



# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

400E0270

HOUSE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **HB 1045** - 01/22/2001

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

1 FOR AN ACT ENTITLED, An Act to prohibit the disclosure and use of personal information  
2 contained in certain motor vehicle records.

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

4 Section 1. That chapter 32-5 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 Terms used in this Act mean:

7 (1) "Department," the Department of Revenue;

8 (2) "Disclose," to knowingly engage in any practice or conduct to make available and  
9 make known personal information contained in a motor vehicle record about a person  
10 to any other person, organization, or entity, by any means of communication;

11 (3) "Express consent," consent in writing, and includes consent that is conveyed  
12 electronically that bears an electronic signature;

13 (4) "Individual record," a motor vehicle record containing personal information about a  
14 designated person who is the subject of the record as identified in a request;

- 1 (5) "Motor vehicle record," any record that pertains to a motor vehicle registration,  
2 motor vehicle title, or document issued by the department or any other state or local  
3 agency authorized to issue any such forms of credentials;
- 4 (6) "Personal information," information that identifies a person, including a social security  
5 number, driver identification number, name, address (but not the five-digit zip code),  
6 telephone number, and medical or disability information, but does not include  
7 information on vehicular accidents, driving or equipment-related violations, or  
8 registration status;
- 9 (7) "Record," includes any book, paper, photograph, photostat, card, film, tape,  
10 recording, electronic data, printout, or other documentary material regardless of  
11 physical form or characteristics.

12 Section 2. That chapter 32-5 be amended by adding thereto a NEW SECTION to read as  
13 follows:

14 Notwithstanding any other provision of state law to the contrary, except as provided in  
15 sections 3 to 5, inclusive, of this Act, the department and any officer, employee, agent, or  
16 contractor thereof may not disclose personal information about any person obtained by the  
17 department in connection with a motor vehicle record. Under no circumstances may a person's  
18 social security number or medical or disability information from a motor vehicle record be  
19 disclosed, except for the purposes permitted by subdivisions (1), (3), and (5) of section 5 of this  
20 Act.

21 Section 3. That chapter 32-5 be amended by adding thereto a NEW SECTION to read as  
22 follows:

23 Personal information shall be disclosed for use in connection with matters of motor vehicle  
24 or driver safety and theft, motor vehicle emissions, motor vehicle product alterations, recalls, or

1 advisories, performance monitoring of motor vehicles and dealers by motor vehicle  
2 manufacturers, and removal of nonowner records from the original owner records of motor  
3 vehicle manufacturers to carry out the purposes of Titles I and IV of the Anti Car Theft Act of  
4 1992, 15 U.S.C. 2021 et seq., as of January 1, 2001, the Automobile Information Disclosure  
5 Act, 15 U.S.C. 1231 et seq., as of January 1, 2001, and the Clean Air Act, 42 U.S.C. 7401 et  
6 seq., as of January 1, 2001, chapters 301, 305, and 321-331 of Title 49, as of January 1, 2001,  
7 and agency regulations enacted or adopted pursuant to the authority of, or to attain compliance  
8 with, these Acts of Congress.

9 Section 4. That chapter 32-5 be amended by adding thereto a NEW SECTION to read as  
10 follows:

11 Personal information may be disclosed to any person who demonstrates, in such form and  
12 manner as the department prescribes, that express consent of the person who is the subject of  
13 the information has been obtained.

14 Section 5. That chapter 32-5 be amended by adding thereto a NEW SECTION to read as  
15 follows:

16 Personal information may be disclosed to any person by the department on proof of the  
17 identity of the person requesting the record and representation by such person that the use of the  
18 personal information will be strictly limited to the following described uses:

19 (1) For use by any government agency, including any court or law enforcement agency,  
20 in carrying out its functions, or any private person or entity acting on behalf of a  
21 government agency in carrying out its functions;

22 (2) For use in the normal course of business by a legitimate business or its agents,  
23 employees, or contractors, but only under the following circumstances:

24 (a) To verify the accuracy of personal information submitted by the individual to

- 1 the business or its agents, employees, or contractors; and
- 2 (b) If such information as submitted is not correct or is no longer correct, to obtain
- 3 the correct information for the purposes of preventing fraud by pursuing legal
- 4 remedies against, or recovering on a debt or security interest against, the
- 5 individual;
- 6 (3) For use in connection with any civil, criminal, administrative, or arbitral proceeding
- 7 in any court or government agency or before any self-regulatory body, including the
- 8 service of process, investigation in anticipation of litigation, and the execution or
- 9 enforcement of judgments and orders, or pursuant to an order of any court;
- 10 (4) For use in research activities, and for use in producing statistical reports, so long as
- 11 the personal information is not published, redisclosed, or used to contact individuals;
- 12 (5) For use by any insurer or insurance support organization, or by a self-insured entity,
- 13 or its agents, employees, or contractors, in connection with claims investigation
- 14 activities, anti-fraud activities, rating, or underwriting;
- 15 (6) For use in providing notice to the owners or lienholders of towed or impounded
- 16 vehicles;
- 17 (7) For use by any licensed private investigative agency or licensed security service for
- 18 any purpose permitted under this section;
- 19 (8) For use in connection with the operation of private toll transportation facilities;
- 20 (9) For any other use specifically authorized under the law of the state that holds the
- 21 record, if such use is related to the operation of a motor vehicle or public safety.

22 Section 6. That chapter 32-5 be amended by adding thereto a NEW SECTION to read as

23 follows:

24 The department may, prior to the disclosure of personal information as permitted under

1 sections 2 to 5, inclusive, of this Act, require the requesting person to meet conditions for the  
2 purposes of obtaining reasonable assurance concerning the identity of such requesting person,  
3 and, to the extent required, that the use will be only as authorized, or the consent of the person  
4 who is the subject of the information has been obtained. Such conditions may include the making  
5 and filing of a written application in such form and containing such information and certification  
6 requirements as the department may prescribe.

7 Section 7. That chapter 32-5 be amended by adding thereto a NEW SECTION to read as  
8 follows:

9 Any authorized recipient, except a recipient of an individual record under section 6 of this  
10 Act, who resells or rediscloses personal information shall maintain for a period of at least five  
11 years records as to the information obtained and the permitted use for which it was obtained for  
12 a period of at least five years and shall make such records available for inspection by the  
13 department, upon request.

14 Section 8. That chapter 32-5 be amended by adding thereto a NEW SECTION to read as  
15 follows:

16 Any person who requests disclosure of personal information from department records to  
17 misrepresent his or her identity or to knowingly make a false statement to the department on any  
18 application required to be submitted pursuant to this Act is guilty of a Class 1 misdemeanor.

19 Section 9. That § 32-5-90.2 be repealed.

20 ~~32-5-90.2. The department may issue lists of motor vehicles and information relating to~~  
21 ~~motor vehicles if issuance is necessary for the enforcement of this title or if the list or information~~  
22 ~~is needed to protect the public safety and welfare. In addition, any motor vehicle title or~~  
23 ~~registration list maintained by the department may be made available to the public for a~~  
24 ~~reasonable fee. State agencies are exempt from payment of this fee for approved state use. The~~

1 ~~lists may not be resold. The secretary may promulgate rules pursuant to chapter 1-26 to establish~~  
2 ~~criteria for the sale and to establish the fee for the sale of such lists.~~

3 Section 10. That chapter 32-5 be amended by adding thereto a NEW SECTION to read as  
4 follows:

5 For the purpose of license renewal, any person in possession of a motor vehicle title or  
6 license renewal certificate provided by the state or the county may renew the vehicle's  
7 registration on behalf of the owner. Presentation of the motor vehicle title or license renewal  
8 certificate by anyone other than the owner is deemed consent of the vehicle owner. Any person  
9 who knowingly misrepresents or makes any false statement for license renewal is guilty of a  
10 Class 1 misdemeanor.

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

367E0176

## HOUSE JUDICIARY COMMITTEE ENGROSSED NO. **HB 1075** - 01/22/2001

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

1 FOR AN ACT ENTITLED, An Act to modify certain procedures for grand jury returns.

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

3 Section 1. That § 23A-5-18 be amended to read as follows:

4 23A-5-18. A quorum of six grand jurors must be present before any evidence or testimony  
5 may be received or any other business conducted. An indictment may be found only ~~when~~ if there  
6 is probable cause to believe that an offense has been committed and that the defendant  
7 committed it. An indictment may be found only upon the concurrence of six or more jurors. The  
8 names of only those witnesses examined before the grand jury in relation to the particular  
9 indictment shall be listed on that indictment before it is ~~presented to~~ filed with the court. An  
10 indictment shall be returned by the grand jury to a circuit judge in open court, or, in the absence  
11 of a circuit court judge, filed with the clerk of courts, endorsed a true bill.

12 If six grand jurors do not concur in finding an indictment against a defendant who is in  
13 custody but who has not had a preliminary hearing, the complaint or information and the certified  
14 record of the proceedings before the committing magistrate transmitted to them ~~must~~ shall be  
15 returned to the court, with an endorsement thereon, signed by the foreman, that the charge is

- 1 dismissed. The dismissal of the charge does not prevent its being again submitted to a grand jury
- 2 as often as a court may direct, but without such direction it cannot again be submitted.

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

367E0179

## HOUSE JUDICIARY COMMITTEE ENGROSSED NO. **HB 1076** - 01/22/2001

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

1 FOR AN ACT ENTITLED, An Act to permit certain persons whose driving privileges have  
2 been suspended or revoked to attend counseling programs.

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

4 Section 1. That § 32-12-52.3 be amended to read as follows:

5 32-12-52.3. Upon a first conviction or a first adjudication of delinquency for a violation,  
6 while in a motor vehicle, of §§ 22-42-5 to 22-42-11, inclusive, § 22-42A-3 or 22-42A-4, the  
7 court shall revoke the driver's license or driving privilege of the person so convicted for a period  
8 of one hundred eighty days.

9 Upon a second or subsequent conviction or a second or subsequent adjudication of  
10 delinquency for a violation, while in a motor vehicle, of §§ 22-42-5 to 22-42-11, inclusive,  
11 § 22-42A-3 or 22-42A-4, the court shall revoke the driver's license or driving privilege of the  
12 person so convicted for a period of one year or until the person's seventeenth birthday, whichever  
13 is a longer period of time. For any offense under this section, the court may issue an order  
14 permitting the person to operate a motor vehicle for purposes of the person's employment ~~or,~~  
15 attendance at school, or counseling programs. Notwithstanding the provisions of chapters 26-7A,

1 26-8A, 26-8B, and 26-8C, the Unified Judicial System shall notify the Department of Commerce  
2 and Regulation of any conviction or adjudication of delinquency for a violation, while in a motor  
3 vehicle, of §§ 22-42-5 to 22-42-11, inclusive, § 22-42A-3 or 22-42A-4. The period of revocation  
4 shall begin on the date the person's revoked driver's license is received by the court or the  
5 department. At the expiration of the revocation period, a person may make application as  
6 provided by law and shall pay the license fee prescribed in § 32-12-47.1.

7 Section 2. That § 32-12-52.4 be amended to read as follows:

8 32-12-52.4. Upon a first conviction for violation, while in a motor vehicle, of § 35-9-2, the  
9 court shall suspend the driver's license or driving privilege of any driver of a vehicle who was  
10 under the age of twenty-one when the offense occurred, for a period of six months.

11 Upon a second or subsequent conviction for a violation, while in a motor vehicle, of  
12 § 35-9-2, the court shall suspend the driver's license or driving privilege of any driver of a vehicle  
13 who was under the age of twenty-one when the offense occurred, for a period of one year. For  
14 any offense under this section, the court may issue an order permitting the person to operate a  
15 motor vehicle for purposes of the person's employment ~~or~~, attendance at school, or attendance  
16 at counseling programs.

17 Notwithstanding the provisions of chapters 26-7A, 26-8A, 26-8B, and 26-8C, the Unified  
18 Judicial System shall notify the Department of Commerce and Regulation of any conviction for  
19 a violation, while in a motor vehicle, of § 35-9-2 or chapter 32-23. The period of suspension  
20 shall begin on the date the person's suspended driver's license is received by the court or the  
21 Department of Commerce and Regulation. At the expiration of the period of suspension, a  
22 person may make application to have the license reinstated and pay the license fee as prescribed  
23 in § 32-12-47.1.

24 Section 3. That § 32-33-18 be amended to read as follows:

1        32-33-18. Any driver of a motor vehicle who intentionally fails or refuses to bring a vehicle  
2 to a stop, or who otherwise flees or attempts to elude a pursuing law enforcement vehicle, when  
3 given visual or audible signal to bring the vehicle to a stop, is guilty of eluding. The signal given  
4 by the law enforcement officer may be by hand, voice, emergency light, or siren. The officer  
5 giving the signal shall be in uniform, prominently displaying a badge of office, and the vehicle  
6 shall be appropriately marked showing it to be an official law enforcement vehicle.

7        Eluding is a Class 1 misdemeanor. In addition, the court shall order that the defendant's  
8 driver's license be ~~suspended~~ revoked for one year, but may issue an order allowing the defendant  
9 ~~a work permit to operate a motor vehicle for purposes of the defendant's employment,~~  
10 attendance at school, or counseling programs. Any person who is found guilty of eluding is  
11 subject to the additional enhanced penalties if the course of eluding results in:

- 12        (1)    Death or great bodily injury to another person, a Class 4 felony; and  
13        (2)    Substantial bodily injury to another person or property damage in excess of five  
14            hundred dollars to property belonging to a person other than the person eluding, a  
15            Class 6 felony.

16        For any subsequent violation, the court shall order that the defendant's driver's license be  
17 ~~suspended~~ revoked for five years.

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

367E0180

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

**HB 1077** - 01/22/2001

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

1 FOR AN ACT ENTITLED, An Act to permit the court to impose certain costs and fees as part  
2 of the disposition for a child adjudicated as a child in need of supervision.

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

4 Section 1. That § 26-8B-6 be amended to read as follows:

5 26-8B-6. If a child has been adjudicated as a child in need of supervision, the court shall enter  
6 a decree of disposition according to the least restrictive alternative available in keeping with the  
7 best interests of the child. The decree shall contain one or more of the following alternatives:

8 (1) The court may place the child on probation or under protective supervision in the  
9 custody of one or both parents, guardian, custodian, relative, or another suitable  
10 person under conditions imposed by the court;

11 (2) The court may require as a condition of probation that the child report for assignment  
12 to a supervised work program, provided the child is not placed in a detention facility  
13 and is not deprived of the schooling that is appropriate to the child's age, needs, and  
14 specific rehabilitative goals. The supervised work program shall be of a constructive  
15 nature designed to promote rehabilitation, shall be appropriate to the age level and

1 physical ability of the child and shall be combined with counseling by a court services  
2 officer or other guidance personnel. The supervised work program assignment shall  
3 be made for a period of time consistent with the child's best interests, but may not  
4 exceed ninety days;

5 (3) If the court finds that the child has violated a valid court order, the court may place  
6 the child in a detention facility, for purposes of disposition if:

7 (a) The child is not deprived of the schooling that is appropriate for the child's age,  
8 needs, and specific rehabilitative goals;

9 (b) The child had a due process hearing before the order was issued;

10 (c) Before the issuance of such order, a local interagency team, authorized  
11 pursuant to § 27A-15-56 shall review the behavior of the child and the  
12 circumstances under which such child was brought before the court and made  
13 subject to such order; determine the reasons for the behavior that caused such  
14 child to be brought before the court and made subject to such order; determine  
15 that all dispositions, including treatment, other than placement in a detention  
16 facility or the Department of Corrections, have been exhausted or are clearly  
17 inappropriate; and submit to the court a written report stating the results of the  
18 review and determinations made;

19 (4) The court may require the child to pay for any damage done to property or for  
20 medical expenses under conditions set by the court if payment can be enforced  
21 without serious hardship or injustice to the child;

22 (5) The court may commit the child to the Department of Corrections for placement in  
23 a juvenile correctional facility, foster home, group home, group care center, or  
24 residential treatment center pursuant to chapter 26-11A. Prior to placement in a

1 juvenile correctional facility, an interagency team comprised of representatives from  
2 the Department of Human Services, Department of Social Services, Department of  
3 Education and Cultural Affairs, and the Department of Corrections shall make a  
4 written finding that placement at a Department of Corrections facility is the least  
5 restrictive placement commensurate with the best interests of the child. Subsequent  
6 placement in any other Department of Corrections facility may be authorized without  
7 an interagency review;

8 (6) The court may place a child in an alternative educational program;

9 (7) The court may order the child to be examined and treated at the Human Services  
10 Center;

11 (8) The court may impose a fine not to exceed five hundred dollars;

12 (9) The court may order the suspension or revocation of the child's driving privilege or  
13 restrict the privilege in such manner as it sees fit or as required by § 32-12-52.4;

14 (10) The court may assess or tax costs and fees permitted by §§ 16-2-41, 23-3-52, 23A-  
15 27-26, and 23A-27-27 against the child, parent, guardian, custodian, or other party  
16 responsible for the child.

17 No adjudicated child in need of supervision may be incarcerated in a detention facility except  
18 as provided in subdivision (3) or (5) of this section.

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

367E0181

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

**HB 1078** - 01/22/2001

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

1 FOR AN ACT ENTITLED, An Act to permit the court to impose certain costs and fees as part  
2 of the disposition for a delinquent child.

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

4 Section 1. That § 26-8C-7 be amended to read as follows:

5 26-8C-7. If a child has been adjudicated as a delinquent child, the court shall enter a decree  
6 of disposition according to the least restrictive alternative available in keeping with the best  
7 interests of the child. The decree shall contain one or more of the following alternatives:

8 (1) The court may make any one or more of the dispositions in § 26-8B-6, except that a  
9 delinquent child may be incarcerated in a detention facility established pursuant to  
10 provisions of chapter 26-7A for not more than ninety days, which may be in addition  
11 to any period of temporary custody;

12 (2) The court may impose a fine not to exceed one thousand dollars;

13 (3) The court may place the child on probation under the supervision of a court services  
14 officer or another designated individual. The child may be required as a condition of  
15 probation to report for assignment to a supervised work program, provided the child

1 is not deprived of the schooling that is appropriate for the child's age, needs, and  
2 specific rehabilitative goals. The supervised work program shall be of a constructive  
3 nature designed to promote rehabilitation, appropriate to the age level and physical  
4 ability of the child, and shall be combined with counseling by the court services officer  
5 or other guidance personnel. The supervised work program assignment shall be made  
6 for a period of time consistent with the child's best interests, but for not more than  
7 ninety days;

8 (4) The court may place the child at the Human Services Center for examination and  
9 treatment;

10 (5) The court may commit the child to the Department of Corrections;

11 (6) The court may place the child in a detention facility for not more than ninety days,  
12 which may be in addition to any period of temporary custody;

13 (7) The court may place the child in an alternative educational program;

14 (8) The court may order the suspension or revocation of the child's driving privilege or  
15 restrict the privilege in such manner as it sees fit;

16 (9) The court may assess or tax costs and fees permitted by §§ 16-2-41, 23-3-52, 23A-  
17 27-26, and 23A-27-27 against the child, parent, guardian, custodian, or other party  
18 responsible for the child.

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

367E0178

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

**HB 1079** - 01/22/2001

**This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.**

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

1 FOR AN ACT ENTITLED, An Act to determine the venue of the offense of underage  
2 possession or consumption of alcoholic beverages.

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

4 Section 1. That § 35-9-6 be amended to read as follows:

5 35-9-6. In any arrest, citation, or prosecution, ~~or adjudication~~ arising from a violation of  
6 § 35-9-2, if the person is apprehended for:

7 (1) The purchase or attempted purchase of alcoholic beverages, the ~~situs~~ venue is the  
8 locality where the purchase or attempted purchase occurred;

9 (2) The possession or consumption of alcoholic beverages, the ~~situs~~ venue is the locality  
10 where the person was apprehended or any other locality where the person possessed  
11 or consumed any portion of the alcoholic beverages.

12 Section 2. That chapter 35-9 be amended by adding thereto a NEW SECTION to read as  
13 follows:

14 In any juvenile adjudication arising from a violation of § 35-9-2, if the person is apprehended

1 for:

2 (1) The purchase or attempted purchase of alcoholic beverages, the venue is the locality  
3 where the purchase or attempted purchase occurred or the juvenile's county of  
4 residence;

5 (2) The possession or consumption of alcoholic beverages, the venue is the locality where  
6 the juvenile was apprehended or any other locality where the juvenile possessed or  
7 consumed any portion of the alcoholic beverages or the juvenile's county of residence.

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

780E0106

HOUSE TRANSPORTATION COMMITTEE  
ENGROSSED NO. **HB 1081** - 01/22/2001

Introduced by: Representatives Kooistra, Holbeck, and Kloucek and Senator McIntyre

1 FOR AN ACT ENTITLED, An Act to require the installation of certain guide signs on the  
2 interstate highway system and state highway system.

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

4 Section 1. That chapter 31-28 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 The Department of Transportation shall install proper guide signs on the interstate highway  
7 system and state highway system for any municipal corporation incorporated pursuant to § 9-3-  
8 22.