

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

400P0301

HOUSE AGRICULTURE AND NATURAL RESOURCES

ENGROSSED NO. **HB 1042** - 1/17/2008

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 revise certain provisions pertaining to the definition of
2 residency and the issuance of resident hunting, fishing, and trapping licenses.

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

4 Section 1. That § 41-1-1 be amended by adding thereto a NEW SUBDIVISION to read as
5 follows:

6 "Domicile," a person's established, fixed, and permanent home to which the person,
7 whenever absent, has the present intention of returning;

8 Section 2. That subdivision (22) of § 41-1-1 be amended to read as follows:

9 (22) "Resident," a person actually living having a domicile within and intending to make
10 the person's home in this state. ~~However, any person who has lawfully acquired a~~
11 ~~resident hunting, fishing, or trapping license and who leaves the state after acquiring~~
12 ~~the license to take up residency elsewhere may continue to exercise all the privileges~~
13 ~~granted by the license until the license expires if the person's respective privileges are~~
14 ~~not revoked or suspended pursuant to §§ 41-6-75 to 41-6-75.2, inclusive. No resident~~



1 ~~may lose rights under this title by reason of the resident's absence on business of the~~
2 ~~United States or of this state, or armed services of the United States or the spouse of~~
3 ~~an active duty military person, or any student regularly attending a school of higher~~
4 ~~learning as a full-time student for at least ninety consecutive days immediately~~
5 ~~preceding the date of application for, purchasing, or attempting to purchase any~~
6 ~~license required under the provisions of this title or rules of the commission, who~~
7 ~~makes no claim of residency in any other state or foreign country for any purpose,~~
8 ~~and other than for a person described in section 3 of this Act, claims no resident~~
9 ~~hunting, fishing, or trapping privileges in any other state or foreign country, and prior~~
10 ~~to any application for any license, transfers to this state the person's driver's license~~
11 ~~and motor vehicle registrations;~~

12 Section 3. That chapter 41-1 be amended by adding thereto a NEW SECTION to read as
13 follows:

14 For the purposes of this title, the following are deemed to be residents of this state:

- 15 (1) Any person who previously had a domicile in this state who is absent due to business
16 of the United States or of this state, or is serving in the armed forces of the United
17 States or the spouse of an active duty military person;
- 18 (2) Any person who previously had a domicile in this state who is absent due to the
19 person's regular attendance at a post-high school institution as a full-time student;
- 20 (3) Any person in the active military of the United States or that person's spouse who is
21 continuously stationed in this state;
- 22 (4) Any person who is a patient in any war veterans' hospital within this state;
- 23 (5) Any person who is an employee of the veterans' administration or any veterans'
24 hospital in this state;

- 1 (6) Any person residing on restricted military reservations in this state;
- 2 (7) Any person attending regularly a post-high school institution in this state as a
3 full-time student for thirty days or more immediately preceding the application;
- 4 (8) Any foreign exchange student over sixteen years of age attending a public or private
5 high school who has resided in the state for thirty days or more preceding the
6 application;
- 7 (9) Any foreign exchange student who is between the ages of twelve years and sixteen
8 years who has completed the Department of Game, Fish and Parks' course of
9 instruction in the safe handling of firearms and has been issued a certificate of
10 competency upon completion of instruction and who has resided in the state for thirty
11 days or more preceding application for a license;
- 12 (10) Any person who is a minor dependent of a resident of this state; and
- 13 (11) For the purpose of acquiring resident small game and fishing licenses, any person
14 who does not reside in South Dakota but who is a member of the South Dakota
15 National Guard or of any other unit of a reserve component of the armed forces of the
16 United States that is located in South Dakota.

17 Section 4. That chapter 41-1 be amended by adding thereto a NEW SECTION to read as
18 follows:

19 Except for a person who continues to qualify for resident privileges as provided in section
20 3 of this Act, a person is deemed to have terminated the person's South Dakota resident status
21 if the person applies for, purchases, or accepts a resident hunting, fishing, or trapping license
22 issued by another state or foreign country; registers to vote in another state or foreign country;
23 accepts a driver's license issued by another state or foreign country; or moves to any other state
24 or foreign country and makes it the person's domicile or makes any claim of residency for any

1 purpose in the other state or foreign country. However, a person who has lawfully acquired a
2 resident hunting, fishing, or trapping license and who leaves the state after acquiring the license
3 to take up residency elsewhere may continue to exercise all the privileges granted by the license
4 until the license expires if the person's respective privileges are not revoked or suspended
5 pursuant to §§ 41-6-75 to 41-6-75.2, inclusive.

6 Section 5. That § 41-6-52 be amended to read as follows:

7 41-6-52. No person other than a resident as defined in this title may make application for,
8 purchase, or attempt to purchase a resident license under §§ 41-6-12 to 41-6-45.1, inclusive;
9 ~~unless the applicant has been a resident of this state for at least ninety days before making of the~~
10 ~~application and claims no resident privileges in any other state. Before making application for,~~
11 ~~purchasing, or attempting to purchase a resident hunting or fishing license in the state, the~~
12 ~~applicant shall transfer to this state the applicant's driver's license and motor vehicle registration~~
13 ~~for motor vehicles used in this state. However, any person in the active military of the United~~
14 ~~States or that person's spouse who has been continuously stationed in this state; any person who~~
15 ~~is a patient in any war veterans' hospital within this state; any person who is an employee of the~~
16 ~~veterans' administration or any veterans' hospital; any person residing on restricted military~~
17 ~~reservations in this state; any person attending regularly a post-high school institution as a full-~~
18 ~~time student for thirty days or more immediately preceding the application; any foreign~~
19 ~~exchange student over sixteen years of age attending a public or private high school who has~~
20 ~~resided in the state for thirty days or more preceding the application; any foreign exchange~~
21 ~~student who is between the ages of twelve years and sixteen years who has completed the~~
22 ~~Department of Game, Fish and Parks' course of instruction in the safe handling of firearms and~~
23 ~~has been issued a certificate of competency upon completion of instruction and who has resided~~
24 ~~in the state for thirty days or more preceding his application; or any person who is a minor~~

1 ~~dependent of a resident of this state, is a resident of the state for the purpose of this title. Any~~
2 ~~person who does not reside in South Dakota but who is a member of the South Dakota National~~
3 ~~Guard or of any other unit of a reserve component of the armed forces of the United States that~~
4 ~~is located in South Dakota is a resident of the state for the purpose of acquiring resident small~~
5 ~~game and fishing licenses. A violation of this section is a Class 2 misdemeanor.~~

6 Section 6. That § 41-6-16.2 be amended to read as follows:

7 41-6-16.2. Any resident who is on active duty in the armed forces of the United States and
8 who is stationed at a location outside the state may fish and hunt small game without payment
9 of a fee or the applicable hunting and fishing license authorizing the activity. However, if the
10 resident is hunting migratory birds, the resident shall obtain a migratory bird certification permit
11 and federal migratory bird stamp. While engaged in the permitted activity, the resident shall
12 ~~have in possession~~ possess and display appropriate military orders indicating the resident is on
13 active duty stationed outside of South Dakota and a valid ~~South Dakota driver's license or South~~
14 ~~Dakota~~ military identification card. This section does not apply to any person who is serving on
15 active duty for training as a member of the armed forces reserve or national guard.

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

400P0236

HOUSE JUDICIARY ENGROSSED NO. **HB 1061** - 1/17/2008

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

1 FOR AN ACT ENTITLED, An Act to revise the penalty for the distribution or possession with
2 intent to distribute marijuana to a minor.

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

4 Section 1. That § 22-42-7 be amended to read as follows:

5 22-42-7. The distribution, or possession with intent to distribute, of less than one-half ounce
6 of marijuana without consideration is a Class 1 misdemeanor; otherwise, the distribution, or
7 possession with intent to distribute, of one ounce or less of marijuana is a Class 6 felony. The
8 distribution, or possession with intent to distribute, of more than one ounce but less than
9 one-half pound of marijuana is a Class 5 felony. The distribution, or possession with intent to
10 distribute, of one-half pound but less than one pound of marijuana is a Class 4 felony. The
11 distribution, or possession with intent to distribute, of one pound or more of marijuana is a Class
12 3 felony. ~~However, the distribution of any amount of marijuana to a minor is a Class 4 felony.~~
13 The distribution, or possession with intent to distribute, of one ounce or less of marijuana to a
14 minor is a Class 5 felony. The distribution, or possession with intent to distribute, of more than



1 one ounce but less than pound of marijuana to a minor is a Class 4 felony. The distribution, or
2 possession with intent to distribute, of one pound or more of marijuana to a minor is a Class 3
3 felony. A first conviction of a felony under this section shall be punished by a mandatory
4 sentence in the state penitentiary or county jail of at least thirty days, which sentence may not
5 be suspended. A second or subsequent conviction of a felony under this section shall be
6 punished by a mandatory sentence of at least one year. Conviction of a Class 1 misdemeanor
7 under this section shall be punished by a mandatory sentence in county jail of not less than
8 fifteen days, which sentence may not be suspended. A civil penalty, not to exceed ten thousand
9 dollars, may be imposed, in addition to any criminal penalty, upon a conviction of a felony
10 violation of this section.

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

817P0285

HOUSE JUDICIARY ENGROSSED NO. **HB 1090** 1/23/2008

Introduced by: Representatives Vehle, Dennert, and Elliott and Senator Hansen (Tom) at the request of the Interim Committee on Education for Divorcing Parents, Visitation, and Custody Task Force

1 FOR AN ACT ENTITLED, An Act to require that most records and applications regarding a
2 child reference the names and addresses of both parents.

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

4 Section 1. That § 25-5-7.3 be amended to read as follows:

5 25-5-7.3. ~~Notwithstanding any other provision of law, access~~ Access to records and
6 information pertaining to a minor child, including, but not limited to, medical, ~~including~~
7 ~~counseling~~, dental, ~~including~~ orthodontia, optometric and similar health care, and school
8 records, ~~may not be denied to a parent because such parent is not the child's primary residential~~
9 ~~parent shall be made equally available to both parents. Counseling, psychiatric, psychotherapy,~~
10 and other records subject to confidentiality or privilege shall only be released in accordance with
11 state and federal law; but, if available to one parent, shall be available to both. The parents shall
12 make reasonable efforts to ensure that the name and address of the other parent is listed on all
13 such records.

14 Section 2. That chapter 25-5 be amended by adding thereto a NEW SECTION to read as



1 follows:

2 If either parent enrolls the child in any social, beneficent, religious, or peer group activity,
3 service, benefit, or program for which written application is required, the enrolling parent shall
4 provide the name and address of the other parent on, or supplementary to, the application.

5 Section 3. That chapter 25-5 be amended by adding thereto a NEW SECTION to read as
6 follows:

7 The provisions of sections 1 and 2 of this Act do not apply in any case in which a court has:

- 8 (1) Terminated the rights of either parent; or
- 9 (2) Restrained either parent, by court order, from contact with the child.

10 Moreover, a court of competent jurisdiction may determine that the application of section
11 1 or 2, or both, of this Act, is inappropriate under the facts and circumstances of any particular
12 case.

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

862P0288

HOUSE JUDICIARY ENGROSSED NO. **HB 1093** 1/17/2008

Introduced by: Representatives Vehle, Deadrick, Dennert, and Elliott and Senator Hansen (Tom) at the request of the Interim Committee on Education for Divorcing Parents, Visitation, and Custody Task Force

1 FOR AN ACT ENTITLED, An Act to revise certain provisions relating to the custody, service,
2 and earnings of children.

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

4 Section 1. That § 25-5-7 be amended to read as follows:

5 25-5-7. The Subject to the court's right to award custody of the child to either parent,
6 considering the best interest of the child as to its temporal, mental, and moral welfare the father
7 and mother of ~~an unmarried~~ any minor child born in wedlock are equally entitled to the child's
8 custody, service, and earnings. ~~If either the father or mother is dead or refuses to take the~~
9 ~~custody or has abandoned the family, the other is entitled to the child's custody, service, and~~
10 earnings.

11 Section 2. That chapter 25-5 be amended by adding thereto a NEW SECTION to read as
12 follows:

13 Notwithstanding any initial entitlement to custody pursuant to § 25-5-10, there is no legal
14 presumption that such custody is in the best interest of the child, nor is a change of



1 circumstances required for a change of the initial custody as determined by § 25-5-10.

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

862P0298

HOUSE JUDICIARY ENGROSSED NO. **HB 1096**
1/17/2008

Introduced by: Representatives Vehle, Deadrick, Dennert, and Elliott and Senator Hansen (Tom) at the request of the Interim Committee on Education for Divorcing Parents, Visitation, and Custody Task Force

1 FOR AN ACT ENTITLED, An Act to authorize the court appointment of parenting
2 coordinators in certain custody and visitation disputes.

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

4 Section 1. That chapter 25-4 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 In any custody or visitation dispute between parents, the court may appoint a parenting
7 coordinator to assist the parents in resolving contested issues.



State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

726P0067

HOUSE TAXATION ENGROSSED NO. **HB 1169** - 1/22/2008

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: Representatives Turbiville, Brunner, DeVries, Elliott, Gosch, Krebs, Miles, Peters, and Street and Senators Lintz, Albers, Duenwald, Garnos, and Hauge

1 FOR AN ACT ENTITLED, An Act to clarify certain provisions regarding the contractor's
2 excise tax for isolated or occasional realty improvements.

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

4 Section 1. That § 10-46A-5 be amended to read as follows:

5 10-46A-5. If any person, except for a person making an isolated or occasional realty
6 improvement and who does not hold himself out as engaging in the business of making realty
7 improvements, makes a realty improvement without a realty improvement contract and
8 subsequently sells the property containing the realty improvement or the realty improvement at
9 any time subsequent to the commencement of the project and within four years of its
10 completion, the gross receipts from the sale of the realty improvement shall be subject to the
11 excise tax imposed on the gross receipts of contractors engaged in realty improvement contracts.

12 In determining the gross receipts from the sale of such realty improvements when land or land
13 and improvements completed four years prior to sale are included in the sale, land and such
14 improvements shall be valued at cost or fair market value, whichever is greater, and the portion



1 of the gross receipts attributable to land or land and improvements completed four years prior
2 to sale shall be deducted from the sale price. For purposes of this section, the phrase, isolated
3 or occasional, means no more than two in any calendar year.

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

285P0398

HOUSE TAXATION ENGROSSED NO. **HB 1181** - 1/22/2008

Introduced by: Representatives Noem, Brunner, DeVries, Faehn, Glenski, Howie, Juhnke, Nelson, Pitts, Rave, Rounds, Van Etten, Vanneman, and Willadsen and Senators Hansen (Tom), Lintz, Maher, Napoli, Nesselhuf, Schmidt (Dennis), and Turbak Berry

1 FOR AN ACT ENTITLED, An Act to revise certain provisions concerning information related
2 to the assessment of property that is to be provided by the director of equalization.

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

4 Section 1. That § 10-3-33 be amended to read as follows:

5 10-3-33. The director of equalization ~~and his deputies are hereby required to give every~~
6 ~~possible assistance to~~ shall assist the boards of county commissioners and the consolidated,
7 local, and county boards of equalization to enable them to perform their duties, and ~~to~~ shall
8 furnish such boards with all necessary charts, tables, comparisons, and data ~~which~~ that they may
9 require. The director of equalization shall, upon request, also furnish any person or taxing
10 district contemplating an appeal pursuant to statute with all existing charts, tables, comparisons,
11 and data pertinent to the appeal.

