

State of South Dakota

SEVENTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 1997

537A0762

SENATE JUDICIARY COMMITTEE ENGROSSED

NO. **SB235** - 2/18/97

Introduced by: Senator Albers and Representatives Cutler and Jaspers

1 FOR AN ACT ENTITLED, An Act to revise the applicability of the physician/patient privilege
2 to criminal actions.

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

4 Section 1. That § 19-2-3 be amended to read as follows:

5 19-2-3. In any action or proceeding or quasi-judicial administrative proceeding, whenever
6 the physical or mental health of any person is in issue, any privilege under § 19-13-7 shall
7 conclusively be deemed to be waived at trial or for the purpose of discovery under chapter 15-6
8 if such action or proceeding is civil in nature; ~~and such privilege shall also conclusively be~~
9 ~~deemed to be waived at trial or for any purpose provided by chapter 23A-12 or 23A-13 if such~~
10 ~~action or proceeding is criminal in nature.~~

11 Section 2. That chapter 19-2 be amended by adding thereto a NEW SECTION to read as
12 follows:

13 In any action or proceeding of a criminal nature, if the physical or mental condition of any
14 person is in issue, any privilege under § 19-13-7 shall conclusively be deemed to be waived for
15 the purpose of proving the commission of a criminal offense or for the purpose of impeaching

1 the testimony of the patient, at trial, grand jury proceeding, or preliminary hearing, or for the
2 purpose of discovery under Title 23A.

1 **BILL HISTORY**

2 2/3/97 First read in Senate and referred to Judiciary. S.J. 282

3 2/14/97 Scheduled for Committee hearing on this date.

4 2/14/97 Judiciary Do Pass Amended, AYES 6, NAYS 1. S.J. 467