

# State of South Dakota

EIGHTY-NINTH SESSION  
LEGISLATIVE ASSEMBLY, 2014

840V0487

## SENATE BILL NO. 128

Introduced by: Senators Jensen, Begalka, and Holien and Representatives Campbell, Kopp, May, Nelson, Olson (Betty), Qualm, Russell, Steele, and Wick

1 FOR AN ACT ENTITLED, An Act to protect the citizens and businesses of South Dakota  
2 regarding speech pertaining to views on sexual orientation and to provide for the defense  
3 of such citizens and businesses.

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

5 Section 1. No person or entity may bring suit against another person for expressing their  
6 religious beliefs on the subject of sexual orientation. The Legislature finds that vocalizing the  
7 viewpoint that any specific sexual orientation is wrong or a sin is free speech protected by the  
8 First Amendment to the United States Constitution and by S.D. Const., Art. VI, § 5. Nothing  
9 in this Act allows speech designed to incite or threaten violence against any person or entity.

10 Section 2. No person or entity may bring suit against a business for refusing to serve a  
11 person or couple based on sexual orientation. The Legislature finds that businesses are private  
12 and that their views on sexual orientation are protected to the same extent as the views of private  
13 citizens.

14 No private business may be compelled to employ a person based on sexual orientation. The  
15 Legislature finds that any federal recognition of any specific sexual orientation as a protected



1 class does not apply in South Dakota and may not be enforced within the geographical  
2 boundaries of South Dakota.

3 The State of South Dakota finds that the Constitution of the United States does not grant the  
4 federal government of the United States the authority to govern speech relating to sexual  
5 orientation or the right of employers to determine whom they employ based upon sexual  
6 preference or orientation.

7 Section 3. In any lawsuit brought in violation of section 1 or 2 of this Act, any judge  
8 presiding over the case shall:

- 9 (1) Dismiss, with prejudice, any suit in which the defendant is charged for expressing the  
10 defendant's religious beliefs on the subject of sexual orientation or advocating  
11 negative views on any specific sexual orientation;
- 12 (2) Determine the lawsuit to be frivolous;
- 13 (3) Levy punitive damages on any person who brings such a suit an amount no less than  
14 two thousand dollars; and
- 15 (4) Require the person pay court costs for both parties.

16 Section 4. The Attorney General of South Dakota shall, upon request, defend any person or  
17 business brought into state or federal court in alleged violation of section 1 or 2 of this Act.