



2021 South Dakota Legislature
Senate Bill 95
ENROLLED

AN ACT

ENTITLED An Act to provide protection for actions assisting an impaired lawyer or judge.

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

Section 1. That a NEW SECTION be added:

16-17A-1. Definitions.

Terms used in this Act mean:

- (1) "Impaired," a deficit in cognitive ability to act in compliance with the Rules of Professional Conduct, the Code of Judicial Conduct, and any other standards required of practicing attorneys and judges, because of an addiction to alcohol, drugs, gambling, or any other medical condition;
- (2) "Confidential information," any information, regardless of the form in which it is transmitted or stored, communicated to the State Bar, the Supreme Court, or the Unified Judicial System, for the sole purpose of assisting a lawyer or judge, who is impaired or suspected of being impaired, in obtaining medical or therapeutic treatment for the impairment or other related support services. The term does not include any information in the public record prior to the communication.

Section 2. That a NEW SECTION be added:

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

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

- (1) Health care provider or counselor who receives compensation or anything of value, including payments from an insurance policy or federal or state health care

program, for providing treatment or other services to a lawyer or judge who is impaired or suspected of being impaired; or

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

Section 3. That a NEW SECTION be added:

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

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

Section 4. That a NEW SECTION be added:

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

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

An Act to provide protection for actions assisting an impaired lawyer or judge.

I certify that the attached Act originated in the:

Received at this Executive Office this ____ day of _____,

Senate as Bill No. 95

2021 at _____ M.

Secretary of the Senate

By _____
for the Governor

President of the Senate

The attached Act is hereby approved this _____ day of _____, A.D., 2021

Attest:

Secretary of the Senate

Governor

STATE OF SOUTH DAKOTA,

ss.

Office of the Secretary of State

Speaker of the House

Attest:

Filed _____, 2021
at _____ o'clock __ M.

Chief Clerk

Secretary of State

Senate Bill No. 95
File No. _____
Chapter No. _____

By _____
Asst. Secretary of State