

State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

400N0379

SENATE JUDICIARY COMMITTEE ENGROSSED NO.

HB 1058 - 02/14/2007

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 related to the placement of
2 juveniles under the jurisdiction of the Department of Corrections.

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

4 Section 1. That chapter 26-6 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Notwithstanding the provisions of §§ 26-1-1, 26-6-6.1, and 26-7A-101, a child welfare
7 agency and the Department of Corrections may provide foster care for a person over the age of
8 majority but less than twenty-one years of age if the person is under the continuing juvenile
9 jurisdiction of the Department of Corrections.

10 Section 2. That § 26-7A-26 be amended to read as follows:

11 26-7A-26. No apparent, alleged, or adjudicated abused or neglected child may be securely
12 detained at any time in a jail, lockup, or in any type of detention or temporary care facility
13 containing adult prisoners. An apparent, alleged, or adjudicated child in need of supervision may
14 not be securely detained in a jail, lockup, or in any type of detention or temporary care facility
15 containing adult prisoners except for approved collocated detention centers as defined in § 26-



1 7A-1 and as authorized in §§ 26-8B-3, 26-8B-6, and 26-7A-20.

2 An apparent or alleged delinquent child may be held in an adult lockup or jail for up to six
3 hours for purposes of identification, processing, interrogation, transfer to juvenile facility, or
4 release to parents if the child is sight and sound separated from adult prisoners.

5 In any area not designated as a metropolitan statistical area by the United States Bureau of
6 the Census, an apparent or alleged delinquent child may be held in an adult lockup or jail for
7 up to forty-eight hours excluding holidays and weekends or until the temporary custody hearing,
8 whichever is earlier, if the facility has been certified by the Department of Corrections as
9 providing sight and sound separation of juveniles from adults and if no suitable juvenile facility
10 is available.

11 A child who has been transferred to adult court pursuant to § 26-11-4 or a child who is being
12 tried in circuit court as an adult pursuant to § 26-11-3.1 may be held in an adult lockup or jail
13 if physically separated from adult prisoners.

14 A child who has attained the age of majority who is under the continuing jurisdiction of the
15 court or the Department of Corrections may be held in an adult jail or lockup.

16 A child under the age of eighteen years who has been transferred to adult court pursuant to
17 §§ 26-11-3.1 or 26-11-4 and who has been convicted of a felony as an adult may be held in an
18 adult jail or lockup.

19 Section 3. That § 26-8B-6 be amended to read as follows:

20 26-8B-6. If a child has been adjudicated as a child in need of supervision, the court shall
21 enter a decree of disposition according to the least restrictive alternative available in keeping
22 with the best interests of the child. The decree shall contain one or more of the following
23 alternatives:

24 (1) The court may place the child on probation or under protective supervision in the

1 custody of one or both parents, guardian, custodian, relative, or another suitable
2 person under conditions imposed by the court;

3 (2) The court may require as a condition of probation that the child report for assignment
4 to a supervised work program, provided the child is not placed in a detention facility
5 and is not deprived of the schooling that is appropriate to the child's age, needs, and
6 specific rehabilitative goals. The supervised work program shall be of a constructive
7 nature designed to promote rehabilitation, shall be appropriate to the age level and
8 physical ability of the child, and shall be combined with counseling by a court
9 services officer or other guidance personnel. The supervised work program
10 assignment shall be made for a period of time consistent with the child's best
11 interests, but may not exceed ninety days;

12 (3) If the court finds that the child has violated a valid court order, the court may place
13 the child in a detention facility for not more than ninety days, which may be in
14 addition to any period of temporary custody, for purposes of disposition if:

15 (a) The child is not deprived of the schooling that is appropriate for the child's
16 age, needs, and specific rehabilitative goals;

17 (b) The child had a due process hearing before the order was issued; and

18 (c) A plan of disposition from a court services officer is provided to the court;

19 (4) The court may require the child to pay for any damage done to property or for
20 medical expenses under conditions set by the court if payment can be enforced
21 without serious hardship or injustice to the child;

22 (5) The court may commit the child to the Department of Corrections for placement in
23 a juvenile correctional facility, foster home, group home, group care center, ~~or~~
24 residential treatment center, or other community-based services, if those community-

1 based services were not provided prior to commitment, pursuant to chapter 26-11A.
2 Prior to placement in a juvenile correctional facility, an interagency team comprised
3 of representatives from the Department of Human Services, Department of Social
4 Services, Department of Education, the Department of Corrections, and the Unified
5 Judicial System shall make a written finding that placement at a Department of
6 Corrections facility is the least restrictive placement commensurate with the best
7 interests of the child. Subsequent placement in any other Department of Corrections
8 facility may be authorized without an interagency review;

9 (6) The court may place a child in an alternative educational program;

10 (7) The court may order the child to be examined and treated at the Human Services
11 Center;

12 (8) The court may impose a fine not to exceed five hundred dollars;

13 (9) The court may order the suspension or revocation of the child's driving privilege or
14 restrict the privilege in such manner as the court sees fit or as required by § 32-12-
15 52.4, including requiring that financial responsibility be proved and maintained;

16 (10) The court may assess or charge the same costs and fees as permitted by §§ 16-2-41,
17 23-3-52, 23A-27-26, and 23A-27-27 against the child, parent, guardian, custodian,
18 or other party responsible for the child.

19 No adjudicated child in need of supervision may be incarcerated in a detention facility
20 except as provided in subdivision (3) or (5) of this section.

21 Section 4. That § 26-11A-8 be amended to read as follows:

22 26-11A-8. If a juvenile is committed to the Department of Corrections, the department shall
23 determine the extent of security and treatment services that are in the best interest of the juvenile
24 and in the best interest of the state. When the department makes its determination, it shall place

1 the juvenile in a juvenile correctional facility under the department's control pursuant to § 1-15-
2 1.4 or a group home, group care center, ~~or~~ residential treatment center, or other community-
3 based services, if those community-based services were not provided prior to commitment.

4 Section 5. That § 26-11A-9 be amended to read as follows:

5 26-11A-9. After the juvenile's initial placement pursuant to § 26-11A-8, the secretary of
6 corrections may transfer a juvenile to a different Department of Corrections facility or program,
7 the Human Services Center, detention, shelter, or a group home, group care center, ~~or~~ residential
8 treatment center, or other community-based services.

9 Section 6. That § 26-11A-20 be amended to read as follows:

10 26-11A-20. The secretary of corrections may ~~at any time order the discharge of a child from~~
11 ~~the Department of Corrections as a reward for good conduct upon satisfactory evidence of~~
12 ~~reformation. The discharge of a juvenile from the Department of Corrections as a reward for~~
13 ~~good conduct upon satisfactory evidence of reformation or for having arrived at the age of~~
14 ~~twenty-one years shall be a complete release from all penalties incurred by adjudication for the~~
15 ~~offense for which he was committed.~~ discharge a juvenile from the Department of Corrections
16 upon the following:

17 (1) As a reward for good conduct and upon satisfactory evidence of reformation;

18 (2) As a result of a conviction for a new crime as an adult, if the juvenile is placed on
19 adult probation or sentenced to the county jail or state penitentiary;

20 (3) If the juvenile, upon reaching the age of majority, lives outside the jurisdiction of the
21 State of South Dakota and the interstate compact on juveniles is not available due to
22 the juvenile's age or circumstances; or

23 (4) If the juvenile is on aftercare and has a suitable placement, and a discharge is
24 determined to be in the best interests of the juvenile.

1 No adjudicated juvenile may remain within the jurisdiction of the Department of Corrections
2 beyond the age of twenty-one years. The discharge of a juvenile from the Department of
3 Corrections constitutes a complete release from all penalties, excluding unpaid fines, fees, or
4 restitution.

5 Section 7. That chapter 26-11A be amended by adding thereto a NEW SECTION to read
6 as follows:

7 A risk and needs evaluation shall be conducted for any juvenile under the jurisdiction of the
8 department who reaches the age of nineteen years who has not been discharged pursuant to § 26-
9 11A-20. The evaluation shall focus on the amount of progress made while under the jurisdiction
10 of the department, the ongoing needs of the juvenile, and what risks the juvenile would present
11 to the community or self if discharged at that point. Additionally, the evaluation shall identify
12 recommendations regarding treatment and transition services that will prepare the juvenile for
13 discharge from the jurisdiction of the department. The secretary shall initiate any actions
14 necessary, including referral or civil commitment to service systems for the mentally ill or
15 developmentally disabled, to ensure the treatment needs of the juvenile and the safety interests
16 of the public are best served.

State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

472N0546

HOUSE COMMERCE COMMITTEE ENGROSSED NO.

HB 1172 - 02/02/2007

Introduced by: Representatives Cutler, Gilson, Glenski, Hanks, Hills, Kirkeby, McLaughlin, Miles, Novstrup (David), Rave, and Rounds and Senators Dempster, Duenwald, Heidepriem, Koetzle, Nesselhuf, Peterson (Jim), and Turbak

1 FOR AN ACT ENTITLED, An Act to clarify certain limits placed on persons lending money.

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

3 Section 1. That § 54-4-66 be amended to read as follows:

4 54-4-66. ~~No payday loan disbursed by a licensee~~ The maximum principal amount of any
5 payday loan, or the total outstanding principal balances of all payday loans made by a licensee
6 to a single borrower, may not exceed five hundred dollars at any time. A violation of this section
7 is a Class 1 misdemeanor.



State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

814N0659

SENATE TRANSPORTATION COMMITTEE

ENGROSSED NO. **HB 1174** - 02/15/2007

Introduced by: Representatives Cutler, Bradford, Glenski, Hanks, Kirkeby, McLaughlin, Miles, Rave, and Van Norman and Senators Dempster, Albers, Koetzle, McCracken, and Nesselhuf

1 FOR AN ACT ENTITLED, An Act to increase the maximum amount for which used motor
2 vehicles may be sold or transferred to be exempt from excise tax.

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

4 Section 1. That § 32-5B-2 be amended to read as follows:

5 32-5B-2. Motor vehicles exempted from the provisions of this chapter are as follows:

6 (1) Any motor vehicle exempted in § 32-5-42, 32-5-42.1, or 32-5-1.3;

7 (2) Any motor vehicle acquired by inheritance from or bequest of a decedent;

8 (3) Any motor vehicle previously titled or licensed jointly in the names of two or more
9 persons and subsequently transferred without consideration to one or more of such
10 persons;

11 (4) Any motor vehicle transferred without consideration between spouses, between a
12 parent and child, and between siblings;

13 (5) Any motor vehicle transferred pursuant to any mergers or consolidations of
14 corporations or plans of reorganization by which substantially all of the assets of a



1 corporation are transferred if the motor vehicle was previously titled, licensed, and
2 registered in this state;

3 (6) Any motor vehicle transferred by a subsidiary corporation to its parent corporation
4 for no or nominal consideration or in sole consideration of the cancellation or
5 surrender of the subsidiary's stock if the motor vehicle was previously titled, licensed,
6 and registered in this state;

7 (7) Any motor vehicle transferred between an individual and a corporation if the
8 individual and the owner of the majority of the capital stock of the corporation are
9 one and the same and if the motor vehicle was previously titled, licensed, and
10 registered in this state;

11 (8) Any motor vehicle transferred between a corporation and its stockholders or creditors
12 if to effectuate a dissolution of the corporation it is necessary to transfer the title from
13 the corporate entity to the stockholders or creditors and if the motor vehicle was
14 previously titled, licensed, and registered in this state;

15 (9) Any motor vehicle transferred between an individual and a limited or general
16 partnership if the individual and the owner of the majority interest in the partnership
17 are one and the same person and if the motor vehicle was previously titled, licensed,
18 and registered in this state;

19 (10) Any motor vehicle transferred to effect a sale of all or substantially all of the assets
20 of the business entity if the motor vehicle was previously titled, licensed, and
21 registered in this state;

22 (11) Any motor vehicle acquired by a secured party or lien holder in satisfaction of a debt;

23 (12) Any motor vehicle sold or transferred which is eleven or more model years old and
24 which is sold or transferred for ~~one thousand five hundred~~ two thousand two hundred

1 dollars or less before trade-in;

2 (13) Any damaged motor vehicle transferred to an insurance company in the settlement
3 of an insurance claim;

4 (14) Any motor vehicle owned by a former resident of this state who returns to the state
5 and who had previously paid vehicle excise tax to this state on the motor vehicle as
6 evidenced within the department's records or by submission of other acceptable proof
7 of payment of such tax;

8 (15) Between corporations, both subsidiary and nonsubsidiary, if the individuals who hold
9 a majority of stock in the first corporation also hold a majority of stock in the second
10 corporation; but these individuals need not hold the same ratio of stock in both
11 corporations provided the motor vehicle was previously titled, licensed, and
12 registered in this state;

13 (16) Any motor vehicle transferred by a trustor to his trustee or from a trustee to a
14 beneficiary of a trust;

15 (17) Any motor vehicle rented for twenty-eight days or less is subject to the tax imposed
16 by § 32-5B-20; and

17 (18) Any motor vehicle transferred without consideration to any South Dakota nonprofit
18 corporation which will donate the motor vehicle to a needy family or individual.

State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

776N0696 SENATE EDUCATION COMMITTEE ENGROSSED NO.
HB 1241 - 02/15/2007

Introduced by: Representatives Olson (Russell), DeVries, Gassman, Gilson, Halverson, Haverly, Hills, Jerke, Kirkeby, Krebs, McLaughlin, Novstrup (David), Olson (Ryan), Rausch, Steele, Weems, and Wick and Senators McCracken and Koetzle

1 FOR AN ACT ENTITLED, An Act to allow the Board of Regents to sell certain used
2 computers through university bookstores and to declare an emergency.

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

4 Section 1. That chapter 13-49 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Notwithstanding the provisions of chapters 5-23 or 5-24, if the Board of Regents assesses
7 a special student fee to students in order to lease personal computers for the use of those
8 students at a university, the Board of Regents may, upon the expiration of the lease, acquire the
9 computers and offer them for resale to students, staff or alumni through a university bookstore
10 or to any political subdivision of the state or in bulk on the resale market.

11 Section 2. Whereas, this Act is necessary for the support of the state government and its
12 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in
13 full force and effect from and after its passage and approval.



State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

724N0591

SENATE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **HB 1286** - 02/14/2007

Introduced by: Representatives Vehle, Hills, Krebs, Lust, Moore, Thompson, Turbiville, and Van Etten and Senators Olson (Ed), Dempster, Duenwald, Garnos, Hansen (Tom), Hanson (Gary), Napoli, and Nesselhuf

1 FOR AN ACT ENTITLED, An Act to require that records of archaeological sites be maintained
2 and to provide that certain records remain confidential.

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

4 Section 1. That § 1-20-21 be amended to read as follows:

5 1-20-21. The state archaeologist, on behalf of the State Historical Society Board of Trustees
6 shall conduct, as part of that board's statewide survey of historic properties, a survey of ~~sites of~~
7 archaeological sites ~~and anthropological objects and specimens~~ located within the state. ~~The~~
8 ~~state archaeologist shall make available the results of such survey to all agencies of the state~~
9 ~~government and its political subdivisions that, in the opinion of the state archaeologist, may~~
10 ~~conduct activities which may affect such archaeological or anthropological sites~~ and maintain
11 records of such sites.

12 Section 2. That chapter 1-20 be amended by adding thereto a NEW SECTION to read as
13 follows:

14 Any records maintained pursuant to § 1-20-21 pertaining to the location of an archaeological



1 site shall remain confidential to protect the integrity of the archaeological site. The state
2 archaeologist may make the information from the records of an archeological site available to
3 any agency of state government and any political subdivision of the state or to any tribe, which,
4 in the opinion of the state archaeologist, may conduct an activity that affects any such site. The
5 state archaeologist shall also make the information from the records of an archeological site
6 available to the owner of the land that is an archeological site and may make the information
7 available to any qualified researcher or research entity.

8 Section 3. That chapter 34-27 be amended by adding thereto a NEW SECTION to read as
9 follows:

10 Any record maintained pursuant to § 1-20-21 pertaining to the location of unmarked burials
11 and other human remains shall remain confidential to protect the integrity of unmarked burials,
12 human skeletal remains, and associated funerary objects. The state archaeologist may make the
13 information from the records of such a site available to any agency of state government and any
14 political subdivision of the state or to any tribe, which, in the opinion of the state archaeologist,
15 may conduct activities that affect any such burial or human remains. The state archaeologist
16 shall also make the information from the records of such a site available to the owner of the land
17 that is such a site and may make the information available to any qualified researcher or research
18 entity.