

AN ACT

ENTITLED, An Act to revise certain provisions regarding clerk magistrate jurisdiction.

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

Section 1. That § 23A-45-9 be amended to read:

23A-45-9. Terms used in this title mean:

- (1) "Class 1 misdemeanor," the same as the term is defined in § 22-6-2;
- (2) "Class 2 misdemeanor," the same as the term is defined in § 22-6-2;
- (3) "Committing magistrate," any of the following:
  - (a) A justice of the Supreme Court;
  - (b) A judge of the circuit court;
  - (c) A magistrate judge;
  - (d) A nonlaw-trained magistrate when acting within the authority conferred under chapter 16-12C;
- (4) "Defendant," the party prosecuted in a criminal proceeding or a proceeding for the violation of an ordinance, bylaw, or police regulation of a unit of local government. A person becomes a defendant when he is arrested or summoned pursuant to § 23A-2-9, 23A-2-11, or 23A-3-1;
- (5) "Former acquittal," a plea to prevent a criminal action stating that the defendant has been charged and tried for the same alleged offense and has been acquitted. If a defendant was formerly acquitted on the ground of variance between an indictment or information and the proof, or if an indictment or information was dismissed upon an objection to its form or substance without a judgment of acquittal, it is not an acquittal of the same offense;
- (6) "Held to answer," the time at which an indictment or information is filed against a person;
- (7) "In camera," the judge viewing material with neither party present;

- (8) "In chambers," the judge and the parties determining a matter in the private office of the judge;
- (9) "Law enforcement officer," an officer or employee of the state or any of its units of local government, or of the United States, or an employee of a railroad or express company while on duty, who is responsible for the prevention or detection of criminal activity or for the enforcement of the criminal or highway traffic laws of the state. Nothing in this subdivision may be interpreted to extend the territorial jurisdiction, statutory jurisdiction, or statutory authority of any officer or employee included in this definition;
- (10) "Night," the period from 8:00 p.m. to 8:00 a.m., local time;
- (11) "Oath," an oath or an affirmation;
- (12) "Ordinance, bylaw, or police regulation," any rule of conduct promulgated by a unit of local government that may be punished by imprisonment or a fine, or both, for a violation. For purposes of this subdivision, the term, fine, does not include deposits for services rendered, licensing fees, or fees imposed for late payments for services rendered;
- (13) "Peace officer," a law enforcement officer;
- (14) "Prosecuting attorney," the attorney general, an assistant attorney general, a special assistant attorney general, a state's attorney or an assistant state's attorney, a special prosecutor appointed by a court, a city attorney or any deputy of the city attorney, or any attorney engaged by the state or a unit of local government to prosecute a criminal proceeding or a proceeding for the violation of an ordinance, bylaw, or police regulation of a unit of local government;
- (15) "State," the State of South Dakota and any of its units of local government;
- (16) "Subpoena," the process by which the attendance of a witness is required before a court, magistrate, or grand jury, or for the purpose of being deposed;

- (17) "Unit of local government," a chartered governmental unit, county, township, municipality, or any other subdivision of the state that may enforce its ordinances, bylaws, or regulations by bringing a court action that may result in a fine or imprisonment being imposed on the defendant.

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I certify that the attached Act  
originated in the  
HOUSE as Bill No. 1095

\_\_\_\_\_  
Chief Clerk  
=====

\_\_\_\_\_  
Speaker of the House

Attest:

\_\_\_\_\_  
Chief Clerk

\_\_\_\_\_  
President of the Senate

Attest:

\_\_\_\_\_  
Secretary of the Senate

House Bill No. 1095  
File No. \_\_\_\_\_  
Chapter No. \_\_\_\_\_

=====  
Received at this Executive Office  
this \_\_\_\_ day of \_\_\_\_\_ ,  
20\_\_ at \_\_\_\_\_ M.

By \_\_\_\_\_  
for the Governor  
=====

The attached Act is hereby  
approved this \_\_\_\_\_ day of  
\_\_\_\_\_, A.D., 20\_\_

\_\_\_\_\_  
Governor  
=====

STATE OF SOUTH DAKOTA,  
ss.  
Office of the Secretary of State

Filed \_\_\_\_\_, 20\_\_  
at \_\_\_\_\_ o'clock \_\_ M.

\_\_\_\_\_  
Secretary of State

By \_\_\_\_\_  
Asst. Secretary of State