



## 2022 South Dakota Legislature

# Senate Bill 20

### SENATE HEALTH AND HUMAN SERVICES ENGROSSED

Introduced by: **Senators** Duhamel, Breitling, and Stalzer and **Representatives** Milstead, Bartels, Chaffee, Derby, Deutsch, Finck, Fitzgerald, Goodwin, Perry, Rehfeldt, Wiese, and Willadsen at the request of the Marijuana Interim Study Committee

1 **An Act to revise the medical purpose defense related to the medical use of cannabis.**

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

3 **Section 1. That § 34-20G-51 be AMENDED:**

4 **34-20G-51.** Except as provided in § 34-20G-18 and this section, ~~a person may~~  
 5 ~~assert the medical purpose for using cannabis as a~~ it is an affirmative defense to any  
 6 ~~prosecution involving~~ for using or possessing cannabis, and such affirmative defense is  
 7 presumed valid, where the evidence shows that:

8 ~~(1) A practitioner has stated that, in the practitioner's professional opinion, after~~  
 9 ~~having completed a full assessment of the person's medical history and current~~  
 10 ~~medical condition made in the course of a bona fide practitioner-patient~~  
 11 ~~relationship, the patient has a debilitating medical condition and the potential~~  
 12 ~~benefits of using cannabis for medical purposes would likely outweigh the health~~  
 13 ~~risks for the person;~~

14 ~~(2) The person was in possession of no more than three ounces of cannabis, the~~  
 15 ~~amount of cannabis products allowed by department rules, six cannabis plants~~  
 16 ~~minimum or as prescribed by a physician, and the cannabis produced by those~~  
 17 ~~plants;~~

18 ~~(3) The person was engaged in the acquisition, possession, use, manufacture,~~  
 19 ~~cultivation, or transportation of cannabis, paraphernalia, or both, relating to the~~  
 20 ~~administration of cannabis to treat or alleviate the person's debilitating medical~~  
 21 ~~condition or symptoms associated with the person's debilitating medical condition;~~  
 22 ~~and~~

23 ~~(4) Any cultivation of cannabis and storage of more than three ounces of cannabis~~  
 24 ~~occurred in a secure location that only the person asserting the defense could~~  
 25 ~~access.~~

- 1        (1) The person is a qualifying patient and the person is not in physical possession of  
2        the registry identification card, the person was registered with the department as  
3        a cardholder or nonresident cardholder at the time of the alleged offense;  
4        (2) The person is a designated caregiver, the person was registered with the  
5        department and in physical possession of the registry identification card at the time  
6        of the alleged offense or produces the registry identification card to law  
7        enforcement within forty-eight hours of the alleged offense; and  
8        (3) The conduct underlying the alleged offense complied with this chapter.

9        **Section 2. That § 34-20G-53 be REPEALED:**

10            ~~A person is not required to possess a registry identification card to raise the~~  
11            ~~affirmative defense set forth in § 34-20G-51.~~