



2021 South Dakota Legislature

Senate Bill 95

SENATE JUDICIARY ENGROSSED

Introduced by: **Senator Johns**

1 **An Act to provide immunity for actions assisting an impaired lawyer or judge.**

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

3 **Section 1.** That a NEW SECTION be added:

4 **16-17A-1. Definitions.**

5 Terms used in this Act mean:

6 (1) "Impaired," a deficit in cognitive ability to act in compliance with the Rules of
 7 Professional Conduct, the Code of Judicial Conduct, and any other standards
 8 required of practicing attorneys and judges, because of an addiction to alcohol,
 9 drugs, gambling, or any other medical condition;

10 (2) "Confidential information," any information, regardless of the form in which it is
 11 transmitted or stored, communicated to the State Bar, the Supreme Court, or the
 12 Unified Judicial System, for the sole purpose of assisting a lawyer or judge, who is
 13 impaired or suspected of being impaired, in obtaining medical or therapeutic
 14 treatment for the impairment or other related support services. The term does not
 15 include any information in the public record prior to the communication.

16 **Section 2.** That a NEW SECTION be added:

17 **16-17A-2. Immunity for assistance--Exclusions.**

18 A person is immune from liability for any damages to any person or property caused
 19 by the person's acts or omissions in assisting or offering to assist a lawyer or judge who
 20 is impaired or suspected of being impaired in obtaining medical or therapeutic treatment
 21 for the impairment or other related support services. This section does not apply to any:

22 (1) Health care provider or counselor who receives compensation or anything of value,
 23 including payments from an insurance policy or federal or state health care
 24 program, for providing treatment or other services to a lawyer or judge who is
 25 impaired or suspected of being impaired; or

1 (2) Damages caused by willful or criminal misconduct, gross negligence, or reckless
2 misconduct.

3 **Section 3.** That a NEW SECTION be added:

4 **16-17A-3. Immunity for reporting--Exclusions.**

5 A person is immune from liability for any damages to any person or property caused
6 by the person's acts or omissions in reporting a lawyer or judge who is impaired or
7 suspected of being impaired to the State Bar, the Supreme Court, any associated
8 assistance committee or entity established or approved by the State Bar or the Supreme
9 Court, or the Unified Judicial System. This section does not apply to any damages caused
10 by willful or criminal misconduct, gross negligence, or reckless misconduct. This section
11 does not relieve any lawyer or judge from any responsibility under the Rules of
12 Professional Conduct or the Code of Judicial Conduct.

13 **Section 4.** That a NEW SECTION be added:

14 **16-17A-4. Confidential information--Source--Limited disclosure--Limited**
15 **use.**

16 The State Bar, the Supreme Court, any assistance committee or associated entity
17 established or approved by the State Bar or Supreme Court, or Unified Judicial System
18 may not disclose the source of any confidential information or disclose or use any
19 confidential information for any purpose other than to assist the lawyer or judge who is
20 the subject of the confidential information in obtaining medical or therapeutic treatment
21 or other related support services.