

# State of South Dakota

EIGHTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2010

349R0168

HOUSE ENGROSSED NO. **HB 1077** - 2/3/2010

**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 one  
9 year from the date on which the facts supporting the claim or claims presented are discovered  
10 or reasonably could have been discovered and an adequate record of the original trial proceeding  
11 is available for review. The court shall impose the same sentence and advise the applicant of the  
12 following:

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

