

# State of South Dakota

SEVENTY-NINTH SESSION  
LEGISLATIVE ASSEMBLY, 2004

400J0400

## HOUSE BILL NO. 1079

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

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding preliminary hearings  
2 for parole violators.

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

4 Section 1. That § 24-15-23 be amended to read as follows:

5 24-15-23. ~~Within~~ Subject to the provisions of sections 2 and 3 of this Act, within ten  
6 working days of the arrest of the parolee, a preliminary hearing shall be held. The preliminary  
7 hearing shall be held before an independent hearing officer to determine if there is probable  
8 cause to believe that the parolee has violated the terms and conditions of the parolee's parole  
9 status. The parolee has the right to waive this preliminary hearing at any time after the order for  
10 arrest has been issued by the executive director of the Board of Pardons and Paroles. If probable  
11 cause is found to exist, the parolee is to be returned to the penitentiary, there to be held, for a  
12 hearing to be held before the Board of Pardons and Paroles to determine whether the parole  
13 should be revoked. If the parolee wishes to admit to an alleged violation of conditions of parole,  
14 the parolee may waive a personal appearance at the revocation hearing with the board.

15 Section 2. That chapter 24-15 be amended by adding thereto a NEW SECTION to read as  
16 follows:



1 A preliminary hearing as provided for in § 24-15-23 is not required if:

- 2 (1) The parolee is under arrest and being held on an order issued by a jurisdiction other  
3 than the Board of Pardons and Paroles;
- 4 (2) The parolee left the state or other approved jurisdiction without authorization and  
5 was apprehended outside of that jurisdiction;
- 6 (3) The parolee was convicted of a felony or misdemeanor in a South Dakota court or a  
7 court of another state or a federal court; or
- 8 (4) The parolee admitted to a competent authority that the parolee violated the terms of  
9 the supervision.

10 Section 3. That chapter 24-15 be amended by adding thereto a NEW SECTION to read as  
11 follows:

12 If a preliminary hearing under § 24-15-23 is required and a parolee fails to receive a  
13 preliminary hearing prior to the parolee's return to a Department of Corrections facility, the  
14 parolee shall receive a preliminary hearing within ten working days of the parolee's return to a  
15 Department of Corrections facility.