

# State of South Dakota

NINETY-SECOND SESSION  
LEGISLATIVE ASSEMBLY, 2017

400Y0274

## HOUSE JUDICIARY ENGROSSED NO. **SB 25** - 3/6/2017

Introduced by: The Committee on Judiciary at the request of the Office of the Attorney  
General

1 FOR AN ACT ENTITLED, An Act to provide for the release of certain booking photographs.

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

3 Section 1. That § 23-5-7 be amended to read:

4 23-5-7. ~~All photographs, impressions, measurements, descriptions, or records~~ Any  
5 department or institution that makes or takes any photograph, impression, measurement,  
6 description, or record including confidential criminal investigative information, taken or made  
7 as provided for in § 23-5-6 shall be filed and preserved by the department or institution ~~where~~  
8 ~~made or taken and shall not be published, transferred, or circulated.~~ The department or  
9 institution may not publish, transfer, or circulate any impression, measurement, description,  
10 record, or photograph, except a criminal booking photograph, for a crime classified as a felony  
11 pursuant to § 22-6-1 outside ~~such~~ the department or institutions, nor exhibited to the public or  
12 any person or persons institution except to a duly authorized law enforcement officers unless  
13 officer. If the subject of ~~such photograph,~~ a measurement, description, or other record becomes  
14 a fugitive from justice, or escapes from a penal institution then the measurement, description,



1 or record may be exhibited to the public. However, this This section ~~shall~~ does not apply to the  
2 release of information allowed pursuant to § 24-2-20. Any criminal booking photograph for a  
3 crime classified as a felony pursuant to § 22-6-1 is a public record pursuant to chapter 1-27.

4 Nothing in this section requires any law enforcement agency to provide or reproduce a  
5 criminal booking photograph older than six months from the date of request. An agency  
6 requested to provide or reproduce a criminal booking photograph is entitled to recover costs of  
7 retrieval or reproduction pursuant to § 1-27-35.