

State of South Dakota

NINETY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2017

400Y0447

SENATE JUDICIARY ENGROSSED NO. **SB 117** - 2/16/2017

Introduced by: The Committee on State Affairs at the request of the Office of the Governor

1 FOR AN ACT ENTITLED, An Act to increase accountability in South Dakota's criminal justice
2 system.

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

4 Section 1. That chapter 16-22 be amended by adding a NEW SECTION to read:

5 The Unified Judicial System, for probation, and the Department of Corrections, for parole,
6 shall each revise the respective agency's policies for probation and parole requiring a minimum
7 sanction of some period of incarceration for a urinalysis test that is positive for a controlled
8 substance. The sanction shall be imposed for the initial positive test. The policies may exempt
9 a residual positive urinalysis. Any drug court or other specialty court which has an approved
10 sanctioning grid is exempt from the provisions of this section.

11 Section 2. That chapter 23A-27 be amended by adding a NEW SECTION to read:

12 After receiving a plea of guilty for a violation of § 22-42-5 or 22-42-5.1, a court that has
13 jurisdiction of the defendant may, without entering a judgment of guilt, and with the consent of
14 the defendant, defer the imposition of sentence and place the defendant on probation or fully
15 suspend a penitentiary sentence and place the defendant on parole for a period, terms, and



1 conditions as the court deems best. The conditions shall include that the defendant complete a
2 drug and alcohol evaluation and complete any recommended course of treatment. If after one
3 year, the defendant has successfully completed the course of treatment and complied with all
4 conditions of probation or parole, the court shall dismiss the charge under § 22-42-5 or
5 22-42-5.1 upon the defendant pleading guilty to ingestion under § 22-42-15 or possession under
6 § 22-42-15.1. If the defendant violates any conditions of probation or parole, the court or the
7 Board of Pardons and Paroles shall revoke the deferred imposition of sentence and impose and
8 execute the sentence. No person who has previously been granted a deferred imposition of
9 sentence is eligible to be granted a second deferred imposition of sentence. A defendant is
10 ineligible for the deferred imposition of sentence under this section if aggravating circumstances
11 exist as defined by § 22-6-11.

12 Section 3. That chapter 16-22 be amended by adding a NEW SECTION to read:

13 A parolee or probationer who is eligible for earned discharge credits and serving a sentence
14 or sentences exclusively subject to presumptive probation pursuant to § 22-6-11, regardless of
15 date of offense, shall be discharged from probation or parole supervision upon completion of
16 all treatment programs required as a condition of the person's probation or parole provided the
17 parolee or probationer has been on supervision for a minimum of twelve full continuous
18 calendar months and in the twelve full continuous calendar months the parolee or probationer:

- 19 (1) Has not been under or received a sanction for violation of conditions of supervision;
- 20 (2) Has not absconded from supervision;
- 21 (3) Has not been placed in jail or prison;
- 22 (4) Has not had a probation or parole violation report submitted and does not have a
23 pending probation or parole violation report or pending criminal offense; and
- 24 (5) Has complied with all conditions of the person's supervision including completion

1 of any treatment program required as a condition of probation or parole.

2 A parolee or probationer serving an eligible South Dakota sentence in another state under
3 the Interstate Compact for Adult Offender Supervision who meets the criteria in this section is
4 entitled to discharge in the same manner as a parolee or probationer supervised in South Dakota.
5 Each drug court participant who meets the criteria in this section is entitled to discharge in the
6 same manner as a parolee or probationer if the participant has successfully completed the drug
7 court program.

8 Within thirty days following a probationer or parolee meeting the criteria for discharge under
9 this section, the supervising court services officer or parole agent shall submit a notice of
10 compliant discharge.

11 The notice of compliant discharge for a parolee shall be submitted to the secretary of the
12 Department of Corrections. If the secretary finds the parolee met the criteria for compliant
13 discharge, the secretary shall within fifteen days of receipt of the notice from the parole agent
14 issue a certificate of discharge pursuant to § 24-15A-7.

15 The notice of compliant discharge for a probationer shall be submitted to the sentencing
16 court. If the court finds that the probationer has met the criteria for compliant discharge, the
17 court shall enter an order discharging the probationer from probation.

18 A parolee or probationer who meets the criteria for a compliant discharge but, prior to the
19 issuance of the certificate of discharge, receives a formal sanction, absconds, is placed in jail
20 or prison, violates supervision conditions resulting in the submission of a parole or probation
21 violation report, or who fails to comply with supervision conditions shall be removed from the
22 compliant discharge process. The offender shall be retained on supervision or in custody.

23 Section 4. That § 24-15A-6 be amended to read:

24 24-15A-6. The department shall establish the sentence discharge date for each inmate based

1 on the total sentence length, minus court ordered jail time credit. Each inmate shall be under the
2 jurisdiction of the department, either incarcerated or under parole release or a combination, for
3 the entire term of the inmate's total sentence length unless the board grants an early final
4 discharge pursuant to § 24-15A-8, a partial early final discharge pursuant to § 24-15A-8.1, the
5 court modifies the sentence, the inmate receives earned discharge credits pursuant to
6 § 24-15A-50, the inmate receives a compliant discharge pursuant to section 4 of this Act, or the
7 sentence is commuted.

8 Section 5. That chapter 16-22 be amended by adding a NEW SECTION to read:

9 The Unified Judicial System and the Department of Corrections shall annually submit a
10 report to the oversight council which includes aggregate statistics on the number of probation
11 or parole infractions and the sanction for each. The report shall also include a summary of the
12 incentives given to probationers or parolees under supervision.

13 Section 6. That chapter 16-22 be amended by adding a NEW SECTION to read:

14 The Interstate Drug Trafficking Task Force shall quarterly submit a report to the chair of the
15 oversight council which includes aggregate statistics on the number of arrests made by the task
16 force, the underlying felonies for those arrests, and the amount of drugs seized by the task force.

17 Section 7. That § 23-3-39.6 be amended to read:

18 23-3-39.6. ~~Any~~ Each state's attorney or deputy state's attorney shall ~~attend~~ receive training
19 on evidence-based practices as defined by § 16-22-1, mental health and available mental health
20 services, and the following issues pertaining to domestic abuse: enforcement of criminal laws
21 in domestic abuse situations; availability of community resources; and protection of the victim.
22 After initial training, each state's attorney or deputy state's attorney shall attend further training
23 at least once every four years.