



## 2023 South Dakota Legislature

# House Bill 1038

*Introduced by: The Committee on Military and Veterans Affairs at the request of the Department of Veterans Affairs*

1 **An Act to revise certain provisions pertaining to the Department of Veterans Affairs**  
 2 **and residency in the State Veterans Home.**

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

4 **Section 1. That § 33A-1-3 be AMENDED:**

5 **33A-1-3.** Adequate ~~office~~ Office space for the Department of Veterans Affairs ~~shall~~  
 6 must be provided in the Soldiers and Sailors Memorial Building or in other suitable space  
 7 at the state capital.

8 **Section 2. That § 33A-1-10 be AMENDED:**

9 **33A-1-10.** The secretary of the Department of Veterans Affairs shall establish and  
 10 maintain ~~a sufficient~~ an office and field force to carry out the provisions of this chapter,  
 11 including representation at the United States Department of Veterans Affairs facilities in  
 12 this state.

13 **Section 3. That § 33A-1-11 be AMENDED:**

14 **33A-1-11.** The secretary shall make an annual written report to the  
 15 Governor, ~~which shall be~~ The report must be open to public inspection.

16 **Section 4. That § 33A-1-12 be AMENDED:**

17 **33A-1-12.** All employees of the Department of Veterans Affairs below the level of  
 18 secretary shall be selected as provided by chapter 3-6D. However, any employee that  
 19 holds the title of state veterans service officer ~~or state fieldmen veterans service officer~~  
 20 ~~shall~~ must be a veteran who has served in the armed forces of the United States and is a  
 21 citizen of the United States. All other employees ~~shall~~ must be veterans, if available. These  
 22 employees shall perform duties assigned to them by the Department of Veterans Affairs.

1 **Section 5. That § 33A-1-16 be AMENDED:**

2 **33A-1-16.** The Department of Veterans Affairs shall cooperate with all national,  
3 state, county, municipal, and private social agencies in securing to veterans, National  
4 Guard or Reserve members, and their dependents, the benefits provided by national,  
5 state, and county laws, municipal ordinances, or public or private social agencies. ~~To that~~  
6 ~~end, the department may hold schools of instruction for county and tribal veterans service~~  
7 ~~officers, or call in for instruction individual county or tribal veterans service officers if, in~~  
8 ~~the judgment of the Department of Veterans Affairs, the giving of such instructions or~~  
9 ~~holding of such schools is in the best interest of the work of the department.~~

10 **Section 6. That § 33A-1-24 be AMENDED:**

11 **33A-1-24.** Each county ~~veterans'~~ veterans service officer shall provide, within the  
12 county or counties employing the officer, local contact between fieldmen of the  
13 Department of Veterans Affairs and persons in the armed service or those discharged from  
14 such service, and the dependents of such persons. ~~The county veteran's service officer~~  
15 ~~shall aid or assist volunteer service officers in securing evidence and perfecting claims;~~  
16 ~~advise those in the armed service and veterans or their dependents of benefits available~~  
17 ~~to them; and aid them in completing required forms and complying with regulations.~~ The  
18 county ~~veteran's~~ veterans service officer works under the direction of the Department of  
19 Veterans Affairs.

20 **Section 7. That § 33A-1-28 be AMENDED:**

21 **33A-1-28.** A county ~~veterans'~~ veterans service officer may be employed either  
22 part time or full time. The salary and ~~necessary mileage and expense allowance~~ budget  
23 of the officer ~~shall be~~ is determined by the board or boards of county commissioners  
24 employing the officer. The officer ~~shall~~ must be provided with a secure office space, office  
25 fixtures, furnishings, and equipment, either in the courthouse or some other central and  
26 accessible ~~place~~ location.

27 **Section 8. That § 33A-1-31 be AMENDED:**

28 **33A-1-31.** The Department of Veterans Affairs may establish, implement, and  
29 maintain a program for providing financial assistance to counties in paying the salaries of  
30 county ~~veterans'~~ veterans service officers. ~~Any program established and maintained by~~  
31 ~~the Department of Veterans Affairs shall provide for assistance to applying counties on~~

1 ~~the basis of one dollar of state funds for each four dollars of county funds provided for~~  
2 ~~payment of the salary of the county veterans' service officer of the applying county.~~ No  
3 county may be reimbursed in excess of twenty-five percent of the basic salary schedule  
4 outlined in § 33A-1-32 for any fiscal year.

5 **Section 9. That § 33A-2-33 be AMENDED:**

6 **33A-2-33.** ~~No veteran may receive more than one bonus pursuant to § 33A-2-13~~  
7 ~~for service before January 1, 1993, and no veteran may receive more than one bonus for~~  
8 ~~service after January 1, 1993. However, any~~Any veteran who is eligible for a bonus  
9 pursuant to § 33A-2-13 for service before December 31, 1992, and for service after  
10 January 1, 1993, may receive two separate bonuses. No single bonus may exceed five  
11 hundred dollars.

12 **Section 10. That § 33A-4-1 be AMENDED:**

13 **33A-4-1.** ~~The South Dakota State Veterans' Veterans Home is under the control~~  
14 ~~and general supervision of the Department of Veterans Affairs.~~

15 **Section 11. That § 33A-4-10 be REPEALED:**

16 ~~The superintendent of the State Veterans' Home shall recommend to the secretary~~  
17 ~~of veterans affairs such measures as the superintendent deems necessary for the~~  
18 ~~government of the home.~~

19 **Section 12. That § 33A-4-11 be AMENDED:**

20 **33A-4-11.** The permanent incidental fund heretofore provided for the use of the  
21 ~~superintendent of the South Dakota State Veterans' Veterans Home is hereby continued.~~  
22 ~~Such The fund shall be is kept and used by the superintendent of said home State Veterans~~  
23 ~~Home for the payment of bills for freight, express, mileage, postage, and such other~~  
24 ~~incidental expense of said the home as ~~shall~~ require immediate payment pending the~~  
25 ~~issuance of an auditor's warrant upon the state treasury therefor, and for no other purpose~~  
26 ~~whatever. In each case where such the payment is made, the amount ~~shall~~ must be~~  
27 ~~returned to the permanent incidental fund immediately upon the receipt of the state~~  
28 ~~auditor's warrant covering the bill for which such the expenditure was made.~~

29 **Section 13. That § 33A-4-12 be AMENDED:**

1           **33A-4-12.** Any ~~member~~ resident of the State ~~Veterans'~~ Veterans Home ~~who~~  
2 receives a pension, compensation, or gratuity from the United States government or  
3 sufficient funds from any source of more than fifty dollars a month above contributions  
4 toward the care of any dependents, shall contribute to the ~~member's~~ resident's  
5 maintenance, care, or support while a ~~member~~ resident of the home. The contributions  
6 shall must be determined by the secretary of veterans affairs and may not exceed the  
7 actual cost of ~~support care~~ of ~~members~~ residents at the home ~~as determined by the~~  
8 secretary of veterans affairs. ~~Payment of these amounts shall be made first to the fullest~~  
9 ~~extent possible from sources of income other than pensions or compensation paid by the~~  
10 ~~Veterans Administration.~~

11 **Section 14. That § 33A-4-13 be REPEALED:**

12           ~~If a member of the State Veterans' Home accumulates more than ten thousand~~  
13 ~~dollars in cash assets while a resident at the state home, the member shall pay a monthly~~  
14 ~~charge determined by the secretary of veterans affairs.~~

15 **Section 15. That § 33A-4-14 be REPEALED:**

16           ~~If any veteran and spouse accumulate more than fifteen thousand dollars in cash~~  
17 ~~assets while both are in residency at the State Veterans' Home, they shall pay a monthly~~  
18 ~~charge determined by the secretary of veterans affairs.~~

19 **Section 16. That § 33A-4-15 be AMENDED:**

20           **33A-4-15.** Any ~~member~~ resident or former ~~member~~ resident of the State ~~Veterans'~~  
21 Veterans Home may pay the state home in advance of death the full maintenance charge  
22 for each month ~~this member~~ the resident was in the home, retroactive from the date of  
23 admission with proper credits allowed for any payments made ~~by him~~ towards the monthly  
24 maintenance charge, but such credits not to include any allowances of the state  
25 government, notwithstanding the provisions found in §§ 33A-4-18 and 33A-4-19, and  
26 such moneys received from the ~~member~~ resident or former ~~member~~ resident shall go to  
27 the capital fund of the ~~state~~ home for repairs, equipment, improvements, or construction.

28 **Section 17. That § 33A-4-16 be AMENDED:**

29           **33A-4-16.** ~~If any member~~ When a resident of the State ~~Veterans'~~ Veterans Home  
30 dies without legal dependents, the ~~member's~~ resident's property shall must be distributed

1 to the ~~South Dakota State Veterans'~~ Veterans Home as sole heir for the sole use and  
 2 benefit of the home. The ~~member resident~~ may, by will, dispose of the ~~member's resident's~~  
 3 estate subject to the preferred claim provided in §§ 33A-4-17 to 33A-4-20, inclusive. A  
 4 spouse residing at the home is considered as a legal dependent for the purpose of this  
 5 section.

6 **Section 18. That § 33A-4-17 be AMENDED:**

7 **33A-4-17.** ~~If~~When a ~~member resident~~ of the State ~~Veterans'~~ Veterans Home dies,  
 8 leaving at the home cash or other personal property of value, the superintendent of the  
 9 home may turn over the cash, property, or its proceeds to the Department of Veterans  
 10 Affairs for the sole use and benefit of the home, without administration. The cash,  
 11 property, and proceeds are subject to refund within three years to any creditor, legal  
 12 dependent, or heir, if the deceased ~~member resident~~ left a will, and if the creditor, legal  
 13 dependent, or heir establishes a right to the cash, property, or proceeds or any portion of  
 14 the cash, property, or proceeds. The attorney general, upon being satisfied that a claim  
 15 out of the cash, property, or proceeds is legal and valid, may certify the claim to the  
 16 secretary of veterans affairs, and the secretary of veterans affairs shall satisfy the claim.

17 **Section 19. That § 33A-4-18 be AMENDED:**

18 **33A-4-18.** ~~If~~When an estate is left by a deceased ~~member resident~~ of the State  
 19 ~~Veterans'~~ Veterans Home leaving no surviving spouse or dependent, the ~~state~~ home shall  
 20 file a claim against the estate of the deceased ~~member resident~~ in the amount of the full  
 21 maintenance charge for each month the ~~member resident~~ was in the home, retroactive  
 22 from the date of admission with proper credits allowed to the estate of the deceased  
 23 ~~member resident~~ for any payments made by the ~~member resident~~. However, the credits  
 24 may not include any allowances of the state government. Any such money received from  
 25 the deceased ~~member resident~~ shall go to a capital fund of the ~~state~~ home for repairs,  
 26 equipment, improvements, or construction.

27 **Section 20. That § 33A-4-19 be AMENDED:**

28 **33A-4-19.** ~~If~~When a deceased ~~member resident~~ of the State ~~Veterans'~~ Veterans  
 29 Home leaves a spouse, or other dependent, the ~~member's resident's~~ estate is payable to  
 30 the spouse, or other dependent. Upon the death of the spouse or other dependent,  
 31 the ~~state~~ home shall file a claim against the estate of the deceased spouse or other

1 dependent for any claim against the estate of both the ~~deceased husband and wife~~  
2 decedents as provided in § 33A-4-18. The claim is a preferred claim against the estates.

3 **Section 21. That § 33A-4-22 be AMENDED:**

4 **33A-4-22.** The superintendent of the State ~~Veterans'~~ Veterans Home may receive,  
5 disburse, and account for personal funds of ~~members~~ residents of the home, received from  
6 any source, under the policies adopted by the Department of Veterans Affairs.

7 **Section 22. That § 33A-4-23 be REPEALED:**

8 Any member of the State ~~Veterans'~~ Home who is determined to have a dependent  
9 spouse or minor child shall allow for one half of the member's total gross income to be  
10 paid to the dependent spouse or minor child. If the superintendent determines the  
11 member's spouse has deserted the member, or is not supporting the best interest of the  
12 member, or is not dependent upon the support of the member, the superintendent shall  
13 remove this allowance.

14 **Section 23. That § 33A-4-24 be AMENDED:**

15 **33A-4-24.** There is hereby created a State ~~Veterans'~~ Veterans Home operating  
16 fund. All sums paid to and received by the superintendent of the State ~~Veterans'~~ Veterans  
17 Home, under this chapter, for the support, care, and maintenance of the ~~members~~  
18 residents in the home, shall be paid monthly by him to the state treasurer and credited to  
19 the ~~veterans'~~ veterans home operating fund. The fund shall be maintained separately and  
20 administered by the Department of Veterans Affairs to defray the expenses associated  
21 with operation of the State ~~Veterans'~~ Veterans Home. Expenditures from the fund shall be  
22 budgeted through the normal budget process. Unexpended funds and interest shall remain  
23 in the fund.

24 **Section 24. That § 33A-4-26 be AMENDED:**

25 **33A-4-26.** The spouse of any veteran who is eligible to become a ~~member~~ resident  
26 of the State ~~Veterans'~~ Veterans Home, may be admitted with the veteran if they have  
27 been married and living together for at least one year ~~before~~ preceding application for  
28 admission and if their combined income does not exceed four hundred dollars per year  
29 above the maximum income limitation allowable for pension benefits as determined by  
30 the Veterans Administration. Or, a spouse may be admitted if the veteran, otherwise

1 eligible to admission, is institutionalized for physical or mental disability, if the spouse has  
2 been married to the veteran spouse for at least one year. ~~The nonveteran spouse is subject~~  
3 ~~to the same house rules and rules as to furlough and discharge as the veteran spouse.~~  
4 Membership Resident status is not affected by the death of a spouse or by marriage  
5 between ~~members~~ residents of the home.

6 **Section 25. That § 33A-4-27 be AMENDED:**

7 **33A-4-27.** The widow or widower of any deceased veteran may be admitted to  
8 the home if not remarried, upon the following conditions: the deceased veteran must have  
9 been eligible for admission to the home; ~~the widow or widower shall have~~ has attained  
10 the age of sixty years, ~~shall have been;~~ the widow or widower was married to the veteran  
11 spouse at least one year prior to the veteran's date of death and living they lived together  
12 during that period except where there was a separation ~~which was~~ due to the misconduct  
13 of, or procured by, the veteran, without fault of, the spouse; ~~and the widow or widower~~  
14 ~~must have~~ has been a resident of this state for ~~the period of~~ at least one year ~~next~~  
15 immediately preceding the date of application. ~~The nonveteran spouse shall be subject to~~  
16 ~~the same house rules and rules as to furlough, suspension, and discharge, as the veterans~~  
17 ~~of the home.~~

18 **Section 26. That § 33A-4-28 be AMENDED:**

19 **33A-4-28.** A nonveteran spouse, widow, or widower, upon admission, shall be  
20 considered a ~~member~~ resident of the State ~~Veterans'~~ Veterans Home and be subject to all  
21 rules and statutes affecting the person, property, and estate of a veteran ~~member~~  
22 resident.

23 **Section 27. That § 33A-4-29 be AMENDED:**

24 **33A-4-29.** All applications for admission to the State ~~Veterans'~~ Veterans Home  
25 ~~shall~~ must be made ~~in writing~~ upon ~~blank~~ prescribed forms, ~~which shall be~~ furnished by  
26 the ~~superintendent~~ Department of Veterans Affairs. ~~Such~~ The applications ~~shall be filled~~  
27 ~~out by the applicant, and~~ must include information as to military service, a full financial  
28 statement, essential medical information, ~~and proof of residence,~~ and ~~shall include~~ a  
29 stipulation that if any such claims are proved false, the applicant forfeits any right to  
30 ~~membership in~~ residency at the home.

31 **Section 28. That § 33A-4-30 be AMENDED:**

1           **33A-4-30.** Application for admission to the State ~~Veterans'~~ Veterans Home shall  
 2       ~~be recommended are approved by the county, tribal, local veteran's organization service~~  
 3       ~~officer, or personnel of the Department of Veterans Affairs. Upon receipt of an application,~~  
 4       ~~complete with essential information to qualify the applicant for admission to the home,~~  
 5       ~~the superintendent may admit the applicant.~~

6       **Section 29. That § 33A-4-31 be AMENDED:**

7           **33A-4-31.** Furloughs from the State ~~Veterans'~~ Veterans Home may be granted at  
 8       the discretion of the superintendent, but a ~~member~~ resident on furlough for more than  
 9       ninety days ~~shall be~~ is deemed to have surrendered ~~his~~ the room and ~~on his~~ upon return  
 10      ~~shall~~ must be put on the regular waiting list.

11      **Section 30. That § 33A-4-32 be AMENDED:**

12           **33A-4-32.** Any ~~member~~ resident of the State ~~Veterans'~~ Veterans Home may be  
 13      ~~required to accept an honorable discharge~~ discharged, with the exception of a veteran  
 14      with one hundred percent disability as defined by the ~~veterans administration~~ Veterans  
 15      Administration for pension and compensation purposes, if ~~he~~ the resident has sufficient  
 16      ability and means ~~to support himself for self-support.~~ Such ~~The~~ discharge ~~shall be given~~  
 17      may only be made upon recommendation of the superintendent and order of the secretary  
 18      of veterans affairs.

19      **Section 31. That § 33A-4-33 be AMENDED:**

20           **33A-4-33.** The superintendent may, if there is room ~~for all dependent applicants~~  
 21      ~~and members,~~ admit and allow to remain in the State ~~Veterans'~~ Veterans Home, persons  
 22      who have sufficient means for their own support, care, and maintenance, but are  
 23      otherwise eligible to become ~~members~~ residents of the home, on payment of the cost of  
 24      ~~their support~~ care.

25      **Section 32. That § 33A-4-34 be REPEALED:**

26           ~~No person may be received or retained in the State Veterans' Home who is mentally~~  
 27      ~~ill, is an inebriate, or is addicted to the use of drugs.~~

28      **Section 33. That § 33A-4-35 be AMENDED:**



1           **33A-4-35.** If a ~~member~~ resident of the State ~~Veterans'~~ Veterans Home is  
2 discharged from the home, or voluntarily leaves the home, or is adjudged mentally ill after  
3 admittance, the ~~member's~~ resident's residence is that of the county in which the ~~member~~  
4 resident was residing at the time of the ~~member's~~ resident's admittance to the home.

5           **Section 34. That § 33A-4-36 be AMENDED:**

6           **33A-4-36.** Each ~~member~~ resident of the State ~~Veterans'~~ Veterans Home is deemed  
7 a resident of the county in which the ~~member~~ resident was residing at the time of  
8 admittance to the home and does not lose ~~his or her~~ residence or the right to vote in the  
9 county.

10          **Section 35. That § 33A-5-5 be AMENDED:**

11           **33A-5-5.** All expenses incurred under the provisions of §§ 33A-5-2 ~~to~~ and 33A-5-  
12 4, ~~inclusive, shall~~ may only be approved, allowed, and certified by the county or tribal  
13 ~~veterans'~~ veterans service officer or ~~field officer~~ employee of the Department of Veterans  
14 Affairs upon forms provided by the Department of Veterans Affairs. The county or tribal  
15 ~~veteran's~~ veterans service officer or ~~field officer~~ shall forward the forms to the Department  
16 of Veterans Affairs. The department shall certify and forward the forms to the state  
17 auditor.

18           Upon receipt of the certified forms, the state auditor shall draw a warrant on the  
19 state treasurer in favor of the person or persons entitled to the payment for the amount  
20 specified on the forms.