2024 South Dakota Legislature

House Bill 1039
ENROLLED

AN ACT

ENTITLED An Act to provide for the payment of legal expenses originating from crime committed at a facility maintained by the Department of Corrections.

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

Section 1. That § 1-11-1 be AMENDED:

1-11-1. It is the duty of the attorney general:

(1)   To appear for the state and prosecute and defend all actions and proceedings, civil or criminal, in the Supreme Court, in which the state shall be interested as a party;

(2)   When requested by the Governor or either branch of the Legislature, or whenever, in the judgment of the attorney general, the welfare of the state demands, to appear for the state and prosecute or defend, in any court or before any officer, any cause or matter, civil or criminal, in which the state may be a party or interested;

(3)   To attend to all civil cases remanded by the Supreme Court to the circuit court, in which the state shall be a party or interested;

(4)   To prosecute, at the request of the Governor, state auditor, or state treasurer, any official bond or contract in which the state is interested, upon a breach thereof, and to prosecute or defend for the state all actions, civil or criminal, relating to any matter connected with either of their departments;

(5)   To consult with, advise, and exercise supervision over the several state's attorneys of the state in matters pertaining to the duties of their office, and the attorney general shall be authorized and it is made the duty of the office, whenever in the attorney general's judgment any opinion written by the attorney general will be of general interest and value, to mail either written or printed copies of such opinion to the auditor-general and to every state's attorney and county auditor in the state;

(6)   When requested, to give an opinion in writing, without fee, upon all questions of law submitted to the attorney general by the Legislature or either branch thereof, or by the Governor, auditor, or treasurer;

(7)   When requested by the state auditor, treasurer, or commissioner of school and public lands, to prepare proper drafts for contracts, forms, and other writings, which may be wanted for use of the state;

(8)   To report to the Legislature, or either branch thereof, whenever requested, upon any business relating to the duties of the office;

(9)   To prosecute state officers who neglect or refuse to comply with the provisions of statutes of this state prohibiting officers of the state from accepting any money, fee, or perquisite other than salary for performance of duties connected with the office or paid because of holding such office and the statute requiring issue and delivery and filing of prenumbered duplicate receipts and accounting for money received for the state;

(10)   To pay into the state treasury all moneys received by the attorney general, belonging to the state, immediately upon the receipt thereof;

(11)   To prosecute any criminal action that was committed by an inmate under confinement in a facility operated by the Department of Corrections; and

(12)   To attend to and perform any other duties which may from time to time be required by law.

Section 2. That § 23A-40-8 be AMENDED:

23A-40-8. Except as provided below, counsel assigned pursuant to § 23A-40-6 and subdivision 23A-40-7(2) shall, after the disposition of the cause, be paid by the county in which the action is brought, or, in case of a parole revocation, by the county from which the inmate was sentenced, a reasonable and just compensation for the services and for necessary expenses and costs incident to the proceedings in an amount to be fixed by a judge of the circuit court or a magistrate judge within guidelines established by the presiding judge of the circuit court.

If the cause originated from a criminal offense committed by an inmate under confinement in a facility operated by the Department of Corrections, the Department of Corrections must, after the disposition of the cause, pay counsel assigned pursuant to § 23A-40-6, a reasonable and just compensation for the services and for necessary expenses and costs incident to the proceedings in an amount to be fixed by a judge of the

circuit court or a magistrate judge within guidelines established by the presiding judge of the circuit court.

Section 3. That § 23A-40-10 be AMENDED:

23A-40-10. If the court finds that funds are available for payment from or on behalf of a defendant to carry out, in whole or in part, the provisions of this chapter, the court may order that the funds be paid, as court costs or as a condition of probation, to the court for deposit with the state, county, or municipal treasurer, to be placed in the state, county, or municipal general fund or in the public defender fund in those counties establishing the office pursuant to subdivision 23A-40-7(1) as a reimbursement to the county or municipality to carry out the provisions of this section. The court may also order payment to be made in the form of installments or wage assignments, in amounts set by a judge of the circuit court or a magistrate judge, either during the time a charge is pending or after the disposition of the charge, regardless of whether the defendant has been acquitted or the case has been dismissed by the prosecution or by order of the court. The provisions of this section also apply to persons who have had counsel appointed under chapters 26-7A, 26-8A, 26-8B, and 26-8C. The reimbursement is a credit against any lien created by the provisions of this chapter against the property of the defendant.

An Act to provide for the payment of legal expenses originating from crime committed at a facility maintained by the Department of Corrections.

I certify that the attached Act originated in the:

House as Bill No. 1039

_____
Chief Clerk

_____
Speaker of the House

Attest:

_____
Chief Clerk

_____
President of the Senate

Attest:

_____
Secretary of the Senate

Received at this Executive Office this _____ day of _____,

2024 at _____M.

By _____
for the Governor

The attached Act is hereby approved this _____ day of _____, A.D., 2024

_____
Governor

STATE OF SOUTH DAKOTA,

ss.

Office of the Secretary of State

Filed _____, 2024 at _____ o'clock ___M.

_____
Secretary of State

House Bill No. 1039
File No. _____
Chapter No. _____

By _____
Asst. Secretary of State

HB1039 ENROLLED