

# State of South Dakota

SEVENTY-SECOND SESSION  
LEGISLATIVE ASSEMBLY, 1997

288A0519

## HOUSE BILL NO. 1172

Introduced by: Representatives Collier, Chicoine, de Hueck, Duxbury, Fischer-Clemens,  
Gleason, Hagen, Lee, Lucas, and Sokolow and Senators Kloucek, Everist,  
Morford-Burg, and Reedy

1 FOR AN ACT ENTITLED, An Act to allow court-ordered deposition of certain witnesses.

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

3 Section 1. That § 23A-12-1 be amended to read as follows:

4 23A-12-1. Depositions ~~shall~~ may not be ordered for discovery or any other purpose except  
5 as specifically provided by statute or rule.

6 Whenever, due to exceptional circumstances of the case, it is in the interest of justice that the  
7 testimony of a prospective witness of a party be taken and preserved for use at trial, the court  
8 may upon motion of ~~such~~ the party and notice to the parties order that testimony of ~~such~~ the  
9 witness be taken by deposition and that any designated book, paper, document, record,  
10 recording, or other material not privileged; be produced at the same time and place. Upon proof  
11 to the court that any witness has refused to be interviewed by and provide a statement to the  
12 attorney for the defendant or a representative thereof, the court shall issue an order allowing the  
13 deposition to be taken pursuant to this chapter. If a witness is committed for failure to give bail  
14 to appear to testify at a trial or hearing, the court on written motion of the witness and upon  
15 notice to the parties may direct that ~~his~~ the deposition be taken. After the deposition has been

1 subscribed, the court may discharge the witness.