

# State of South Dakota

NINETY-SECOND SESSION  
LEGISLATIVE ASSEMBLY, 2017

400Y0275

## SENATE BILL NO. 27

Introduced by: The Committee on Judiciary at the request of the Office of the Attorney General

1 FOR AN ACT ENTITLED, An Act to prohibit certain direct conflicts of interest by public  
2 officials and to provide a penalty therefor.

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

4 Section 1. That chapter 22-30A be amended by adding a NEW SECTION to read:

5 For the purposes of section 2 of this Act, the term, public official, means any elected official,  
6 appointed official, officer, employee, authority member, board member, commission member,  
7 fiscal agent, executive of a local service agency, or any other person subject to the provisions  
8 of chapter 3-16, 3-23, 5-18A, or 6-1.

9 Section 2. That chapter 22-30A be amended by adding a NEW SECTION to read:

10 A public official may only use the powers and resources of public office to advance the  
11 public interest and not to obtain any personal benefit or pursue any private interest. Any public  
12 official who knowingly misappropriates funds or property that has been entrusted to the public  
13 official in violation of the public trust and that results in a direct financial benefit to the public  
14 official commits a direct criminal conflict of interest.

15 Any public official who commits a direct criminal conflict of interest is guilty of theft.



1 Section 3. That the code be amended by adding a NEW SECTION to read:

2 An employee may file a grievance with the appropriate governmental entity if the employee  
3 believes that there has been retaliation, because of reporting a violation of section 2 of this Act  
4 through the chain of command of the employee's department, to the Office of the Attorney  
5 General, or to the Department of Legislative Audit. If no grievance process exists, a civil action  
6 may be filed in circuit court.

7 Section 4. That § 22-6-11 be amended to read:

8 22-6-11. The sentencing court shall sentence an offender convicted of a Class 5 or Class 6  
9 felony, except those convicted under §§ 22-11A-2.1, 22-18-1, 22-18-1.05, 22-18-26, 22-19A-1,  
10 22-19A-2, 22-19A-3, 22-19A-7, 22-19A-16, 22-22A-2, 22-22A-4, 22-24A-3, 22-22-24.3, 22-  
11 24-1.2, 22-24B-2, 22-24B-12, 22-24B-12.1, 22-24B-23, 22-42-7, subdivision 24-2-14(1), 32-34-  
12 5, section 2 of this Act, and any person ineligible for probation under § 23A-27-12, to a term  
13 of probation. If the offender is under the supervision of the Department of Corrections, the court  
14 shall order a fully suspended penitentiary sentence pursuant to § 23A-27-18.4. The sentencing  
15 court may impose a sentence other than probation or a fully suspended penitentiary sentence if  
16 the court finds aggravating circumstances exist that pose a significant risk to the public and  
17 require a departure from presumptive probation under this section. If a departure is made, the  
18 judge shall state on the record at the time of sentencing the aggravating circumstances and the  
19 same shall be stated in the dispositional order. Neither this section nor its application may be  
20 the basis for establishing a constitutionally protected liberty, property, or due process interest.