

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

400E0326

HOUSE BILL NO. 1052

Introduced by: The Committee on State Affairs at the request of the Department of Social Services

1 FOR AN ACT ENTITLED, An Act to require attorneys to notify the Department of Social
2 Services of certain recovery actions.

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

4 Section 1. In any action seeking to recover damages to which the Department of Social
5 Services may hold assignment or subrogation rights as defined in § 28-6-7.1, on behalf of a
6 recipient of medical assistance from the department, the plaintiff's attorney or other
7 representative shall, within thirty days of commencement of such claim or action, provide written
8 notice to the Department of Social Services of the claim or action. This requirement applies to
9 any claim or action commenced after July 1, 2001.

10 Section 2. Any attorney or other representative who knowingly fails to notify the Department
11 of Social Services as required under this Act, may be held liable for the full amount of medical
12 assistance paid by the Department of Social Services to or on behalf of the recipient for the
13 accident, injury, or illness for which collection is claimed or made, or be held liable for forty
14 percent of the full amount of the settlement, whichever is the lesser of the two.

15 Section 3. An attorney or other representative, who fails to make inquiry in writing of a

1 plaintiff to determine whether the plaintiff has ever applied for, accepted, or intends to apply for
2 medical assistance on behalf of an injured party, shall be deemed in violation of section 1 of this
3 Act.