

State of South Dakota

EIGHTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2010

349R0168

HOUSE BILL NO. 1077

Introduced by: The Committee on Judiciary at the request of the Chief Justice

1 FOR AN ACT ENTITLED, An Act to enact a procedure for delayed appeal if the petitioner was
2 unconstitutionally denied the right of appeal.

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

4 Section 1. A circuit court may grant a delayed appeal if the court determines that the
5 petitioner was denied the right to an appeal from the original conviction in violation of the
6 Constitution of the United States or the Constitution of South Dakota and if such relief is
7 requested within a reasonable time and an adequate record of the original trial proceeding is
8 available for review. In such a case, the court shall vacate the original judgment, re-impose the
9 same judgment and sentence, and advise the petitioner in person of all rights associated with an
10 appeal from that judgment, including the time for filing an appeal.

