

2021 South Dakota Legislature

Senate Bill 95**AMENDMENT 95B FOR THE SENATE JUDICIARY BILL**

1 **An Act to provide ~~immunity~~protection for actions assisting an impaired lawyer or**
2 **judge.**

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

4 **Section 1.** That a NEW SECTION be added:

5 **16-17A-1. Definitions.**

6 Terms used in this Act mean:

7 (1) "Impaired," a deficit in cognitive ability to act in compliance with the Rules of
8 Professional Conduct, the Code of Judicial Conduct, and any other standards
9 required of practicing attorneys and judges, because of an addiction to alcohol,
10 drugs, gambling, or any other medical condition;

11 (2) "Confidential information," any information, regardless of the form in which it is
12 transmitted or stored, communicated to the State Bar, the Supreme Court, or the
13 Unified Judicial System, for the sole purpose of assisting a lawyer or judge, who is
14 impaired or suspected of being impaired, in obtaining medical or therapeutic
15 treatment for the impairment or other related support services. The term does not
16 include any information in the public record prior to the communication.

17 **Section 2.** That a NEW SECTION be added:

18 **16-17A-2. Immunity for assistance--Exclusions.**

19 A person is immune from liability for any damages to any person or property caused
20 by the person's acts or omissions in assisting or offering to assist a lawyer or judge who
21 is impaired or suspected of being impaired in obtaining medical or therapeutic treatment
22 for the impairment or other related support services. This section does not apply to any:

23 (1) Health care provider or counselor who receives compensation or anything of value,
24 including payments from an insurance policy or federal or state health care

1 program, for providing treatment or other services to a lawyer or judge who is
2 impaired or suspected of being impaired; or
3 (2) Damages caused by willful or criminal misconduct, gross negligence, or reckless
4 misconduct.

5 **Section 3.** That a NEW SECTION be added:

6 **16-17A-3. Immunity for reporting--Exclusions.**

7 A person is immune from liability for any damages to any person or property caused
8 by the person's acts or omissions in reporting a lawyer or judge who is impaired or
9 suspected of being impaired to the State Bar, the Supreme Court, any associated
10 assistance committee or entity established or approved by the State Bar or the Supreme
11 Court, or the Unified Judicial System. This section does not apply to any damages caused
12 by willful or criminal misconduct, gross negligence, or reckless misconduct. This section
13 does not relieve any lawyer or judge from any responsibility under the Rules of
14 Professional Conduct or the Code of Judicial Conduct.

15 **Section 4.** That a NEW SECTION be added:

16 **16-17A-4. Confidential information--Source--Limited disclosure--Limited**
17 **use.**

18 The State Bar, the Supreme Court, any assistance committee or associated entity
19 established or approved by the State Bar or Supreme Court, or Unified Judicial System
20 may not disclose the source of any confidential information or disclose or use any
21 confidential information for any purpose other than to assist the lawyer or judge who is
22 the subject of the confidential information in obtaining medical or therapeutic treatment
23 or other related support services.