

AN ACT

ENTITLED, An Act to provide certain provisions regarding investigations of misconduct by certain public officials.

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

Section 1. That chapter 12-27 be amended by adding a NEW SECTION to read:

In addition to any penalty that may be imposed on a person pursuant to § 12-27-29.1, if the secretary of state finds that any person has failed to perform any duty imposed on that person by this chapter, that person may be assessed an additional penalty not to exceed two hundred fifty dollars. The secretary of state may refer repeated violations of any duty required under this chapter for prosecution by a state's attorney or the attorney general.

Section 2. That chapter 12-27 be amended by adding a NEW SECTION to read:

Any person may file with the secretary of state a sworn affidavit alleging a violation of the campaign finance requirements under this chapter. A sworn affidavit alleging any misconduct, breach of statutory duty, or malfeasance shall be signed and sworn to by the affiant, fully state any fact on which the affiant relied and identify any source of factual information. If the sworn affidavit has sufficiently substantiated facts that lead the secretary of state to believe there is probable cause that a requirement under this chapter has been violated, the secretary of state may commence the contested case procedure pursuant to chapter 1-26 to remedy the violation or impose a civil penalty. The secretary of state may refer the complaint to the Division of Criminal Investigation for an investigation pursuant to chapter 23-3 and shall notify the subject of the affidavit of the referral by certified mail.

Section 3. That chapter 23-3 be amended by adding a NEW SECTION to read:

Any person may file a sworn affidavit with the Division of Criminal Investigation alleging:

(1) Fraud by an elected official, public officer, or public employee in the performance of any

duty imposed by law on the elected official, public officer, or public employee pursuant to § 22-30A-10;

- (2) Bribery in public office pursuant to § 2-12-9, 22-12A-7, or 22-12A-11; or
- (3) An intentional violation of any limit on gifts to public officials under chapter 2-12.

The person filing the affidavit with the Division of Criminal Investigation shall provide the subject of the affidavit with a copy of the affidavit by certified mail. The division shall review the facts alleged in the sworn affidavit and may initiate and conduct an investigation to determine if a law has been violated. If the division has cause to believe that a law has been violated, the division shall refer the matter to a state's attorney or the attorney general for prosecution and shall notify the subject of the affidavit of the referral by certified mail.

Section 4. That chapter 23-3 be amended by adding a NEW SECTION to read:

If an investigation authorized under section 3 of this Act does not reveal sufficient facts to support a criminal prosecution, the Division of Criminal Investigation may determine that no further action is required, or refer the matter to:

- (1) The Government Operations and Audit Committee for review of a matter involving a legislator or legislative employee;
- (2) The secretary of state for a matter involving a candidate for the Legislature or statewide office who shall resolve the matter in a reasonable time; or
- (3) The Judicial Qualifications Commission for a matter involving a judicial officer.

A sworn affidavit alleging any misconduct, breach of statutory duty, or malfeasance shall be signed and sworn to by the affiant, fully state any fact on which the affiant relied and identify any source of factual information.

Section 5. That chapter 3-6D be amended by adding a NEW SECTION to read:

The Government Operations and Audit Committee shall review and investigate any matter

referred to the committee by the Division of Criminal Investigation and may recommend appropriate action. The committee shall promptly notify the subject of the affidavit and resolve the matter in a reasonable time.

Section 6. That chapter 16-1A be amended by adding a NEW SECTION to read:

The Judicial Qualifications Commission shall review and investigate any matter referred to the commission by the Division of Criminal Investigation and may recommend appropriate action.

Section 7. That chapter 12-27 be amended by adding a NEW SECTION to read:

Any person who makes a false allegation pursuant to this Act is guilty of a Class 2 misdemeanor.

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I certify that the attached Act originated in the

SENATE as Bill No. 151

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. 151

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