

State of South Dakota

EIGHTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2010

583R0654

HOUSE BILL NO. 1278

Introduced by: Representatives Hamiel, Bolin, Brunner, Carson, Cutler, Dadrack, Fargen, Gibson, Gosch, Greenfield, Hoffman, Hunt, Iron Cloud III, Jensen, Juhnke, Kirkeby, Kopp, Krebs, Lederman, McLaughlin, Moser, Olson (Betty), Schlekeway, Sly, Sorenson, Turbiville, Vanneman, and Verchio and Senators Turbak Berry, Brown, Dempster, and Vehle

1 FOR AN ACT ENTITLED, An Act to provide for a process of obtaining certain information
2 from online content providers in slander and libel actions.

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

4 Section 1. That chapter 20-11 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Any person who allows internet posts shall keep a record of the internet-protocol logs
7 adequate to provide identification and location of otherwise unknown, anonymous, or
8 pseudonymous persons who leave or upload content. However, no person may be compelled to
9 produce such information except in response to a court order.

10 Section 2. That chapter 20-11 be amended by adding thereto a NEW SECTION to read as
11 follows:

12 Any party seeking an order compelling production of internet-protocol logs, whether in an
13 action brought under this chapter or under common law shall establish:



- 1 (1) That the request for information is made in good faith and not for any improper
2 purpose;
- 3 (2) That the information sought relates to a material claim or defense;
- 4 (3) That the identifying information is directly and materially relevant to that claim or
5 defense; and
- 6 (4) That the information sufficient to establish or to disprove that claim or defense is
7 unavailable from any other source.

8 Section 3. For the purposes of this Act the term, internet, is the same as the term is defined
9 in § 37-24-41.