

2022 South Dakota Legislature

Senate Bill 20**AMENDMENT 20E FOR THE INTRODUCED BILL**

1 **An Act to revise the medical purpose defense related to the medical use of cannabis.**

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

3 **Section 1. That § 34-20G-51 be AMENDED:**

4 **34-20G-51.** Except as provided in § 34-20G-18 and this section, ~~a person may~~
5 ~~assert the medical purpose for using cannabis as a~~ it is an affirmative defense to any
6 ~~prosecution involving~~ for using or possessing cannabis, and such affirmative defense is
7 presumed valid, where the evidence shows that:

8 ~~(1) A practitioner has stated that, in the practitioner's professional opinion, after~~
9 ~~having completed a full assessment of the person's medical history and current~~
10 ~~medical condition made in the course of a bona fide practitioner-patient~~
11 ~~relationship, the patient has a debilitating medical condition and the potential~~
12 ~~benefits of using cannabis for medical purposes would likely outweigh the health~~
13 ~~risks for the person;~~

14 ~~(2) The person was in possession of no more than three ounces of cannabis, the~~
15 ~~amount of cannabis products allowed by department rules, six cannabis plants~~
16 ~~minimum or as prescribed by a physician, and the cannabis produced by those~~
17 ~~plants;~~

18 ~~(3) The person was engaged in the acquisition, possession, use, manufacture,~~
19 ~~cultivation, or transportation of cannabis, paraphernalia, or both, relating to the~~
20 ~~administration of cannabis to treat or alleviate the person's debilitating medical~~
21 ~~condition or symptoms associated with the person's debilitating medical condition;~~
22 ~~and~~

23 ~~(4) Any cultivation of cannabis and storage of more than three ounces of cannabis~~
24 ~~occurred in a secure location that only the person asserting the defense could~~
25 ~~access.~~

- 1 (1) ~~If the~~The person is a qualifying patient and the person is not in physical possession
2 of the registry identification card, the person was registered with the department
3 as a cardholder or nonresident cardholder at the time of the alleged offense;
4 (2) ~~If the~~The person is a designated caregiver, the person was registered with the
5 department and in physical possession of the registry identification card at the time
6 of the alleged offense or produces the registry identification card to law
7 enforcement ~~within twenty-four~~ **forty-eight hours of the alleged offense**~~before a~~
8 **finding of guilt**; and
9 (3) The conduct underlying the alleged offense complied with this chapter.

10 **Section 2. That § 34-20G-53 be REPEALED:**

11 ~~A person is not required to possess a registry identification card to raise the~~
12 ~~affirmative defense set forth in § 34-20G-51.~~