

State of South Dakota

EIGHTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2010

349R0168

HOUSE JUDICIARY ENGROSSED NO. **HB 1077** - 2/1/2010

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

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. That chapter 21-27 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 If the court finds that an applicant was denied the right to an appeal from an original
7 conviction in violation of the Constitution of the United States or the Constitution of South
8 Dakota, the court shall vacate and set the judgment aside if such relief is requested within a
9 reasonable time and an adequate record of the original trial proceeding is available for review.

10 The court shall impose the same sentence and advise the applicant of the following:

- 11 (1) The rights associated with an appeal from a criminal conviction; and
12 (2) The time for filing a notice of appeal from the reimposed sentence.

