

## 2026 South Dakota Legislature

**House Bill 1065****AMENDMENT 1065C  
FOR THE INTRODUCED BILL**

1 **An Act to ~~require the possession of a registry identification card to raise an~~ revise**  
2 **the medical purpose affirmative defense in cannabis prosecution.**

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

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

5 **34-20G-51.** Except as provided in § 34-20G-18 and this section, a person may  
6 assert the medical purpose for using cannabis as a defense to any prosecution involving  
7 cannabis, and such defense is 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, two flowering cannabis~~  
16 ~~plants, two cannabis plants that are not flowering, and the cannabis produced by~~  
17 ~~those 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~~

26

- 1        (1) If the person is a:  
2            (a) Qualifying patient, the person was registered with the department as a  
3            cardholder or nonresident cardholder at the time of the alleged offense; or  
4            (b) Designated caregiver, the person was registered with the department as a  
5            designated caregiver at the time of the alleged offense; and  
6        (2) The conduct underlying the alleged offense complied with this chapter.

7        **~~Section 2. That § 34-20G-53 be AMENDED:~~**

8        ~~34-20G-53. A person is not required to possess a registry identification card to raise the~~  
9        ~~affirmative defense set forth in § 34-20G-51.~~

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 That § 34-20G-53 be REPEALED.**

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