



2025 South Dakota Legislature

Senate Bill 63

SENATE JUDICIARY ENGROSSED

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

Introduced by: The Chair of the Committee on Judiciary at the request of the Attorney General

1 **An Act to establish protections for state employees who report improper**
 2 **governmental conduct and crime.**

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

4 **Section 1. That a NEW SECTION be added to chapter 3-6C:**

5 Terms used in this Act mean:

6 (1) "Adverse employment action," constructive or actual discharge, suspension from
 7 employment, demotion, transfer, decrease in compensation or benefits, imposition
 8 of an unfavorable work schedule, or any other similar reprisal or retaliatory action;

9 (2) "Conflict of interest," conduct defined or described in §§ 5-18A-17 to 5-18A-17.6,
 10 inclusive, 42-7A-27, and 42-7A-28;

11 (3) "Crime," a criminal act attempted or committed by misusing a state employee's
 12 access, duty, responsibility, or position as a state employee, which constitutes a
 13 felony under state law;

14 (4) "Good faith report," a report made, without malice, by a reporter, which the
 15 reporter has reasonable cause to believe is accurate and true;

16 (5) "Improper governmental conduct," any conduct or omission that results in:

17 (a) A conflict of interest prohibited by state law;

18 (b) Fraud; or

19 (c) Theft of moneys or property belonging to or derived from federal, state, or
 20 local government sources, constituting a felony;

21 (6) "Reporter," a state employee who witnesses or has evidence of improper
 22 governmental conduct or a crime, and who makes a good faith report of the
 23 improper governmental conduct or the crime, to a supervisor or other appropriate
 24 authority;

25 (7) "State agency," any agency, board, bureau, commission, committee, department,
 26 division, or office of this state; and

1 (8) "State employee," a full-time, part-time, seasonal, or temporary employee of any
2 state agency.

3 **Section 2. That a NEW SECTION be added to chapter 3-6C:**

4 A reporter who makes a good faith report of improper governmental conduct or
5 crime, or submits records in support of the good faith report, is immune from any liability,
6 civil or criminal, which might otherwise be incurred or imposed, and has the same
7 immunity for participation in any judicial proceeding resulting from the good faith report.
8 The immunity does not extend to a state employee who participated in the reported
9 improper governmental conduct or crime.

10 **Section 3. That a NEW SECTION be added to chapter 3-6C:**

11 No state agency may take adverse employment action against a reporter because
12 the reporter:

- 13 (1) Made a good faith report of improper governmental conduct or a crime to an
- 14 appropriate authority;
- 15 (2) Filed a complaint;
- 16 (3) Instituted or caused to be instituted a proceeding;
- 17 (4) Requested or participated in an audit;
- 18 (5) Testified, or will testify, in a proceeding; or
- 19 (6) Exercised any other right or obligation imposed by this chapter or any law of this
- 20 state.

21 The provisions of this section do not apply to a state employee who made a report
22 knowing the report was false or who made a report in a reckless disregard for the truth.

23 **Section 4. That a NEW SECTION be added to chapter 3-6C:**

24 To be eligible for protections under sections 2 and 3 of this Act, a reporter who
25 discloses information about improper governmental conduct or a crime must do so in good
26 faith and upon a reasonable belief that the information disclosed is accurate and true. A
27 disclosure that is made with a reckless disregard for the truth or that the state employee
28 knows or should know is false or malicious is not a good faith report.

29 **Section 5. That a NEW SECTION be added to chapter 3-6C:**

1 A reporter may bring a civil action for a violation of section 2 of this Act in the
2 circuit court of Hughes County against the reporter's supervisor, in the supervisor's official
3 capacity, or the state agency by which the reporter is employed.

4 The court may order any of the following remedies:

- 5 (1) An injunction to restrain continued violation of section 2 of this Act;
6 (2) Reinstatement of the reporter to the same position or, if the position is filled, to an
7 equivalent position;
8 (3) Back pay;
9 (4) Full reinstatement of fringe benefits and seniority rights; and
10 (5) If appropriate and in the interests of justice, an award of attorney's fees and costs.

11 An action may not be brought pursuant to this section more than two years after
12 the violation of section 2 of this Act occurred.

13 A reporter bringing an action under this section may not be required to exhaust
14 existing internal procedures or other administrative remedies.

15 Nothing in this section may be construed to exclude a reporter's remedy pursuant
16 to § 3-6D-22.