

# State of South Dakota

NINETIETH SESSION  
LEGISLATIVE ASSEMBLY, 2015

675W0511

## HOUSE ENGROSSED NO. **HB 1231** - 02/24/2015

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 22-23-2, 22-23-8, and 22-23-9 shall forfeit to the state the person's interest  
8 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 22-23-2, 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 22-23-2, 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 22-23-2, 22-23-8, and 22-23-9 is not eligible to exempt  
8 any property, of whatever kind, from process to levy or process to execute on the judgment. Any  
9 assets sought to satisfy a judgment under §§ 22-19A-1, 22-24A-1 to 22-24A-20, inclusive, 22-  
10 24B-1, 22-49-1 to 22-49-3, inclusive, 23A-27-14.1, ~~and~~ 43-43B-1 to 43-43B-3, inclusive, and  
11 22-23-2, 22-23-8, and 22-23-9 that are named in a forfeiture action or have been seized for  
12 forfeiture by any state or federal agency may not be used to satisfy a judgment unless and until  
13 the assets have been released following the conclusion of the forfeiture action or released by the  
14 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 22-23-2, 22-23-8,  
19 and 22-23-9 and whose actions or conduct involve a child residing in this state, or someone the  
20 person reasonably believes is a child residing in this state, or with an adult in this state in  
21 violation of § 22-23-2, 22-23-8, or 22-23-9 is for the purpose of §§ 22-19A-1, 22-24A-1 to 22-  
22 24A-20, inclusive, 22-24B-1, 22-49-1 to 22-49-3, inclusive, 23A-27-14.1, ~~and~~ 43-43B-1 to 43-  
23 43B-3, inclusive, and 22-23-2, 22-23-8, and 22-23-9 deemed to be transacting business in this  
24 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 22-23-2, 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 22-23-2, 22-23-8, and 22-23-9; and consents that service of legal  
9 process shall be made by serving a copy upon the secretary of state or by filing a copy  
10 in the secretary of state's office, and that this service shall be sufficient service if,  
11 within one day after service, notice of the service and a copy of the process are sent  
12 by registered mail by plaintiff to the person at the person's last-known address and  
13 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.