

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

436P0360

HOUSE ENGROSSED NO. **HB 1129** - 2/6/2008

Introduced by: Representatives Cutler, Deadrick, Engels, Feinstein, Gillespie, Hunt, and Lust
and Senators Heidepriem, Knudson, and Turbak Berry

1 FOR AN ACT ENTITLED, An Act to establish the Commission on Equal Access to Our Courts
2 and to make an appropriation therefor and to provide for the distribution of any residual
3 funds from class action lawsuits to the commission or other nonprofit charitable
4 organizations.

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

6 Section 1. There is hereby created the Commission on Equal Access to Our Courts. The
7 commission shall consist of seven members appointed as follows:

8 (1) Three members by the Governor, one initially appointed for a term of one year, one
9 initially appointed for a term of two years, and one for a term of three years, as
10 designated by the Governor. The Governor shall appoint members who are not
11 lawyers;

12 (2) Two members appointed by the Chief Justice of the Supreme Court, one initially
13 appointed for a term of two years and one for a term of three years, as designated by
14 the Chief Justice. The Chief Justice shall appoint members who are judges or
15 lawyers;



1 (3) Two members appointed by the president of the State Bar of South Dakota, one
2 initially appointed for a term of one year and one for a term of three years, as
3 designated by the president. The president shall appoint members who are lawyers.

4 Thereafter, each appointment shall be for a term of three years, beginning on the first day
5 of July. The commission members shall serve without compensation.

6 Section 2. The Commission on Equal Access to Our Courts shall provide grants to nonprofit
7 entities that are funded, or nonprofit entities contracting with nonprofit entities that are funded,
8 by the Legal Services Corporation and deliver legal services to persons meeting income
9 eligibility guidelines.

10 Section 3. Any order settling a class action lawsuit that results in the creation of a common
11 fund for the benefit of the class shall provide for the distribution of any residual funds to the
12 Commission on Equal Access to Our Courts. However, up to fifty percent of the residual funds
13 may be distributed to one or more other nonprofit charitable organizations that serve the public
14 good if the court finds there is good cause to approve such a distribution as part of the
15 settlement. For the purposes of this section, residual funds are any funds left over after payment
16 of class member claims, attorney fees and costs, and any reversions to a defendant agreed upon
17 by the parties and approved by the court. This section does not apply to any class action lawsuit
18 against the State of South Dakota or any of its political subdivisions.

19 Section 4. There is hereby appropriated from the general fund the sum of five thousand
20 dollars (\$5,000), or so much thereof as may be necessary, to the Commission on Equal Access
21 to Our Courts as established by this Act.

22 Section 5. The chair of the Commission on Equal Access to Our Courts shall approve
23 vouchers and the state auditor shall draw warrants to pay expenditures authorized by this Act.