

STATE OF SOUTH DAKOTA



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April 2, 2007

MEMORANDUM

TO: All Interested Persons

FROM: Charles D. McGuigan, Assistant Attorney General *Charlie*

RE: **Legislation passed by the 2007 Legislature**

The 2007 South Dakota Legislature considered 531 pieces of legislation. The House introduced 312 bills and the Senate introduced 219 bills. The Governor signed 298 bills into law.

The Attorney General requested the introduction of six pieces of legislation during the 2007 Legislative session. The Legislature adopted four of the six bills. House Bill 1068 revises the criminal penalty for perjury involving written documents. House Bill 1069 increases liquidated court costs by \$10 with the entire amount dedicated to the law enforcement training fund. House Bill 1070 would have created a reward fund for the cold case unit. The Bill died in House Judiciary Committee. House Bill 1071 revises certain provisions regarding the title of initiated measures and the filing of initiated measures. This Bill was brought in response to litigation challenging the Attorney General's ability to prepare an appropriate title for initiated measures. House Bill 1072 creates a statewide 24/7 sobriety program. House Bill 1073 would have revised certain provisions regarding identification and recording of products containing pseudoephedrine or ephedrine. This Bill was tabled in Senate Judiciary.

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During the 2007 Legislative Session, the Attorney General's Office monitored 158 pieces of legislation, supported 21 pieces of legislation, and opposed 9 pieces of legislation.

Legislature passed the following bills and unless noted otherwise, the following bills will become law on July 1, 2007.

Senate Bill 80 increases the fees permitted to recover reasonable costs and expenses on dishonored checks. This Bill amends SDCL 57A-3-42(1) and increases the maximum reasonable check collection fee from \$30 to \$40.

Senate Bill 82 revises certain fees charged by sheriffs. This Bill will increase some of the fees allowed by SDCL 7-12-18 but also repeals a number of the fees a sheriff is currently allowed to charge in carrying out his law enforcement duties.

Senate Bill 88 adopts the Uniform Child Abduction Prevention Act. This Act will allow a parent, the State, or the court, to take proactive measures if it appears that a parental abduction of a child is imminent. The Court may impose restrictions on visitation, custody, travel, and in severe cases, take possession of passports or even physical custody of the child.

Senate Bill 123 provides that sheriffs receive payment for marshalling assets for an execution of judgment or execution sale even if no sale occurs. The Bill will allow the sheriff to collect at a minimum any actual out-of-pocket expenses and reasonable costs incurred by the sheriff in preparation of a sale.

Senate Bill 135 increases in two steps the minimum salary payable to county officials, state's attorneys, and sheriffs. The salary increases do not become effective until January 1, 2008, and January 1, 2009.

Senate Bill 136 provides for the release of the juvenile monitor's report after clearance by the Attorney General and provides for a confidential addendum to the report.

Senate Bill 153 provides for the suspension of certain county officials pending completion of certain criminal prosecutions. The Bill adds five new sections to SDCL ch. 3-17 allowing the county commission to suspend a county officer if that officer is charged with a class 1 misdemeanor relevant to the

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responsibilities and duties of the office or any felony and allows for the appointment of a temporary officer to carry out the duties of the office during the suspension.

House Bill 1005 revises reporting requirements involving sex offense victims. This Bill adds a new section to SDCL ch. 22-22 which will require the state's attorneys to submit quarterly reports to the Department of Social Services concerning the legal description of sex offenses and demographic information regarding the victim of the sex offense if the victim is over eighteen years of age. The Department of Social Services will then maintain a database of such reports and make information regarding the incidence and frequency of sex offenses available to the public.

House Bill 1015 revises certain provisions regarding the identification of authorized emergency vehicles. This Bill removes the requirement that an emergency vehicle use both an audible and a visual signal in order to meet the requirements and exceptions in SDCL ch. 32-31.

House Bill 1016 exempts law enforcement and emergency vehicle accidents from certain driving records. The Bill prohibits the entering an accident on the driving record of a law enforcement officer or other emergency responder if the accident resulted while lawfully engaged in the performance of their official duty and while driving an official vehicle. The Bill also prohibits an insurer from increasing the insurance premium of the individual driver.

House Bill 1023 revises certain provisions concerning the definition of big game and the possession, transportation, and sale of big game meat and animal parts. The Bill adds wild mountain lions and wild black bear the current restrictions and also adds internal organs and paws to the list of big game parts that are illegal to purchase, barter, or sell. The Bill clarifies that a person may lawfully transport into South Dakota, animal or animal parts which were lawfully taken in another state, even if that species appears on South Dakota's protected list.

House Bill 1029 places certain drugs on the controlled substances schedule and declares an emergency. The Bill adds Oxymorphone as a Schedule II controlled substance and adds Embutramide as a Schedule III controlled substance. This Bill

became effective upon the Governor's signature on February 1, 2007.

House Bill 1048 reforms certain campaign finance requirements and establishes penalties. This Bill establishes or modifies a number of requirements concerning financing of political campaigns, campaign finance reporting, and the filing of other reports by candidates.

House Bill 1057 requires certain information in a judgment of conviction for persons sentenced to the state penitentiary. The judgment of conviction must now include the defendant's name, the county of conviction, the judge, the prosecuting attorney, the defense attorney, the docket number, the South Dakota Codified Law citation of the crime, any crime qualifier, habitual offender enhancement, date of the offense, date of conviction, date of sentence, the sentence term, any suspended time, any jail time credit granted, and if sentences are to be served concurrently or consecutively.

House Bill 1058 revises certain provisions related to the placement of juveniles under the jurisdiction of the Department of Corrections. The Bill will allow the Department of Corrections to provide foster care until the person reaches the age of twenty-one. If that person is under the continuing juvenile jurisdiction of the Department, it will allow a person who reaches the age of eighteen to be transferred to an adult jail or lockup until they reach the age of twenty-one. The Bill also will allow the Department of Corrections to release an individual under certain circumstances and will require a risk and needs evaluation for any person who has not been discharged prior to reaching the age of nineteen.

House Bill 1059 provides for the sharing of certain child protection records.

House Bill 1068 revises the criminal penalty for perjury. This Bill was brought at the request of the Attorney General and amends SDCL 22-29-5 to provide for a catch-all provision to cover circumstances deemed perjury by other statutory sections. A violation will be a class 6 felony.

House Bill 1069 increases liquidated court costs by \$10 with the entire \$10 amount going into the Law Enforcement Officer's

Training Fund. This Bill was brought at the request of the Attorney General.

House Bill 1072 creates a statewide 24/7 sobriety program and expands the Attorney General's trial program from chronic drunk drivers to any circumstance the court deems it appropriate for the person to be subject to twice a day alcohol testing or testing for controlled substances. The Bill will also allow the court to condition the return of a child on the parents' participation in the 24/7 program.

House Bill 1091 permits magistrate courts to administer adult probationary drug court programs under certain circumstances.

House Bill 1096 clarifies certain provisions concerning the place where certain trials shall take place.

House Bill 1098 revises the jurisdiction of certain magistrate courts and declares an emergency. This Bill amends SDCL 16-12B-8 concerning the jurisdiction of magistrate courts over class 1 misdemeanors. The Bill amends that section to increase the allowable fine from \$1,000 to \$2,000. This Bill became effective with the Governor's signature on March 2, 2007.

House Bill 1108 revises certain provisions regarding when and by whom chemical dependency evaluations occur after a conviction of driving while under the influence of drugs or alcohol. The Bill amends SDCL 32-23-2.1 to clarify that a court-ordered evaluation may be conducted by a chemical dependency counselor or a licensed or certified health care professional with specialized training in chemical dependency evaluation. The Bill also requires that the recommendations of the evaluation will be provided to the referring judge.

House Bill 1117 permits the extending of the duration of stalking and protection orders. This Bill will allow the court to issue a protection order for up to five years.

House Bill 1124 adds the solicitation to commit a crime to certain criminal provisions. Specifically, this Bill clarifies that if you solicit someone to commit a crime of violence that solicitation qualifies as a crime of violence.

House Bill 1127 clarifies the authority of county commissioners to set their annual salary.

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House Bill 1132 increases the maximum penalty that counties and municipalities may establish for a violation of an ordinance. This Bill brings ordinance violations back in line with the current penalties for a class 2 misdemeanor.

House Bill 1147 revises certain provisions regarding notices of claim against governmental entities. This Bill amends SDCL 3-21-2 to clarify that nothing within the chapter tolls or extends any applicable limitations on the time for commencing an action and it repeals SDCL 3-21-6 and its requirement that suit be filed ninety days after receipt of notice from the governmental entity.

House Bill 1161 revises the elements of the crime of first degree robbery. This Bill amends SDCL 22-30-6 so that an offender can accomplish first degree robbery either by the use of a dangerous weapon or by the use of a physical object simulating a dangerous weapon.

House Bill 1172 clarifies certain limits placed on persons lending money. The Bill limits the maximum amount of any payday loan or the total of any outstanding principle balances of all payday loans made to a single borrower to \$500 at any time. Any time the total exceeds \$500 the lender would be committing a class 1 misdemeanor.

House Bill 1175 provides for the substances used in the execution of a sentence of death and allows the choice of substances used in an execution under certain circumstances.

House Bill 1200 increases the penalty for multiple violations of disorderly conduct. This Bill makes it a class 1 misdemeanor for a fourth or subsequent disorderly conduct within a ten year period.

House Bill 1222 clarifies certain provisions relating to petitions for protection orders. This Bill amends SDCL 22-19A-8 to allow a victim to petition for a protection order if they are the victim of an assault or a crime of violence.

House Bill 1246 makes an appropriation for the cost related to the intensive methamphetamine treatment program in the women's correctional system.

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House Bill 1249 establishes the teen court grant program. The Bill creates teen court fund under the office of the state treasurer and appropriates \$100,000 to the fund to use as seed money to establish the teen court grant program.

House Bill 1285 restricts unsolicited commercial electronic mail advertisements. This Bill repeals South Dakota's existing SPAM email restrictions and implements a new SPAM Email Act which contains both private rights of actions and civil enforcement provisions.

Please feel free to contact me if you need additional information. You can access all of the bills introduced by the 2007 Legislature at the South Dakota Legislative Research Counsel's website. The web address is:
<http://legis.state.sd.us/sessions/2007/index.aspx>

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