

AN ACT

ENTITLED, An Act to prohibit certain direct conflicts of interest by public officials and to provide a penalty therefor.

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

Section 1. That chapter 22-30A be amended by adding a NEW SECTION to read:

For the purposes of section 2 of this Act, the term, public official, means any elected official, appointed official, officer, employee, authority member, board member, commission member, fiscal agent, executive of a local service agency, or any other person subject to the provisions of chapter 3-16, 3-23, 5-18A, or 6-1.

Section 2. That chapter 22-30A be amended by adding a NEW SECTION to read:

Any public official who knowingly uses funds or property that has been entrusted to the public official in violation of the public trust and that results in a direct financial benefit to the public official commits a direct criminal conflict of interest.

Any public official who commits a direct criminal conflict of interest is guilty of theft.

Section 3. That the code be amended by adding a NEW SECTION to read:

An employee may file a grievance with the appropriate governmental entity if the employee believes that there has been retaliation, because of reporting a violation of section 2 of this Act through the chain of command of the employee's department, to the Office of the Attorney General, or to the Department of Legislative Audit. If no grievance process exists, a civil action may be filed in circuit court.

Section 4. That § 22-6-11 be amended to read:

22-6-11. The sentencing court shall sentence an offender convicted of a Class 5 or Class 6 felony, except those convicted under §§ 22-11A-2.1, 22-18-1, 22-18-1.05, 22-18-26, 22-19A-1, 22-19A-2, 22-19A-3, 22-19A-7, 22-19A-16, 22-22A-2, 22-22A-4, 22-24A-3, 22-22-24.3, 22-24-1.2, 22-24B-2,

22-24B-12, 22-24B-12.1, 22-24B-23, 22-42-7, subdivision 24-2-14(1), 32-34-5, section 2 of this Act, and any person ineligible for probation under § 23A-27-12, to a term of probation. If the offender is under the supervision of the Department of Corrections, the court shall order a fully suspended penitentiary sentence pursuant to § 23A-27-18.4. The sentencing court may impose a sentence other than probation or a fully suspended penitentiary sentence if the court finds aggravating circumstances exist that pose a significant risk to the public and require a departure from presumptive probation under this section. If a departure is made, the judge shall state on the record at the time of sentencing the aggravating circumstances and the same shall be stated in the dispositional order. Neither this section nor its application may be the basis for establishing a constitutionally protected liberty, property, or due process interest.

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I certify that the attached Act originated in the

SENATE as Bill No. 27

Secretary of the Senate

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President of the Senate

Attest:

Secretary of the Senate

Speaker of the House

Attest:

Chief Clerk

Senate Bill No. 27
File No. _____
Chapter No. _____

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Received at this Executive Office this _____ day of _____ ,

20____ at _____ M.

By _____
for the Governor

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The attached Act is hereby approved this _____ day of _____ , A.D., 20____

Governor

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STATE OF SOUTH DAKOTA,
ss.

Office of the Secretary of State

Filed _____ , 20____
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State