

State of South Dakota

EIGHTIETH LEGISLATIVE ASSEMBLY, 2005

916L0140

SENATE BILL NO. _____

Introduced by: _____

1 FOR AN ACT ENTITLED, An Act to TODD-SOLICITATION.

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

3 Section 1. Any person who, with the intent to promote or facilitate the commission of a
4 crime, commands, hires, requests, or solicits another person to engage in specific conduct which
5 would constitute the commission of such offense or an attempt to commit such offense, is guilty
6 of criminal solicitation.

7 Criminal solicitation is a:

8 (1) Class 1 felony if the offense solicited is a Class A, B or C felony;

9 (2) Class 2 felony if the offense solicited is a Class 1 felony;

10 (3) Class 3 felony if the offense solicited is a Class 2 felony;

11 (4) Class 4 felony if the offense solicited is a Class 3 felony;

12 (5) Class 5 felony if the offense solicited is a Class 4 felony;

13 (6) Class 6 felony if the offense solicited is a Class 5 felony; or

14 (7) Class 1 misdemeanor if the offense solicited is a Class 6 felony.

15 Section 2. It is not a defense to prosecution for criminal solicitation that the person solicited
16 neither committed or attempted to commit the offense solicited nor was capable of committing



1 or attempting to commit the offense solicited.

2 Section 3. No person may be convicted of criminal solicitation upon the uncorroborated
3 testimony of the person allegedly solicited, and there must be proof of circumstances
4 corroborating both the solicitation and the defendant's intent.

5 Section 4. No person may be convicted of criminal solicitation if, under circumstances
6 manifesting a voluntary and complete renunciation of the defendant's criminal intent, the
7 defendant:

8 (1) Notified the person solicited of his or her renunciation; and

9 (2) Gave timely and adequate warning to the law enforcement authorities or otherwise
10 made a substantial effort to prevent the commission of the criminal conduct solicited.

11 The burden of injecting this issue is on the defendant, but this does not shift the burden of
12 proof.