



2023 South Dakota Legislature

Senate Bill 206

SENATE JUDICIARY ENGROSSED

Introduced by: **Senator Duhamel**

1 **An Act to clarify good cause for the purpose of continuing an involuntary**
 2 **commitment hearing.**

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

4 **Section 1. That § 27A-10-5 be AMENDED:**

5 **27A-10-5.** Immediately after a person is taken into custody pursuant to § 27A-
 6 10-2 or 27A-10-3, a hold is initiated pursuant to § 27A-8-10.1 or 27A-10-19, or a petition
 7 is filed pursuant to § 27A-8-11.2, the person ~~shall~~must be notified, both orally and in
 8 writing, ~~of the following that the person:~~

- 9 (1) ~~The~~Has the right to immediately contact someone of the person's choosing;
- 10 (2) ~~The~~Has the right to immediately contact and be represented by counsel;
- 11 (3) ~~That the person will~~Must be examined by a qualified mental health professional,
 12 designated by the chair of the county board of mental illness, within twenty-four
 13 hours after being taken into custody to determine whether custody should
 14 continue; and
- 15 (4) ~~The~~Has the right, if custody is continued, to an independent examination and to a
 16 hearing within five days after being taken into custody, within six days if there is
 17 a Saturday, Sunday, or holiday within that time period, or within seven days if
 18 there is a Saturday, Sunday, and holiday within that time period.

19 The person ~~shall be further~~must also be notified that the costs of any
 20 post-commitment treatment, medication, compensation for the attorney appointed to
 21 represent the person in any appeals proceedings, an additional examination requested by
 22 the person pursuant to § 27A-11A-9, and a certified transcript or tape of proceedings
 23 requested by the person pursuant to § 27A-11A-2 are that person's responsibility and that
 24 a lien for the amount of these costs may be filed upon the person's real and personal
 25 property to ensure payment.

1 The notice ~~shall also~~must be ~~given forthwith~~provided to the county board serving
 2 the county ~~where-in~~ in which the person was apprehended.

3 **Section 2. That § 27A-10-8 be AMENDED:**

4 **27A-10-8.** Within five days after the person is taken into custody~~;~~; within six days
 5 if there is a Saturday, Sunday, or holiday within that time period~~;~~; or within seven days if
 6 there is a Saturday, Sunday, and holiday within that time period~~;~~; the person must be
 7 provided an involuntary commitment hearing. The hearing may be continued for good
 8 cause prior to the running of the applicable time period. The referring county shall pay
 9 any expenses incurred by the board holding the hearing, including the transportation of
 10 the person to the hearing, subject to reimbursement by the county ultimately proven to
 11 be the county of residence.

12 No lien may be placed against the person for the expenses incurred by the board
 13 holding the hearing, including the transportation of the person to the hearing.

14 Awaiting the completion of an independent examination, as provided for in § 27A-
 15 10-5, is not good cause for the continuation of a hearing under this section.