

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

707I0299

SENATE JUDICIARY COMMITTEE ENGROSSED NO. **HB 1033** - 01/27/2003

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

1 FOR AN ACT ENTITLED, An Act to revise certain registration requirements regarding
2 convicted sex offenders.

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

4 Section 1. That chapter 22-22 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Any person who is registered as required by § 22-22-31 and who is employed, carries on a
7 vocation, or attends postsecondary classes at an institution of higher education, institution of
8 higher learning, or technical institute in this state shall, within ten days of any commencement
9 and within ten days of termination of such enrollment or employment, report to the chief of
10 police or county sheriff where the institution is located and complete a registration update form.

11 A violation of this section is a Class 1 misdemeanor. Any subsequent violation is a class 6 felony.

12 Section 2. That § 22-22-32 be amended to read as follows:

13 22-22-32. The registration shall include the following information:

14 (1) Name and all aliases used;

15 (2) Complete description, photographs, and fingerprints;



- 1 (3) Residence, length of time at that residence, and length of time expected to remain at
- 2 that residence;
- 3 (4) The type of sex crime convicted of; and
- 4 (5) The date of commission and the date of conviction of any sex crime committed;
- 5 (6) Social Security number on a separate confidential form;
- 6 (7) Driver license number and state of issuance;
- 7 (8) Whether or not the registrant is receiving or has received any sex offender treatment;
- 8 (9) Employer name, address, and phone number or school name, address, and phone
- 9 number;
- 10 (10) Length of employment or length of attendance at school; and
- 11 (11) Occupation or vocation.
- 12 Any failure to accurately provide the information required by this section is a Class 1
- 13 misdemeanor.

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

39110259

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

HB 1057 - 01/29/2003

Introduced by: Representatives Madsen, Cutler, Gillespie, McCaulley, O'Brien, Peterson (Bill), and Peterson (Jim) and Senators Diedrich (Larry) and Sutton (Dan)

1 FOR AN ACT ENTITLED, An Act to provide victims of crimes the right to copies of certain
2 law enforcement reports.

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

4 Section 1. That § 23A-28C-1 be amended to read as follows:

5 23A-28C-1. Consistent with § 23A-28C-4, victims of the crime, including victims of driving
6 under the influence vehicle accidents, have the following rights:

- 7 (1) ~~Notification~~ To be notified of scheduled bail hearings and release from custody,
8 ~~notification~~ to be notified by the prosecutor's office when the case is received and to
9 whom the case is assigned, and ~~notification~~ to be notified in advance of the date of
10 preliminary hearing and trial;
- 11 (2) To be informed of what the charges mean and the elements necessary for conviction;
- 12 (3) To testify at scheduled bail or bond hearings regarding any evidence indicating
13 whether the offender represents a danger to the victim or the community if released;
- 14 (4) ~~Protection~~ To be protected from intimidation by the defendant, including enforcement
15 of orders of protection;



- 1 (5) To offer written input into whether plea bargaining or sentencing bargaining
2 agreements should be entered into;
- 3 (6) To be present during all scheduled phases of the trial or hearings, except where
4 otherwise ordered by the judge hearing the case or by contrary policy of the presiding
5 circuit judge;
- 6 (7) To be prepared as a witness, including information about basic rules of evidence,
7 cross-examination, objections, and hearsay;
- 8 (8) To provide to the court a written or oral victim impact statement prior to sentencing
9 regarding the financial and emotional impact of the crime on the victim and his or her
10 family as well as recommendations for restitution and sentencing and § 23A-28-8
11 notwithstanding, the right to appear at any hearing during which a change in the plan
12 of restitution is to be considered;
- 13 (9) ~~Restitution~~ To receive restitution, whether the convicted criminal is probated or
14 incarcerated, unless the court or parole board provides to the victim on the record
15 specific reasons for choosing not to require it;
- 16 (10) To provide written input at parole hearings or with respect to commutations of
17 sentences by the Governor, should those options be considered;
- 18 (11) In a case in which the death penalty may be authorized, to provide to the court or to
19 the jury, as appropriate, testimony about the victim and the impact of the crime on the
20 victim's family; ~~and~~
- 21 (12) ~~Notification~~ To be notified of the defendant's release from custody, which notice
22 includes:
 - 23 (a) Notice of the defendant's escape from custody and return to custody following
24 escape;

- 1 (b) Notice of any other release from custody, including placement in an intensive
2 supervision program or other alternative disposition, and any associated
3 conditions of release;
- 4 (c) Notice of parole; and
- 5 (d) Notice of pending release of an inmate due to expiration of sentence;
- 6 (13) ~~Notification~~ To be notified of the victim's right to request testing for infection by
7 blood-borne pathogens pursuant to § 23A-35B-2; and
- 8 (14) To be provided a copy of any report of law enforcement that is related to the crime,
9 upon request or motion and order of the court. However, no victim may be given the
10 criminal history of any defendant or any witness.

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

517I0506

HOUSE EDUCATION COMMITTEE ENGROSSED NO.

HB 1068 - 01/28/2003

Introduced by: Representatives McCaulley, Begalka, Christensen, Deadrick (Thomas),
Garnos, Hennies, Koistinen, McCoy, Weems, Wick, and Williamson and
Senators Schoenbeck, Abdallah, Dempster, and Napoli

1 FOR AN ACT ENTITLED, An Act to permit home school students to participate in high school
2 interscholastic activities.

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

4 Section 1. That § 13-36-4 be amended to read as follows:

5 13-36-4. The school board of a public or the governing body of a nonpublic school, approved
6 and accredited by the secretary of the Department of Education and Cultural Affairs, may
7 delegate, on a year to year basis, the control, supervision, and regulation of any ~~and all~~ high
8 school interscholastic activities to any association which is voluntary and nonprofit; ~~provided that~~
9 if membership in such association is open to all high schools approved and accredited by the
10 secretary of the Department of Education and Cultural Affairs, including any school that allows
11 participation by students receiving alternative education as set forth in § 13-27-3, pursuant to
12 the provisions of this title, and ~~that~~ if the constitution, bylaws, and rules of the association are
13 subject to ratification by the school boards of the member public school districts and the
14 governing boards of the member nonpublic schools and include a provision for a proper review



1 procedure and review board.

2 Any association which complies with this section ~~is hereby authorized and empowered to~~
3 may exercise the control, supervision, and regulation of interscholastic activities, including
4 interscholastic athletic events of member schools. Such association ~~is hereby further authorized~~
5 ~~and empowered to~~ may promulgate reasonable uniform rules, to make decisions and to provide
6 and enforce reasonable penalties for the violation of such rules.

7 Section 2. That § 13-36-7 be amended to read as follows:

8 13-36-7. Any student enrolling in a South Dakota district pursuant to § 13-15-21 or
9 receiving alternative instruction pursuant to § 13-27-3 is eligible to participate in any
10 interscholastic activity sponsored by the South Dakota High School Activities Association.
11 However, any accredited school student who leaves an accredited program for any reason and
12 enters an alternative education program is ineligible for participation in interscholastic activities
13 for one year beginning on the date in which the student enters the alternative program.

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

400I0274

HOUSE JUDICIARY COMMITTEE ENGROSSED NO. **SB 22** - 01/29/2003

Introduced by: The Committee on Judiciary at the request of the Department of Social Services

1 FOR AN ACT ENTITLED, An Act to revise certain provisions relating to the appearance by
2 a parent in person, by counsel, or by telephone for a hearing to voluntarily terminate parental
3 rights.

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

5 Section 1. That § 25-5A-14 be amended to read as follows:

6 25-5A-14. The personal presence of one parent at the hearing is required for jurisdictional
7 purposes. However, any for good cause shown, the court may permit the parent to appear
8 telephonically. Any other person whose consent is necessary, may appear by filing with the court
9 a power of attorney. If the Department of Social Services or a licensed child placement agency
10 has custody of a child by written agreement of a parent with power of attorney to consent, the
11 secretary or an authorized agent may appear and consent. Notwithstanding the foregoing
12 provisions of this section, due regard shall be given to the Indian Child Welfare Act (25 U.S.C.
13 Secs. 1901-1963) as in effect on January 1, 2003, if applicable.



State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

400I0220

SENATE ENGROSSED NO. **SB 27** - 01/23/2003

Introduced by: The Committee on Agriculture and Natural Resources at the request of the
Department of Game, Fish and Parks

1 FOR AN ACT ENTITLED, An Act to classify mountain lions as big game and to allow the use
2 of dogs in hunting mountain lions.

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

4 Section 1. That subdivision (4) of § 41-1-1 be amended to read as follows:

5 (4) "Big game," all cloven-hoofed wild animals, mountain lion, and wild turkey. The term
6 includes facsimiles of big game used for law enforcement purposes;

7 Section 2. That § 41-8-15 be amended to read as follows:

8 41-8-15. ~~No~~ Except in the hunting of mountain lions during established hunting seasons, no
9 dog may be used in hunting ~~of~~ big game animals. A violation of this section is subject to
10 § 41-8-18.



State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

529I0293

HOUSE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **SB 31** - 01/29/2003

Introduced by: The Committee on Legislative Procedure at the request of the Investment
Council

1 FOR AN ACT ENTITLED, An Act to clarify the immunity from personal liability of certain
2 persons discharging their responsibilities under the higher education savings plan and to
3 provide for holding them harmless under such circumstances.

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

5 Section 1. That chapter 13-63 be amended by adding thereto a NEW SECTION to read as
6 follows:

7 The council, its members, the state investment officer, and the employees of the Division of
8 Investment personally are immune from any and all liability for actions taken in good faith in the
9 discharge of the council's responsibilities under the program. To the maximum extent permitted
10 by the South Dakota Constitution, the state shall hold the council, each of its members, the state
11 investment officer, and the employees of the Division of Investment harmless from all costs,
12 damages, and attorneys' fees arising from claims and suits against them with respect to matters
13 to which such immunity applies.



State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

529I0294

HOUSE STATE AFFAIRS COMMITTEE ENGROSSED NO. **SB 32** - 01/29/2003

Introduced by: The Committee on Legislative Procedure at the request of the Investment Council

1 FOR AN ACT ENTITLED, An Act to exempt the higher education savings program accounts
2 from certain claims of creditors.

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

4 Section 1. That § 13-63-20 be amended to read as follows:

5 13-63-20. Notwithstanding any other provision of law, any amount in or credited to any
6 account is exempt from and is not susceptible to any levy, execution or judgment, or other
7 operation of law, garnishment, or other judicial enforcement. Amounts in an account are not an
8 asset or property of the account owner, contributor, or designated beneficiary for the purposes
9 of paying any debt or liability of any account owner, contributor, or designated beneficiary. No
10 account is subject to involuntary transfer or alienation. Neither an account owner nor a
11 designated beneficiary may use an interest in an account as security for a loan. Any pledge of an
12 interest in an account is of no force and effect. Amounts in an account may not be included in
13 the gross estate of the account owner or contributor for purposes of state tax law, except to the
14 extent that amounts in an account may be includable in the gross estate of the account owner or
15 contributor for purposes of federal tax law. However, any funds in an account that have been



1 contributed within one year prior to the account owner or contributor filing a petition under any
2 chapter of Title 11 of the United States Bankruptcy Code are not exempt by the provisions of
3 this section.