW SECTION to read as
6 follows:

7 Within fifteen days after receiving the decision by the department, any party may appeal the
8 decision to the secretary of labor. The secretary of labor may on the secretary's own motion
9 affirm, modify, or set aside any decision on the basis of the evidence previously submitted in
10 the case or the secretary may direct the taking of additional evidence. The secretary shall
11 promptly notify the interested parties of the secretary's findings and decision. Any decision of
12 the secretary is the final decision of the department. Any final decision of the department may
13 be appealed as provided in chapter 1-26.

14 Section 10. That chapter 62-2 be amended by adding thereto a NEW SECTION to read as
15 follows:

16 Any claimant in any proceeding before the department may be represented by counsel or
17 other duly authorized agent, but no such counsel or agent may either charge or receive for such
18 services more than an amount approved by the department. An employer or insurer, including
19 a corporate employer or insurer, may be represented before the department by counsel, an
20 employee, or a corporate officer.

21 Section 11. That chapter 62-2 be amended by adding thereto a NEW SECTION to read as
22 follows:

23 Any finding of fact, conclusion of law, decision, or final order made in a small claims
24 proceeding may not be used as evidence in any separate or subsequent action or proceeding

- 1 between anyone in any tribunal, agency, or court of this state or the United States, regardless of
- 2 whether the prior action was between the same or related parties or involved the same facts.

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

366M0661

HOUSE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **HB 1199** - 01/27/2006

Introduced by: Representatives Gillespie, Buckingham, and Hennies and Senators Koskan,
Abdallah, Broderick, Moore, and Schoenbeck

1 FOR AN ACT ENTITLED, An Act to prohibit the release of information concerning the
2 applicants and holders of permits to carry a concealed pistol.

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

4 Section 1. That chapter 23-7 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 No state agency, political subdivision, official, agent, employee of any state agency or
7 political subdivision, or any other person, may knowingly release or permit access to any
8 application, list, record or registry of applicants or holders of permits to carry a concealed pistol
9 to any person except another law enforcement agency or the secretary of state.

