

State of South Dakota

EIGHTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2012

488T0055

SENATE BILL NO. 2

Introduced by: Senators Hunhoff (Jean), Bradford, Heineman, and Kraus and Representatives Sly, Gibson, Haggar, Lucas, Magstadt, Perry, and White at the request of the Interim Human Services Agency Review Committee

1 FOR AN ACT ENTITLED, An Act to repeal and to make style and form revisions to certain
2 provisions related to the Department of Human Services.

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

4 Section 1. That § 1-36A-1.7 be repealed.

5 ~~—1-36A-1.7. Unless inconsistent with other provisions of chapter 21 of the 1989 Session~~
6 ~~Laws, all rules, regulations and standards of the agencies in § 1-36A-3 that are in effect on July~~
7 ~~1, 1989, shall continue with full force and effect until they are specifically altered, amended or~~
8 ~~revoked in the manner provided by law, unless the statutory authority for such rules is~~
9 ~~superseded by chapter 21 of the 1989 Session Laws.~~

10 Section 2. That § 1-36A-1.8 be repealed.

11 ~~—1-36A-1.8. If it is determined that a function of a transferred agency, which has not been~~
12 ~~eliminated by chapter 21 of the 1989 Session Laws, and its associated records, personnel,~~
13 ~~equipment, facilities, unexpended balances or appropriations, allocations, or other funds have~~
14 ~~not been clearly allocated to an agency, the Governor shall specify by interim procedures the~~



1 allocation of the function and its associated resources. At the next legislative session following
2 the issuance of such interim procedures, the Governor shall make recommendations concerning
3 the proper allocation of the functions of transferred agencies which are not clearly allocated by
4 chapter 21 of the 1989 Session Laws. Any interim procedures issued shall be filed with the
5 secretary of state.

6 Section 3. That § 1-36A-1.9 be repealed.

7 ~~1-36A-1.9. The rights, privileges, and duties of the holders of bonds and other obligations~~
8 ~~issued, and of the parties to contracts, leases, indentures, and other transactions entered into,~~
9 ~~before July 1, 1989, by the state or by any agency, officer, or employee thereof, and covenants~~
10 ~~and agreements as set forth therein, remain in effect, and none of those rights, privileges, duties,~~
11 ~~covenants, or agreements is impaired or diminished by abolition of an agency in chapter 21 of~~
12 ~~the 1989 Session Laws. The Department of Human Services replaces the Board of Charities and~~
13 ~~Corrections for the state institutions in § 1-36A-1.3 and succeeds to its rights and leases,~~
14 ~~indentures, and other transactions.~~

15 Section 4. That § 1-36A-1.10 be repealed.

16 ~~1-36A-1.10. No judicial or administrative suit, action, or other proceeding lawfully~~
17 ~~commenced before July 1, 1989, by or against any agency or any officer of the state, in his~~
18 ~~official capacity or in relation to the discharge of his official duties, may abate or be affected by~~
19 ~~the reason of the taking effect of any reorganization under the provisions of chapter 21 of the~~
20 ~~1989 Session Laws. The court may allow the suit, action, or other proceeding to be maintained~~
21 ~~by or against the successor of any agency or any officer affected by chapter 21 of the 1989~~
22 ~~Session Laws.~~

23 Section 5. That § 1-36A-1.17 be amended to read as follows:

24 1-36A-1.17. The Department of Human Services may condemn private property for public

1 use. ~~The term~~ "For the purposes of this section, private property" includes that portion of any
2 street, alley, or other public highway along both sides of which the land is owned by the state.
3 If the Department of Human Services considers it necessary to condemn any private property
4 for the purpose of erecting or repairing any building ~~or buildings~~ or extending grounds and
5 premises of any of the institutions of the state of which ~~it~~ the department has control, the
6 secretary of human services shall, by proper resolution and order, declare such condemnation
7 necessary, stating the purposes and extent thereof, and ~~communicate the same to~~ shall notify the
8 attorney general, ~~and thereupon proceedings for such.~~ Thereupon, the condemnation shall ~~be had~~
9 proceed, in the name of the state as plaintiff, as provided in chapter 21-35.

10 Section 6. That § 1-36A-1.18 be amended to read as follows:

11 1-36A-1.18. The Department of Human Services and the Department of Social Services may
12 expend from any appropriation of money for the construction of any public building that may
13 lawfully be constructed under its supervision, or from any appropriation made for such
14 purposes, sufficient funds to purchase and secure ~~such~~ insurance protection from loss by fire
15 during the erection of such building ~~as may be proper in the judgment of~~ in an amount
16 determined by the secretary of human services or the secretary of social services.

17 Section 7. That § 1-36A-1.19 be amended to read as follows:

18 1-36A-1.19. The Department of Human Services and the Department of Social Services may
19 move, dismantle, destroy, or sell any temporary buildings or structures ~~as if the secretaries may~~
20 ~~determine to be~~ the action is in the best interests of the State of South Dakota, in order to make
21 better use of the area, or because of extensive maintenance and repair costs; ~~or because of fire~~
22 safety hazards. However, ~~such structures shall be evaluated by~~ no such action may occur unless
23 ~~the Bureau of Administration and a determination made~~ evaluates the buildings or structures and
24 subsequently determines that it ~~would not be~~ is not economically feasible to repair, remodel, or

1 redesign the structures for other use.

2 Receipts from the sale of such structures shall be deposited in the state general fund.

3 Section 8. That § 1-36A-1.20 be amended to read as follows:

4 1-36A-1.20. The Department of Human Services and the Department of Social Services may
5 expend any moneys appropriated by the Legislature for maintenance, repair, remodeling,
6 modernization, and replacement projects by using institutional personnel or inmates ~~as may be~~
7 ~~determined by the secretaries to be feasible~~ if the secretaries determine that such use is
8 practicable.

9 Section 9. That § 1-36A-1.24 be amended to read as follows:

10 1-36A-1.24. The secretary of human services may ~~inquire into and~~ examine the condition
11 ~~of the institutions~~ any institution under the department's control, financially or otherwise;
12 ~~inquire and examine into their~~ the methods of instruction and treatment and management of
13 ~~their patients, the official conduct of all officers and employees of the same,~~ the condition of the
14 buildings, grounds and other property ~~connected therewith,~~ and ~~into~~ all other matters pertaining
15 ~~to their usefulness~~ the functioning and ~~good~~ management of the institution. For these purposes
16 the secretary shall have free access to the grounds, buildings, and all books and papers relating
17 ~~to such institutions~~ the institution, and all persons ~~now or hereafter in any manner~~ connected
18 with the ~~same are directed and required to~~ institution shall give such information and ~~afford~~
19 open such facilities for inspection as the secretary may require, and any neglect or refusal on the
20 part of any officer, employee, or person connected with ~~such institutions~~ an institution to comply
21 with the requirements of this section is sufficient cause for ~~his~~ removal. The secretary may
22 administer oaths and examine any person ~~or persons~~ in relation to any matter connected with
23 the inquiries authorized by this chapter.

24 Section 10. That § 1-36A-1.25 be amended to read as follows:

1 1-36A-1.25. If, in the opinion of the secretary of human services, any matter in regard to the
2 management of any institution under its the department's control, or any matter in regard to any
3 patient of any ~~such~~ institution under the department's control, requires legal investigation or
4 action of any kind, ~~notice thereof may be given by the secretary to~~ shall notify the attorney
5 general, who shall ~~make inquiry~~ investigate and take ~~such proceedings in the premises as he may~~
6 ~~deem~~ any actions the attorney general considers necessary and proper, and report ~~his action any~~
7 actions taken and the results thereof to the secretary without delay.

8 Section 11. That § 1-36A-3 be amended to read as follows:

9 1-36A-3. There is hereby created within the Department of Human Services the following
10 divisions:

- 11 (1) The Division of Rehabilitation Services, which ~~shall be designated as~~ is the state
12 agency to administer the state vocational rehabilitation plan to provide rehabilitation
13 services to individuals except persons who are blind or visually impaired; and
- 14 (2) The Division of Service to the Blind and Visually Impaired, which ~~shall be~~
15 ~~designated as~~ is the state agency to administer the state vocational rehabilitation plan
16 to provide rehabilitation services to persons who are blind or visually impaired.

17 Section 12. That § 1-36A-6 be repealed.

18 ~~1-36A-6. All rules adopted before July 1, 1989, by the Department of Vocational~~
19 ~~Rehabilitation or the Board of Vocational Rehabilitation relating to the subject matter of this~~
20 ~~chapter, shall be deemed to have been adopted by the Department of Human Services.~~

21 Section 13. That § 1-36A-10.1 be amended to read as follows:

22 1-36A-10.1. The Department of Human Services shall register and renew the registrations
23 registration annually of any person certified in accordance with § 1-36A-10.4 or 1-36A-10.5
24 who demonstrates compliance with §§ 1-36A-10.1 to 1-36A-16, inclusive, and payment of who

1 pays the applicable fees unless good cause exists to deny the registration.