

State of South Dakota

SEVENTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 1997

735A0148

SENATE BILL NO. 188

Introduced by: Senators Paisley and Hunhoff and Representatives Hunt, Cutler, and Haley

1 FOR AN ACT ENTITLED, An Act to revise the property exempt from attachment or mesne
2 process, sale on execution, and any other final process issued by any court.

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

4 Section 1. That chapter 43-45 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Any money received by any person as a pension from the government of the United States
7 is exempt from execution, attachment, or seizure through any legal process. If the person dies
8 or leaves such person's family, any money received by such person as a pension from the
9 government of the United States is exempt from execution, attachment, or seizure through any
10 legal process.

11 Section 2. That chapter 43-45 be amended by adding thereto a NEW SECTION to read as
12 follows:

13 The right of a person to a pension, annuity, retirement allowance, death benefits, any optional
14 benefit, any other right accrued or accruing to any citizen of the state of South Dakota under any
15 employee benefit plan, and any fund created by such a plan or arrangement is exempt from
16 execution, attachment, or seizure through any legal process. The benefits under any such plan

1 or arrangement may also be payable to a spouse, former spouse, child, or other dependent of
2 participant in such plan or arrangement. The extent of such plan or arrangement shall be
3 expressly provided for in a qualified domestic relations order as that term is used pursuant to
4 29 U.S.C. section 1056(d), as amended, and in effect on January 1, 1997, or in section
5 401(a)(13) of the Internal Revenue Code, as amended, and in effect on January 1, 1997.

6 Section 3. That chapter 43-45 be amended by adding thereto a NEW SECTION to read as
7 follows:

8 For the purposes of this Act, the term, employee benefit plan, means any plan or arrangement
9 that is subject to the provisions of the 29 U.S.C. sections 101 through 1461, as amended, and
10 in effect on January 1, 1997, or that is described in sections 401(a), 403(a), 403(b), 408, or 409
11 of the Internal Revenue Code, as amended, and in effect as of January 1, 1997. The term,
12 employee benefit plan, does not include any employee benefit plan that is excluded from
13 application pursuant to 29 U.S.C. section 1003(b)(1), as amended, and in effect as of January 1,
14 1997.