

State of South Dakota

NINETIETH SESSION
LEGISLATIVE ASSEMBLY, 2015

675W0511

HOUSE BILL NO. 1231

Introduced by: Representatives Hawks, Bartling, Brunner, Feickert, Hickey, Kirschman, Langer, May, McCleerey, and Soli and Senators Parsley, Buhl O'Donnell, Haggar (Jenna), Peterson (Jim), and Soholt

1 FOR AN ACT ENTITLED, An Act to authorize the forfeiture of any financial benefit or
2 valuables gained from prostitution or pimping.

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

4 Section 1. That § 22-24A-15 be amended to read as follows:

5 22-24A-15. Any person who is convicted of an offense under §§ 22-19A-1, 22-24A-1 to 22-
6 24A-20, inclusive, 22-24B-1, 22-49-1 to 22-49-3, inclusive, 23A-27-14.1, ~~and~~ 43-43B-1 to 43-
7 43B-3, inclusive, and 22-23-1, 22-23-2, 22-23-8, and 22-23-9 shall forfeit to the state the
8 person's interest in the following and no property right exists in them:

9 (1) Any photograph, film, videotape, book, digital media or visual depiction that has
10 been manufactured, distributed, purchased, possessed, acquired, or received in
11 violation of §§ 22-19A-1, 22-24A-1 to 22-24A-20, inclusive, 22-24B-1, 23A-27-
12 14.1, and 43-43B-1 to 43-43B-3, inclusive;

13 (2) Any material, product, and equipment of any kind that is used or intended for use in
14 manufacturing, processing, publishing, selling, possessing, or distributing any visual



1 depiction proscribed by §§ 22-19A-1, 22-24A-1 to 22-24A-20, inclusive, 22-24B-1,
2 23A-27-14.1, and 43-43B-1 to 43-43B-3, inclusive;

3 (3) Any property that is used, or intended for use, as a container for property described
4 in subdivisions (1) and (2) of this section, including any computers and digital media;

5 (4) Any conveyances including aircraft, vehicles, or vessels, that transport, possess, or
6 conceal, or that is used, or intended for use, to transport, or in any manner facilitate
7 any activity proscribed under §§ 22-19A-1, 22-24A-1 to 22-24A-20, inclusive, 22-
8 24B-1, 22-49-1 to 22-49-3, inclusive, 23A-27-14.1, and 43-43B-1 to 43-43B-3,
9 inclusive;

10 (5) Any book, record, and research, including microfilm, tape, and data that is used, or
11 intended for use, in violation of §§ 22-19A-1, 22-24A-1 to 22-24A-20, inclusive, 22-
12 24B-1, 22-49-1 to 22-49-3, inclusive, 23A-27-14.1, and 43-43B-1 to 43-43B-3,
13 inclusive;

14 (6) Any funds or other things of value used for the purposes of unlawfully carrying out
15 any activity proscribed by §§ 22-19A-1, 22-24A-1 to 22-24A-20, inclusive, 22-24B-
16 1, 22-49-1 to 22-49-3, inclusive, 23A-27-14.1, ~~and~~ 43-43B-1 to 43-43B-3, inclusive,
17 and 22-23-1, 22-23-2, 22-23-8, and 22-23-9; and

18 (7) Any asset, interest, profit, income, and proceed acquired or derived from the unlawful
19 activity proscribed by §§ 22-19A-1, 22-24A-1 to 22-24A-20, inclusive, 22-24B-1,
20 22-49-1 to 22-49-3, inclusive, 23A-27-14.1, ~~and~~ 43-43B-1 to 43-43B-3, inclusive,
21 and 22-23-1, 22-23-2, 22-23-8, and 22-23-9.

22 Any property described in subdivision (1) of this section shall be deemed contraband and
23 shall be summarily forfeited to the state. Any other property seized and forfeited shall be used
24 to reimburse the actual costs of the criminal investigation and prosecution. Any amount over

1 and above the amount necessary to reimburse for the investigation and prosecution shall be used
2 to satisfy any civil judgments received by victims. All remaining proceeds from the sale of any
3 forfeited property shall be paid into the South Dakota internet crimes against children fund.

4 Section 2. That § 22-24A-12 be amended to read as follows:

5 22-24A-12. Any person against whom a judgment has been rendered under §§ 22-19A-1,
6 22-24A-1 to 22-24A-20, inclusive, 22-24B-1, 22-49-1 to 22-49-3, inclusive, 23A-27-14.1, ~~and~~
7 43-43B-1 to 43-43B-3, inclusive, and 22-23-1, 22-23-2, 22-23-8, and 22-23-9 is not eligible to
8 exempt any property, of whatever kind, from process to levy or process to execute on the
9 judgment. Any assets sought to satisfy a judgment under §§ 22-19A-1, 22-24A-1 to 22-24A-20,
10 inclusive, 22-24B-1, 22-49-1 to 22-49-3, inclusive, 23A-27-14.1, ~~and~~ 43-43B-1 to 43-43B-3,
11 inclusive, and 22-23-1, 22-23-2, 22-23-8, and 22-23-9 that are named in a forfeiture action or
12 have been seized for forfeiture by any state or federal agency may not be used to satisfy a
13 judgment unless and until the assets have been released following the conclusion of the
14 forfeiture action or released by the agency that seized the assets.

15 Section 3. That § 22-24A-6 be amended to read as follows:

16 22-24A-6. Any person, not a citizen or resident of this state, whose actions or conduct
17 constitute a violation of §§ 22-19A-1, 22-24A-1 to 22-24A-20, inclusive, 22-24B-1, 22-49-1
18 to 22-49-3, inclusive, 23A-27-14.1, ~~and~~ 43-43B-1 to 43-43B-3, inclusive, and 22-23-1, 22-23-2,
19 22-23-8, and 22-23-9 and whose actions or conduct involve a child residing in this state, or
20 someone the person reasonably believes is a child residing in this state, or with an adult in this
21 state in violation of § 22-23-1, 22-23-2, 22-23-8, or 22-23-9 is for the purpose of §§ 22-19A-1,
22 22-24A-1 to 22-24A-20, inclusive, 22-24B-1, 22-49-1 to 22-49-3, inclusive, 23A-27-14.1, ~~and~~
23 43-43B-1 to 43-43B-3, inclusive, and 22-23-1, 22-23-2, 22-23-8, and 22-23-9 deemed to be
24 transacting business in this state and by that act:

1 (1) Submits to the jurisdiction of the courts of this state in any civil proceeding
2 commenced under §§ 22-19A-1, 22-24A-1 to 22-24A-20, inclusive, 22-24B-1, 22-
3 49-1 to 22-49-3, inclusive, 23A-27-14.1, ~~and~~ 43-43B-1 to 43-43B-3, inclusive, and
4 22-23-1, 22-23-2, 22-23-8, and 22-23-9; and

5 (2) Constitutes the secretary of state as agent for service of legal process in any civil
6 proceeding commenced under §§ 22-19A-1, 22-24A-1 to 22-24A-20, inclusive, 22-
7 24B-1, 22-49-1 to 22-49-3, inclusive, 23A-27-14.1, ~~and~~ 43-43B-1 to 43-43B-3,
8 inclusive, and 22-23-1, 22-23-2, 22-23-8, and 22-23-9; and consents that service of
9 legal process shall be made by serving a copy upon the secretary of state or by filing
10 a copy in the secretary of state's office, and that this service shall be sufficient service
11 if, within one day after service, notice of the service and a copy of the process are
12 sent by registered mail by plaintiff to the person at the person's last-known address
13 and proof of such mailing filed with the clerk of court within one day after mailing.

14 The service of legal process upon any person who is subject to the jurisdiction of the courts
15 of this state, as provided in this section, may also be made by personally serving the summons
16 upon the person outside this state with the same force and effect as though summons had been
17 personally served within this state. The service shall be made in like manner as service within
18 this state. No order of court is required. An affidavit of the server shall be filed stating the time,
19 manner and place of service. The court may consider the affidavit, or any other competent
20 proofs, in determining whether service has been properly made.