

State of South Dakota

SEVENTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 1997

664A0173

SENATE JUDICIARY COMMITTEE ENGROSSED

NO. **SB86** - 1/29/97

Introduced by: The Committee on Judiciary at the request of the Chief Justice

1 FOR AN ACT ENTITLED, An Act to revise the standard of proof concerning whether certain
2 acts of physicians are within the scope of their practice.

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

4 Section 1. That § 22-22-2 be amended to read as follows:

5 22-22-2. Sexual penetration means an act, however slight, of sexual intercourse, cunnilingus,
6 fellatio, anal intercourse, or any intrusion, however slight, of any part of the body or of any
7 object into the genital ~~and~~ or anal openings of another person's body. All of the foregoing acts
8 of sexual penetration, except sexual intercourse, are also defined as sodomy. Practitioners of the
9 healing arts lawfully practicing within the scope of their practice, which determination shall be
10 conclusive as against the state and shall be made by the court prior to trial, are not included
11 within the provisions of this section. In any pretrial proceeding under this section, the
12 prosecution has the burden of establishing probable cause.

13 Section 2. That § 22-22-7.1 be amended to read as follows:

14 22-22-7.1. As used in this chapter, the term, "sexual contact," means any touching, not
15 amounting to rape, of the breasts of a female or the genitalia or anus of any person with the

1 intent to arouse or gratify the sexual desire of either party. Practitioners of the healing arts
2 lawfully practicing within the scope of their practice, which determination shall be conclusive as
3 against the state and shall be made by the court prior to trial, are not included within the
4 provisions of this section. In any pretrial proceeding under this section, the prosecution has the
5 burden of establishing probable cause.

1 **BILL HISTORY**

2 January 16 - First read in Senate and referred to Judiciary. S.J. 46

3 January 27 - Scheduled for hearing.

4 January 27 - Passed as amended, AYES 7, NAYS 0. S.J. 185