

State of South Dakota

NINETY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2017

400Y0275

SENATE ENGROSSED NO. **SB 27** - 2/2/2017

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 Any public official who knowingly illegally uses funds or property that has been entrusted
11 to the public official in violation of the public trust and that results in a direct financial benefit
12 to the public official commits a direct criminal conflict of interest.

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

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

15 An employee may file a grievance with the appropriate governmental entity if the employee



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

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

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