

## 2025 South Dakota Legislature

**Senate Bill 62****AMENDMENT 62F  
FOR THE SENATE JUDICIARY ENGROSSED BILL**

1 **An Act to establish mandatory reporting requirements related to improper**  
2 **governmental conduct and crime, establish affirmative defenses to**  
3 **prosecution for failure to report, and to provide a penalty therefor.**

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

5 **Section 1. That § 1-56-11 be AMENDED:**

6 **1-56-11.** A state employee who ~~suspects the existence of a conflict of interest,~~  
7 ~~fraud, or theft~~ has reasonable cause to suspect that improper governmental conduct or a  
8 crime, as defined in section 2 of this Act, has occurred shall report the matter ~~immediately~~  
9 ~~to any,~~ of the following:

10 (1) ~~The employee's immediate supervisor;~~

11 (2) ~~The attorney general's office; or~~

12 (3) ~~The Department of Legislative Audit pursuant to the requirements set forth in~~  
13 chapter 3-6C.

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

15 Terms used in this Act mean:

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

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

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

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

- 1        (5) "Improper governmental conduct," any conduct or omission that results in:  
 2            (a) A conflict of interest prohibited by state law;  
 3            (b) Fraud; or  
 4            (c) Theft of moneys or property belonging to or derived from federal, state, or  
 5                    local government sources, constituting a felony;  
 6        (6) "Reasonable cause," a sufficient reason, based on known facts, to assume  
 7            something is true;  
 8        (7) "Reporter," a state employee who witnesses or has evidence of improper  
 9            governmental conduct or a crime, and who makes a good faith report of the  
 10           improper governmental conduct or the crime, to a supervisor or other appropriate  
 11           authority;  
 12        (8) "Required report," a report required in accordance with section 3 of this Act and  
 13           pertaining to improper governmental conduct or a crime;  
 14        (9) "State agency," any agency, board, bureau, commission, committee, department,  
 15           division, or office of this state;  
 16        (10) "State employee," a full-time, part-time, seasonal, or temporary employee of any  
 17           state agency;  
 18        (11) "Supervisor," a state employee with supervisory authority over one or more state  
 19           employees;  
 20        (12) "Supervisory authority," the power to, on a regular basis, and with use of  
 21           independent judgment:  
 22            (a) Hire, lay off, promote, discharge, assign, reward, or discipline another state  
 23            employee;  
 24            (b) Address, resolve, or review the grievance of another state employee; or  
 25            (c) Effectively recommend any action provided in subsection (a) or (b) of this  
 26            subdivision.

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

28            A state employee who, in the regular course of the state employee's duties, has  
 29            reasonable cause, ~~based on knowledge that is not privileged~~, to suspect that another state  
 30            employee has engaged in improper governmental conduct or a crime shall promptly notify  
 31            a supervisor.

32            Upon receipt of a reporter's good faith report, a supervisor shall submit information  
 33            provided by the reporter to the attorney general and auditor-general in a required report  
 34            pursuant to section 4 of this Act.

1           The supervisor shall promptly submit to the attorney general and auditor-general  
2           any record, as allowed by law, in the supervisor's custody or control, evidencing the  
3           improper governmental conduct or crime.

4           A supervisor who knowingly fails to make a report as required by this section is  
5           guilty of a Class 6 felony.

6           A supervisor who knowingly and intentionally fails to submit a record as required  
7           by this section is guilty of a Class 6 felony.

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

9           A supervisor who must submit a required report pursuant to section 3 of this Act  
10          shall prepare the required report in a form prescribed by the attorney general.

11          The reporter shall cooperate with any investigation or inquiry initiated in response  
12          to the filing of the required report.

13          Nothing in this section may be construed to prohibit the reporter from filing a  
14          complaint pursuant to § 3-24-4.

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

16          Each state agency shall adopt a written policy on reporting improper governmental  
17          conduct and crime and submitting records evidencing the improper governmental conduct  
18          or crime. Each state agency shall notify and inform state employees of the obligations and  
19          protections set forth in the provisions of sections 1, 3, and 4 of this Act.

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

21          The attorney general shall provide information to the Government Operations and  
22          Audit Committee, on an annual basis, regarding the number of reports received pursuant  
23          to sections 3 and 4 of this Act and the disposition of each report.

24          **Section 7. That a NEW SECTION be added to chapter 3-6C:**

25          It is an affirmative defense to a prosecution under section 3 of this Act that the  
26          reporter or supervisor:

27          (1) Reasonably believed the required report was made by another individual;

28          (2) Was unaware that a conflict of interest existed; or

29          (3) Reasonably believed the conflict of interest was authorized pursuant to § 5-18A-  
30          17.2 or 5-18A-17.3.