



2026 South Dakota Legislature  
**Senate Bill 42**  
**ENROLLED**

AN ACT

**ENTITLED An Act to enhance the penalties for ingestion, possession with intent to deliver, and delivery of a controlled substance in a state correctional facility.**

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

**Section 1. That § 24-2-22 be AMENDED:**

**24-2-22.** Any employee or other person who delivers or procures to be delivered, or possesses with the intent to deliver, to any inmate in a state correctional facility, or who deposits or conceals in or around any facility or place used to house inmates, or in any mode of transport entering the grounds of any facility or place and its ancillary facilities used to house inmates, any of the following articles, with the intent that any inmate obtain or receive the article, is guilty of a felony pursuant to the following schedule:

- (1) Any alcoholic beverage or marijuana is a Class 6 felony;
- (2) A cell phone or any other electronic communication device prohibited by Department of Corrections policy is a Class 4 felony;
- (3) Any prescription or nonprescription drug or controlled substance, as defined by chapter 34-20B, except as authorized by the Department of Corrections, is a Class 3 felony;
- (4) A dangerous weapon, as defined by § 22-1-2, is a Class 2 felony; and
- (5) Any article, not proscribed by this section, that is not provided by or authorized by the facility in any form, is a Class 6 felony.

**Section 2. That § 22-42-5.1 be AMENDED:**

**22-42-5.1.** No person may knowingly ingest a controlled drug or substance or have a controlled drug or substance in an altered state in the body unless the substance was obtained directly or pursuant to a valid prescription or order from a practitioner, acting in the course of the practitioner's professional practice, or except as otherwise authorized by chapter 34-20B. The following penalties apply to a violation of this section:

- (1) A first violation is a Class 1 misdemeanor, and the court, in addition to any other sentence, shall order that the person complete a drug and alcohol evaluation and complete supervised probation using evidence-based sentencing practices, which may include the HOPE probation program and other programs as established in chapter 16-22;
- (2) A second violation is a Class 1 misdemeanor, and the court, in addition to any other sentence, may sentence the person to a period of up to one year in jail, and shall sentence the person to a period of supervised probation using evidence-based practices, which may include the HOPE probation program and other programs as established in chapter 16-22, and order that the person complete a drug and alcohol evaluation and complete any other recommended course of treatment;
- (3) A third or subsequent violation, occurring within ten years of the person's first conviction, is a Class 6 felony;
- (4) A violation by an inmate under confinement in a state correctional facility is a Class 5 felony; and
- (5) A violation by a person while under parole supervision is a Class 5 felony.

An Act to enhance the penalties for ingestion, possession with intent to deliver, and delivery of a controlled substance in a state correctional facility.

\_\_\_\_\_  
I certify that the attached Act originated in  
the:  
Senate as Bill No. 42

\_\_\_\_\_  
Received at this Executive Office  
this \_\_\_\_ day of \_\_\_\_\_,  
2026 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., 2026

Attest:

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_  
Governor

**STATE OF SOUTH DAKOTA,**

ss.

Office of the Secretary of State

\_\_\_\_\_  
Speaker of the House

Attest:

Filed \_\_\_\_\_, 2026  
at \_\_\_\_\_ o'clock \_\_ M.

\_\_\_\_\_  
Chief Clerk of the House

\_\_\_\_\_  
Secretary of State

Senate Bill No. 42  
File No. \_\_\_\_\_  
Chapter No. \_\_\_\_\_

By \_\_\_\_\_  
Asst. Secretary of State