

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

862P0295

HOUSE JUDICIARY ENGROSSED NO. **HB 1099** 1/24/2008

Introduced by: Representatives Vehle, Deadrick, 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 custody or visitation dispute mediation under
2 certain circumstances.

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

4 Section 1. That § 25-4-56 be amended to read as follows:

5 25-4-56. In any custody or visitation dispute between parents, the court shall, unless the
6 court deems it inappropriate under the facts of the case, order mediation to assist the parties in
7 formulating or modifying a plan, or in implementing a plan, for custody or visitation and shall
8 allocate the cost of the mediation between the parties unless:

9 (1) One of the parents has been convicted of domestic abuse as defined in subdivision
10 25-10-1(1); or

11 (2) One of the parents has been convicted of assault against a person as defined in
12 subdivision 25-10-1(2), except against any person related by consanguinity, but not
13 living in the same household; or

14 (3) One of the parents has a history of domestic abuse; or



1 (4) Mediation is not readily available or the court determines that mediation is not
2 appropriate based on the facts and circumstances of the case.

3 The court may also direct that an investigation be conducted to assist the court in making a
4 custody or visitation determination and shall allocate the costs of such investigation between
5 the parties. A history of domestic abuse may only be proven by greater convincing force of the
6 evidence.

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

268P0292

HOUSE JUDICIARY ENGROSSED NO. **HB 1100** - 1/24/2008

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 create a rebuttable presumption against the award of
2 custody to any person with a proven history of domestic abuse.

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

4 Section 1. That § 25-4-45.5 be amended to read as follows:

5 25-4-45.5. In awarding custody involving a minor, the court shall consider ~~a~~:

6 (1) A conviction of domestic abuse as defined in subdivision 25-10-1(1); or ~~a~~

7 (2) A conviction of assault against a person as defined in subdivision 25-10-1(2), except
8 against any person related by consanguinity, but not living in the same household; ~~or~~

9 (3) A history of domestic abuse.

10 The conviction or history of domestic violence creates a rebuttable presumption that awarding
11 custody to the abusive parent is not in the best ~~interests~~ interest of the minor. A history of
12 domestic abuse may only be proven by greater convincing force of the evidence.

13 Section 2. That chapter 25-4 be amended by adding thereto a NEW SECTION to read as
14 follows:



1 For purposes of this chapter, in determining whether a history of domestic abuse exists, the
2 court's consideration shall include the issuance of a protection order against a parent, or the
3 arrest of a parent following response of law enforcement to a report of alleged domestic abuse,
4 or a conviction for domestic abuse.

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

319P0547

HOUSE JUDICIARY ENGROSSED NO. **HB 1163** - 1/30/2008

Introduced by: Representatives Cutler, Feinstein, Lucas, Rave, and Willadsen and Senators Gray, Hunhoff, Jerstad, Koetzle, and Turbak Berry

1 FOR AN ACT ENTITLED, An Act to increase the duration of juvenile diversion programs.

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

3 Section 1. That § 26-7A-11 be amended to read as follows:

4 26-7A-11. A report of a preliminary investigation involving an apparent child in need of
5 supervision or an apparent delinquent child may be referred under § 26-7A-10 only if:

6 (1) The child and the child's parents, guardian, or other custodian were informed of their
7 constitutional and legal rights, including being represented by an attorney at every
8 stage of the proceedings if a petition is filed;

9 (2) The facts are admitted and establish prima facie jurisdiction; and

10 (3) Written consent is obtained from the child's parents, guardian, or custodian and from
11 the child if the child is of sufficient age and understanding. Efforts to effect informal
12 adjustment may extend no longer than ~~three~~ six months from the date of such
13 consent.



State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

472P0186

HOUSE JUDICIARY ENGROSSED NO. **HB 1238** 1/30/2008

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

Introduced by: Representatives Gillespie, Burg, Cutler, Deadrick, Dennert, Dykstra, Elliott, Engels, Feinstein, Gassman, Glenski, Halverson, Hargens, Krebs, Lucas, Miles, Nygaard, Peters, Rhoden, Sigdestad, Street, and Thompson and Senators Hanson (Gary), Abdallah, Albers, Apa, Heidepriem, and Olson (Ed)

1 FOR AN ACT ENTITLED, An Act to revise the limitation period for commencing child abuse
2 prosecutions.

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

4 Section 1. That § 26-10-1 be amended to read as follows:

5 26-10-1. Any person who abuses, exposes, tortures, torments, or cruelly punishes a minor
6 in a manner which does not constitute aggravated assault, is guilty of a Class 4 felony. If the
7 victim is less than seven years of age, the person is guilty of a Class 3 felony. The use of
8 reasonable force, as provided in § 22-18-5, is a defense to an offense under this section.
9 Notwithstanding § 23A-42-2, a charge brought pursuant to this section may be commenced at
10 any time before the victim becomes age twenty-five.

11 If any person convicted of this offense is the minor's parent, guardian, or custodian, the court
12 shall include as part of the sentence, or conditions required as part of suspended execution or
13 imposition of such sentence, that the person receive instruction on parenting approved or



1 provided by the Department of Social Services.

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

923P0179

HOUSE STATE AFFAIRS

ENGROSSED NO. **HB 1250** - 1/30/2008

Introduced by: Representatives Lucas, Bradford, Elliott, Gassman, Halverson, Nelson, Rave, Street, Van Etten, Van Norman, and Weems and Senators Koetzle, McCracken, Olson (Ed), and Two Bulls

1 FOR AN ACT ENTITLED, An Act to increase the salary for legislators.

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

3 Section 1. That § 2-4-2 be amended to read as follows:

4 2-4-2. The salary of each member of the Legislature is ~~six~~ ten thousand dollars for ~~every~~
5 each regular legislative session. In addition, each legislator shall receive:

6 (1) Reimbursement to be paid after the legislative session for actual mileage or its
7 equivalent traveled to and from home not more than once each weekend or between
8 days of recess during the regular legislative session, at state rates established by the
9 Board of Finance;

10 (2) Expenses of one hundred ten dollars per day for each day of a regular or special
11 legislative session as prepaid reimbursement for living expenses, including meals and
12 lodging, laundry, cleaning and pressing of clothing, and all other uncompensated
13 expenses as defined in § 2-4-2.1 incident to the performance of legislative services;
14 and



1 (3) Five cents once each session for every mile of necessary travel in going to and
2 returning from the place of meeting of the Legislature by the most usual route.

3 For each day's attendance at special sessions, each member, in addition to mileage and
4 expenses, shall receive a per diem calculated by the director of the Legislative Research Council
5 equal to the normal daily compensation for the regular session immediately preceding the
6 special session.

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

680P0614

HOUSE TRANSPORTATION ENGROSSED NO. **HB**

1264 - 1/29/2008

Introduced by: Representatives Jerke, Elliott, Faehn, Howie, Kirkeby, Lust, Miles, Moore, Olson (Betty), and Sigdestad and Senators Napoli, Albers, Garnos, Hauge, McCracken, and Sutton

1 FOR AN ACT ENTITLED, An Act to permit certain persons with insulin-treated diabetes
2 mellitus to get an endorsement on a commercial driver license to drive a school bus.

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

4 Section 1. That chapter 32-12A be amended by adding thereto a NEW SECTION to read
5 as follows:

6 Any person with insulin-treated diabetes mellitus, who is otherwise medically qualified
7 under the physical examination standards of the federal motor carrier safety regulations, as
8 provided by § 32-12A-24, may request a waiver for this condition from the department. If an
9 applicant for an intrastate school bus endorsement meets the requirements as specified in
10 subdivisions (1) to (7), inclusive, of this section, the department shall grant a waiver. The
11 department shall notify each applicant and each affected school district or private contractor of
12 its determination of eligibility for each application for a waiver. An applicant shall:

13 (1) Provide evidence, signed by a physician, physician assistant, or nurse practitioner that



1 the applicant has no other disqualifying conditions including diabetes-related
2 complications;

3 (2) Provide evidence, signed by a physician, physician assistant, or nurse practitioner that
4 the applicant has had no recurrent severe hypoglycemic episodes resulting in a loss
5 of consciousness or any severe hypoglycemic episode within the past five years. A
6 period of one year of demonstrated stability is required following the first episode of
7 hypoglycemia;

8 (3) Provide evidence, signed by a physician, physician assistant, or nurse practitioner that
9 the applicant has had no recurrent severe hypoglycemic episodes requiring the
10 assistance of another person within the past five years. A period of one year of
11 demonstrated stability is required following the first episode of hypoglycemia;

12 (4) Provide evidence, signed by a physician, physician assistant, or nurse practitioner that
13 the applicant has had no recurrent severe hypoglycemic episodes resulting in
14 impaired cognitive functioning that occurred without warning symptoms within the
15 past five years. A period of one year of demonstrated stability is required following
16 the first episode of hypoglycemia;

17 (5) Document that the applicant has been examined by a board-certified or board-eligible
18 physician, a physician assistant, or a nurse practitioner who has conducted a complete
19 medical examination. The complete medical examination shall consist of a
20 comprehensive evaluation of the applicant's medical history and current status with
21 a report including the following information:

- 22 (a) The date insulin use began;
- 23 (b) Diabetes diagnosis and disease history;
- 24 (c) Hospitalization records, if any;

- 1 (d) Consultation notes for diagnostic examinations;
- 2 (e) Special studies pertaining to the diabetes;
- 3 (f) Follow-up reports;
- 4 (g) Reports of any severe hypoglycemic episode within the last five years;
- 5 (h) Two measures of glycosylated hemoglobin, the first ninety days before the last
- 6 and current measure;
- 7 (i) Insulin dosages and types, diet utilized for control and any significant factors
- 8 such as smoking, alcohol use, and any other medications or drugs taken; and
- 9 (j) Examinations to detect any peripheral neuropathy or circulatory insufficiency
- 10 of the extremities;
- 11 (6) Submit a signed statement from an examining physician indicating the following
- 12 medical determinations:
 - 13 (a) The physician is familiar with the applicant's medical history for the past five
 - 14 years, either through actual treatment over that time or through consultation
 - 15 with a physician who has treated the applicant through that time;
 - 16 (b) The applicant has been educated in diabetes and its management, thoroughly
 - 17 informed of and understands the procedures that must be followed to monitor
 - 18 and manage the applicant's diabetes and the procedures to be followed if
 - 19 complications arise; and
 - 20 (c) The applicants has the ability and has demonstrated the willingness to properly
 - 21 monitor and manage the applicant's diabetes; and
- 22 (7) Submit a separate signed statement from an ophthalmologist or optometrist that the
- 23 applicant has been examined and does not have diabetic retinopathy and meets the
- 24 vision standards in 49 CFR 391.41 (b)(10), as amended through January 1, 2007, or

1 has been issued a valid medical exemption. If the applicant has any evidence of
2 diabetic retinopathy, the applicant shall be examined by an ophthalmologist and
3 submit a signed statement from the ophthalmologist that the applicant does not have
4 unstable advancing disease of blood vessels in the retina, known as unstable
5 proliferative diabetic retinopathy.

6 Each school bus driver that is granted a waiver for insulin-treated diabetes mellitus issued
7 by the department shall maintain the waiver in the driver's possession at all times.

8 The department shall promulgate rules, pursuant to chapter 1-26, necessary for the
9 determination of eligibility and issuance of a waiver to persons with insulin-treated diabetes
10 mellitus in accordance with the provisions of this section.

11 A waiver granted under this section may be issued for a maximum of two years. The driver
12 may reapply for renewal of the waiver every two years.

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

497P0732

HOUSE EDUCATION ENGROSSED NO. **HB 1303** - 1/29/2008

Introduced by: Representatives Van Norman, Ahlers, Bradford, Burg, DeVries, Elliott, Engels, Feinstein, Gillespie, Halverson, Hills, Lucas, Nygaard, Sigdestad, Street, and Thompson and Senators Maher, Bartling, Heidepriem, Hoerth, Hundstad, Kloucek, Nesselhuf, Turbak Berry, and Two Bulls

1 FOR AN ACT ENTITLED, An Act to require the South Dakota State Library to deliver services
2 and materials to residents in remote areas of the state, and to deliver those services and
3 materials free of charge.

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

5 Section 1. That § 14-1-44 be amended to read as follows:

6 14-1-44. The State Library Office shall be responsible for executing the library policy of the
7 State of South Dakota and shall:

8 (1) Promote adequate library service for all the people of the state;

9 (2) Supplement the services of libraries throughout the state;

10 (3) Deliver services and materials directly to those persons in remote areas of the state
11 who have inadequate or no public library service, and deliver those services and
12 materials at no charge;

13 ~~(3)~~(4) Increase the proficiency of library personnel through provision of in-service and



- 1 continuing education programs for library personnel employed in the state;
- 2 ~~(4)~~(5) Provide for the citizens of the state specialized library services and materials not
- 3 generally appropriate, economical, or available in other libraries of the state;
- 4 ~~(5)~~(6) Coordinate the libraries maintained by the executive department of state government
- 5 within the governmental complex in Pierre;
- 6 ~~(6)~~(7) Establish and operate a state publications library distribution center; and
- 7 ~~(7)~~(8) Collect and publish annual statistical data of libraries in the state.

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

400P0149

SENATE ENGROSSED NO. **SB 2** - 1/16/2008

Introduced by: The Committee on Local Government at the request of the Office of the
Secretary of State

1 FOR AN ACT ENTITLED, An Act to prohibit public access to birth dates of voters contained
2 in the master voter registration file.

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

4 Section 1. That § 12-4-9 be amended to read as follows:

5 12-4-9. The county auditor shall maintain and safeguard a file of voters in computer format
6 that contains each person registered in each voting precinct within the county. This file shall be
7 known as the master registration file and shall be, at all times during office hours, open to public
8 inspection. However, public access to social security numbers and driver license numbers
9 contained in the master registration file shall be ~~restricted~~ prohibited. Public access to each
10 voter's day and month of birth shall be restricted. Public access to the voter's year of birth is not
11 restricted. The master registration file shall contain all information from each voter's registration
12 card except the description of the location of the voter's residence. The master registration file
13 shall also include the date of the last election the voter has voted in and when the voter's
14 information was last updated. The master registration file may also contain additional voter
15 history information.



State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

400P0143

SENATE LOCAL GOVERNMENT ENGROSSED NO. **SB 3** - 1/14/2008

Introduced by: The Committee on Local Government at the request of the Office of the
Secretary of State

1 FOR AN ACT ENTITLED, An Act to revise certain procedures concerning elections for special
2 districts and to declare an emergency.

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

4 Section 1. That § 6-16-4 be amended to read as follows:

5 6-16-4. The county auditor shall publish the notice of the voter registration deadline at least
6 once each week for two consecutive weeks, the last publication to be not less than ~~twenty-five~~
7 twenty-four nor more than thirty days prior to the election. The auditor shall publish notices of
8 election at least once each week for two consecutive weeks, the last publication to be not less
9 than four nor more than ten days before the election in at least one legal newspaper of general
10 circulation in the proposed district.

11 Section 2. That § 6-16-5 be amended to read as follows:

12 6-16-5. ~~The~~ If the proposed district contains less than one thousand eligible voters as defined
13 in § 6-16-6, the county auditor shall set a date, time, and location for a meeting to be held within
14 the district to conduct an election on the question of formation of the special district. The date



1 may not be more than sixty days after the appropriate board declares that the application for
2 incorporation is valid. The auditor shall appoint three judges of election, one of whom shall
3 serve as the superintendent, to conduct the election. The vote upon the question of incorporation
4 shall be by ballot which conforms to a ballot for a statewide question except that the statement
5 required to be printed on the ballot shall be prepared by the state's attorney. After the vote is cast
6 and counted, the judges shall prepare a certification showing the whole number of ballots cast,
7 together with the number voting for and the number voting against incorporation, and shall
8 return the certification to the county auditor. If a majority of the votes cast on the question of
9 formation is in favor, an election shall be conducted by those present at the same meeting to
10 elect the initial board of directors or trustees.

11 Section 3. That § 6-16-8 be amended to read as follows:

12 6-16-8. The State Board of Elections may promulgate rules pursuant to chapter 1-26
13 concerning:

- 14 (1) The petition form; ~~and~~ for the formation of a special district;
15 (2) The notice of election; and
16 (3) The nominating petition.

17 The petition form and notice of election shall include a description of the proposed district
18 boundaries.

19 Section 4. That chapter 6-16 be amended by adding thereto a NEW SECTION to read as
20 follows:

21 If the proposed district contains one thousand or more eligible voters as defined in § 6-16-6,
22 the county auditor shall set a date for an election to be held within the district on the question
23 of formation of the special district. The date may not be more than sixty days after the
24 appropriate board declares that the application for incorporation is valid. The election shall be

1 conducted pursuant to Title 12. The vote upon the question of incorporation shall be by ballot
2 which conforms to a ballot for a statewide question except that the statement required to be
3 printed on the ballot shall be prepared by the state's attorney. The election shall be canvassed
4 by the county commission.

5 Section 5. That chapter 6-16 be amended by adding thereto a NEW SECTION to read as
6 follows:

7 If a majority of the votes cast in an election conducted pursuant to section 4 of this Act is
8 in favor on the question of formation of the special district, an election shall be conducted by
9 the county auditor within sixty days after the official canvass to elect the initial board of
10 directors or trustees. The election shall be conducted pursuant to Title 12. The county auditor
11 shall publish a notice of vacancy no later than fifty days prior to the election. Circulation of
12 nominating petitions may begin upon completion of the official canvass of the election to form
13 the district. Nominating petitions shall be filed with the county auditor by 5:00 p.m. at least
14 thirty days before the election. The nominating petitions shall contain signatures of at least
15 twenty-five registered voters in the district. Absentee ballots shall be made available to the
16 voters no later than twenty days before the date of election. The election shall be canvassed by
17 the county commission.

18 Section 6. Whereas, this Act is necessary for the support of the state government and its
19 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in
20 full force and effect from and after its passage and approval.