



2022 South Dakota Legislature

Senate Bill 20

Introduced by: **Senators** Duhamel, Breitling, and Stalzer and **Representatives** Milstead, Bartels, Chaffee, Derby, Deutsch, Finck, Fitzgerald, Goodwin, Perry, Rehfeldt, Wiese, and Willadsen at the request of the Marijuana Interim Study Committee

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 defense to any prosecution involving
6 cannabis, and such defense is presumed valid where the evidence shows that:

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

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

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

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

- 1 (1) If the person is a qualifying patient, the person was registered with the department
2 as a cardholder or nonresident cardholder at the time of the alleged offense;
3 (2) If the person is a designated caregiver, the person was registered with the
4 department and in physical possession of the registry identification card at the time
5 of the alleged offense; and
6 (3) The conduct underlying the alleged offense complied with this chapter.

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 That § 34-20G-53 be REPEALED:**

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