



2025 South Dakota Legislature

House Bill 1133

Introduced by: **Representative** Mortenson

1 **An Act to amend bond requirements.**

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

3 **Section 1. That § 18-1-2 be AMENDED:**

4 **18-1-2.** Each notary public, before performing the duties of the office, shall take
 5 an oath as required by § 3-1-5, ~~and shall give a bond to this state, to be approved by the~~
 6 ~~attorney general, in the penal sum of five thousand dollars, conditioned for the faithful~~
 7 ~~discharge of the duties of the office.~~

8 **Section 2. That § 18-1-3 be AMENDED:**

9 **18-1-3.** ~~Every~~ Each notary public, before entering upon the duties of ~~his~~ the office,
 10 shall ~~provide~~ obtain an official seal and file an impression of the same, together with ~~his~~
 11 ~~oath and bond~~ the oath described in § 18-1-2, in the Office of the Secretary of State.

12 **Section 3. That § 29A-3-603 be AMENDED:**

13 **29A-3-603.** ~~Bond~~ A bond is not required of a personal representative unless: ~~(a)~~
 14 ~~the will expressly waives bond, directs that there be no bond, or waives the requirement~~
 15 ~~of surety thereon; (b) all of the heirs, if no will has been probated, or all of the devisees~~
 16 ~~file a written waiver of the bond requirement; (c) the personal representative is a bank or~~
 17 ~~trust company qualified to do trust business or exercise trust powers in this state; or (d)~~
 18 ~~the court concludes that~~ a bond is ~~not~~ in the best interests of the estate.

19 **Section 4. That § 29A-3-604 be AMENDED:**

20 **29A-3-604.** (a) If bond is required and the provisions of the will or order of
 21 appointment do not specify the amount, unless stated in the application or petition, the
 22 person qualifying as personal representative shall file a statement under oath with the

1 clerk indicating the person's best estimate of the value of the personal estate of the
2 decedent and of the income expected from the personal and real estate during the next
3 year, and shall execute and file a bond with the clerk, or give other suitable security, in
4 an amount not less than the estimate. The clerk shall determine that the bond is duly
5 executed by a corporate surety, or one or more individual sureties whose performance is
6 secured by pledge of personal property, mortgage on real property, or other adequate
7 security.

8 (b) The clerk may permit the amount of the bond to be reduced by the value of
9 assets of the estate deposited with a financial institution ~~(as defined in § 29A-6-101),~~
10 that is located in this state and in a manner that prevents their unauthorized disposition.

11 (c) On petition of the personal representative or another interested person ~~and~~
12 ~~subject to § 29A-3-603,~~ the court may require bond, ~~excuse bond,~~ increase or reduce the
13 amount of the bond, release sureties, or permit the substitution of another bond with the
14 same or different sureties.

15 **Section 5. That § 21-41-24 be REPEALED.**

16 ~~Before the entry of judgment in such action, the plaintiff must execute a bond of~~
17 ~~indemnity to the defendants in the action who shall be served by publication, with~~
18 ~~sufficient surety to be approved by the court, in such sum as the court shall direct,~~
19 ~~conditioned that if any defendant shall be permitted to defend after judgment, as provided~~
20 ~~in § 21-41-25, and such defense shall be successful, that the plaintiff will pay to such~~
21 ~~defendant the value of his interest in said premises, and his costs of defending the action.~~
22 ~~Provided, however, that personal service of the summons and complaint outside of this~~
23 ~~state, in the manner provided by the laws of this state, shall, for the purposes of this~~
24 ~~section, be deemed personal service and not service by publication.~~