

## 2019 South Dakota Legislative Session – Final Update

Center for the Prevention of Child Maltreatment

Weeks 8 – February 25-28, 2019

Weeks 9 – March 4-7, 2019

Weeks 10 – March 11-13 and 29, 2019

### Legislative Notes

The [2019 Legislative Session](#) ended on March 29, 2019. Of the 460 bills submitted for consideration, 214 were passed into law and signed by the Governor. Unless a specific bill had an emergency provision added to the bill, the new laws are effective starting July 1, 2019. The bills highlighted in green within this report have been signed by the Governor and are now South Dakota law.

### Bills

[272 House Bills and 188 Senate Bills](#) have been submitted for consideration. CPCM is actively tracking the following bills:

**HB 1029**: An Act to revise certain provisions regarding criminal background checks for adults working in child care institutions.

*Sponsor: Department of Social Services*

*Committee Assignment: House Judiciary*

*Passed unanimously as amended in House Judiciary. Amendment clarifies institutions requiring criminal background checks (not to include daycares).*

*Placed on consent calendar for House, passed. Referred to Senate Judiciary.*

*Passed Senate Judiciary and Senate floor. Signed by Speaker and President, signed by Governor on 3/1/19.*

HB 1029 requires all adults working in child care institutions, including group homes, residential treatment centers, intensive residential treatment centers, or shelter care facilities, to receive a criminal background check prior to the issuance of a child welfare license for the institution.

**HB 1043**: An Act to require the DSS to collect and report certain information regarding the military affiliation of a parent whose child is subject to a report of abuse or neglect.

*Sponsor: Representative Deutsch and Senator Stalzer*

*Committee Assignment: House Military and Veterans Affairs*

*Passed both Committee and House unanimously. Referred to Senate Military and Veterans Affairs. Passed both Committee and Senate unanimously. Signed by the Speaker and President, signed by the Governor on 2/14.*

HB 1043 requires DSS to make an effort to determine the military status of the parent of guardian whose child is subject to the report of child abuse or neglect. If the parent or guardian is determined to be in the military, the department shall notify the military family advocacy program of the allegations.

**HB 1061:** An Act to provide for a court order to test for HIV at the request of victims of certain crimes.

*Sponsor: Representative Reed and Senator Schoenbeck*

*Committee Assignment: Passed unanimously as amended in House Judiciary.*

*Amended again on the House floor. Passed House as amended. Passed Senate*

*Judiciary, as amended, and passed Senate floor. Signed by Speaker and*

*President, signed by the Governor on 3/7/19.*

HB 1061 allows a victim to request a court order to require an alleged defendant (adult or juvenile) to take an HIV test, if probable cause exists that the alleged defendant committed a forcible sex crime against the victim.

**HB 1063:** An Act to revise provisions regarding engaging in sexual activity for a fee or other compensation.

*Sponsor: Representative Reed and Senator DiSanto*

*Committee Assignment: Passed unanimously as amended in House Judiciary.*

*Passed House as amended. Passed Senate Judiciary and passed Senate floor.*

*Signed by Speaker and President, signed by the Governor on 3/7/19.*

HB 1063 amends the definition of a child in need of supervision to include a minor who engages in or offers to engage in sexual activity in exchange for a fee or other compensation. The bill also raises the age to be found guilty of a criminal prostitution from 16 to 18. Finally, the bill adds “or other compensation” to the definition criminal prostitution.

**HB 1155:** An Act to provide certain privileged communications between social workers and students.

*Sponsor: Representative Borglum and Senator Solano*

*Committee Assignment: Passed House Judiciary and House floor. Passed Senate*

*Education, as amended, and sent to Senate floor. Passed Senate floor. Signed by*

*Speaker and President, signed by the Governor on 3/21/19.*

HB 1115 creates privileged communication between social workers employed at schools and students.

**HB 1179:** An Act to revise certain provisions regarding victims of sexual assault.

*Sponsor: Representative Reed and Senator Schoenbeck*

*Committee Assignment: House Health and Human Services. Tabled in House and*

*Human Services on 2/12.*

HB 1179 is a placeholder bill.

**HB 1180:** An Act to revise certain provisions regarding the collection and storage of sexual assault kit evidence.

*Sponsor: Representative Reed and Senator Soholt*

*Committee Assignment: Passed House Judiciary and House floor, as amended.*

*Referred to Senate Health and Human Services. Passed Senate Health and*

*Human Services and Senate floor. Signed by Speaker and President, signed by*

*the Governor on 3/21/19.*

HB 1190 defines where Jane/John Doe sexual assault examination kits will be stored and clarifies identification policies for said kits.

**HB 1194:** An Act to revise provisions regarding reports of crime statistics.

*Sponsor: Representative Jensen (Kevin) and Senator Rusch*

*Committee Assignment: Tabled in Judiciary on 2/13.*

HB 1194 is a placeholder bill.

**HB 1195:** An Act to revise provisions regarding juvenile justice.

*Sponsor: Representative Jensen (Kevin) and Senator Smith*

*Committee Assignment: Passed House Judiciary as amended (hoghouse). Passed House floor. Assigned to Senate Judiciary and passed. Failed on Senate floor.*

HB 1195 was hoghoused on 2/13 in the House Judiciary committee. The hoghouse amendment detailed several provisions on the requirements a court can order after a juvenile is adjudicated delinquent.

**HB 1198:** An Act to define activities that constitute human trafficking.

*Sponsor: Representative Barthel and Senator Kolbeck*

*Committee Assignment: Passed unanimously as amended in House Judiciary and passed House floor. Assigned to Senate Local Government. Passed Senate Local Government and House floor. Signed by Speaker and President, signed by the Governor on 3/5/19.*

HB 1198 defines the term coercion in relation to human trafficking.

**HB 1205:** An Act to provide parents with certain rights regarding health care treatment of a minor child.

*Sponsor: Representative Pischke and Senator Jensen (Phil)*

*Committee Assignment: House Judiciary. Committee deferred bill to the 41<sup>st</sup> legislative day (bill was killed).*

HB 1205 allows a parent to refuse healthcare (medical, psychiatric, psychological, or counseling) treatment for a minor child if that treatment promotes a belief that the child's sex or gender is different from that presented at the child's birth.

**HB 1217:** An Act to prohibit the endangerment of any child by means of driving under the influence and to provide a penalty therefor .

*Sponsor: Representative Goodwin and Senator Nelson*

*Committee Assignment: Passed House Judiciary and House floor, as amended. Assigned to Senate State Affairs. Committee deferred bill to the 41<sup>st</sup> legislative day (bill was killed).*

HB 1217 states that no person may operate a motor vehicle while driving under the influence if a child under the age of 16 is in the vehicle.

**HB 1220:** An Act to accommodate legislation to enhance education.

*Sponsor: Representative Schoenfish and Senator Heinert*

*Committee Assignment: Amended in House Education (hoghouse). Committee deferred bill to the 41<sup>st</sup> legislative day (bill was killed).*

HB 1220 is a placeholder bill.

**HB 1230:** An Act to add clergy to the list of mandatory reporters for suspected child abuse or neglect.

*Sponsor: Representative Healy and Senator Nesiba*

*Committee Assignment: Passed House Judiciary and failed on House floor.*

*Motion to reconsider failed.*

HB 1230 adds clergy to the list of mandatory reporters.

**HB 1232:** An Act to lower the compulsory age for school attendance.

*Sponsor: Representative Greenfield (Lana) and Senator Greenfield (Brock)*

*Committee Assignment: Passed House Education and failed on House floor.*

HB 1232 lowers the age requirement for minors to attend school from 18 to 16.

**HB 1235:** An Act to establish requirements regarding parental consent for the collection of certain information by schools.

*Sponsor: Representative Fink and Senator Jensen (Kevin)*

*Committee Assignment: Withdrawn by request of Prime Sponsor.*

HB 1235 requires written parental consent before students can participate in surveys.

**HB 1237:** An Act to establish the duty to collect data and share information on missing and murdered indigenous persons.

*Sponsor: Representative Pourier and Senator Foster*

*Committee Assignment: Passed House State Affairs and tabled on the House floor on 2/20.*

HB 1237 requires the Division of Criminal Investigation to collect and share information on missing and murdered indigenous persons.

**HB 1238:** An Act to revise provisions regarding training on missing and murdered indigenous persons.

*Sponsor: Representative Pourier and Senator Foster*

*Committee Assignment: Passed House State Affairs and tabled on the House floor on 2/20.*

HB 1238 requires the Division of Criminal Investigation to provide training to law enforcement officers on missing and murdered indigenous persons, when appropriate.

**HB 1241:** An Act to establish certain provisions regarding training for human trafficking prevention.

*Sponsor: Representative Pourier and Senator Foster*

*Committee Assignment: House Commerce and Energy Committee deferred bill to the 41<sup>st</sup> legislative day (bill was killed).*

HB 1241 requires the establishment of a training program by the Division of Criminal Investigation to support accurate and prompt identification and response to human trafficking victims. The bill requires at proprietors of lodging establishments to require staff training in regard to human trafficking identification and response.

**HB 1269:** An Act to temporarily revise the statute of limitations for bringing a civil action for certain cases of child sexual abuse.

*Sponsor: Representative St. John and Senator Nelson*

*Committee Assignment: House Judiciary. Committee deferred bill to the 41<sup>st</sup> legislative day (bill was killed).*

HB 1269 removes the statute of limitations until July 1, 2021, for civil action raising from cases of child sexual abuse.

**SB 8:** An Act to provide for a statewide resource information system.

*Sponsors: Senator Stalzer and Representative Hunhoff, at the request of the Access to mental health Services Study Committee*

*Committee Assignment: Senate State Affairs*

*Amended in hearing and vote deferred until a fiscal impact statement is produced. Testimony from SB 8 can be found at the following link:*

*<http://sdpb.sd.gov/SDPBPodcast/2019/sst10.mp3>.*

*Bill was amended to add appropriation. Bill was referred as amended to Joint Committee on Appropriations and passed as amended. Amended on House floor, Senate failed to concur and a conference committee was appointed. Senate Conference Committee Report was adopted by both the House and the Senate.*

*Signed by Speaker and President, signed by the Governor on 3/27/19.*

SB 8 requires the Department of Social Services to cooperate with and support each county in the development and maintenance of a centralized resource information system. This will support the implementation of 211 across the state of South Dakota.

**SB 31:** An Act to revise certain provisions regarding criminal background checks for assistant behavior analysts and paraprofessionals.

*Sponsors: Department of Social Services*

*Committee Assignment: Senate Health and Human Services*

*Passed Senate Health and Human Services unanimously, placed on consent and passed Senate. Assigned to House Judiciary. Passed House Judiciary and passed the House of Representatives, signed by the President. Signed the Governor on 2/8.*

SB 31 eliminates the need for a national (FBI) criminal background check for assistant behavior analysts and paraprofessionals. These professionals will still require a criminal background check through the Division of Criminal Investigation.

**SB 67:** An Act to revise provisions regarding commitment of a child adjudicated as delinquent.

*Sponsors: Senator Novstrup and Representative Perry*

*Committee Assignment: Senate Judiciary and passed as amended. Senate deferred to another day. Do Pass As Amended vote failed in Senate Judiciary. Motion to reconsider failed.*

SB 67 requires juvenile delinquents to pay restitution, a fine, and to require probation, amongst other things.

**SB 107:** An Act to revise provisions regarding rape .

*Sponsors: Senator Nelson and Representative Frye-Mueller*

*Committee Assignment: Passed Senate Judiciary, failed on Senate floor. Motion for Senate to reconsider failed.*

SB 107 adds a provision specifying that it is not an element of rape that the defendant knew or should have known the victims age or that the victim was incapable of given consent.

**SB 136:** An Act to provide for the utilization of telehealth by a health care professional.

*Sponsors: Senator Curd and Representative Peterson*

*Committee Assignment: Senate Health and Human Services*

*Amended in Health and Human Services, passed as amended and placed on consent. Removed from consent and amended on Senate floor. Passed as amended and assigned to House Health and Human Services. Passed as amended and passed House floor. Signed by Speaker and President, signed by the Governor on 3/27/19.*

SB 136 defines telehealth and provides regulations for telehealth services.

**SB 143:** An Act to revise visitation rights of a person causing conception by rape or incest.

*Sponsors: Senator Nelson and Representative Pischke*

*Committee Assignment: Passed as amended from Senate Judiciary and Senate floor. Assigned to House Judiciary. Passed House Judiciary and House floor.*

*Signed by Speaker and President, signed by the Governor on 3/11/19.*

SB 143 creates a rebuttable presumption that it is not in the best interest of the child for the court to grant custody to a person found guilty of causing the pregnancy through acts in incest or nonconsensual sexual conduct.

**SB 164:** An Act provide uniform procedures for the reporting of and investigation of missing and murdered indigenous women.

*Sponsors: Senator DiSanto and Representative St. John*

*Committee Assignment: Senate Judiciary and Senate floor. Assigned to House State Affairs. Passed committee and House floor. Signed by Speaker and President, signed by the Governor on 3/21/19.*

SB 164 adds language to SDCL 23-3-18.1, requiring the Division of Criminal Investigation to prepare guidelines and uniform procedures for the reporting of and investigation of missing and murdered indigenous women. The bill also requires the establishment of training for law enforcement personnel regarding the investigation of missing and murdered indigenous women. SB 164 seems to cover a similar topic addressed in HB 1238.

## Upcoming Dates

The [full social calendar](#) is provided by the SD Chamber of Commerce and Industry.

## Resources

Bills: To view a full listing of the [2019 Legislative Bills](#), visit the SD Legislative Research Council webpage.

Legislators: There are 70 Legislators serving in the House of Representatives and 35 Legislators serving in the Senate. You can find your [Legislators](#) on the SD Legislative Research Council webpage. A complete listing of [2019 Legislators](#) can also be found on the SD Legislative Research Council webpage.

Committees: There are 26 total [standing committees](#) (13 in each house, divided by subject matter). The primary function of a standing committee is to consider each bill or resolution assigned to the committee and to make a specific recommendation on what action should be taken regarding the bill or resolution. Following the introduction and first reading of a bill in either house, the presiding officer assigns the bill to a committee based on the subject matter. Generally, bills dealing with certain subjects are assigned to the same committee. You can find out which [committees your Legislators serve on](#) by visiting the SD Legislative Research Council webpage.

Schedule: For an up-to-date listing of committee schedules and agendas, click [HERE](#). The SD Chamber of Commerce and Industry provides the annual legislative handbook.