

## AN ACT

ENTITLED, An Act to revise certain provisions relating to liability and to worker's compensation and disability payments for law enforcement officers performing duties in other jurisdictions.

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

Section 1. That § 34-48-2 be amended to read as follows:

34-48-2. In addition to the provisions of chapter 1-24 and chapter 34-48A, any public agency or covered entity may request assistance from any other public agency or covered entity in order to preserve and protect the public health, safety, and welfare. The requesting public agency and the deploying public agency shall utilize the Incident Command System of the National Incident Management System. Failure to correctly implement the National Incident Management System does not nullify any of the protections or provisions contained elsewhere in this chapter.

Section 2. That § 34-48-6 be amended to read as follows:

34-48-6. All personnel deployed by the deploying public agency or covered entity retain all authority of the deploying public agency or covered entity and are entitled to act with all authority available to similarly situated personnel of the public agency or covered entity receiving assistance. Any law enforcement officer acting under the provisions of this chapter has the same authority to act as any other law enforcement officer of the requesting agency while responding to the request.

Section 3. That § 34-48-7 be amended to read as follows:

34-48-7. Any deploying public agency or covered entity involved in the incident may request reimbursement for its actual expenses. If reimbursement is requested, the deploying public agencies or covered entities involved shall agree upon the actual, reasonable expenses involved. A deploying public agency that provides law enforcement assistance shall be reimbursed as provided in section 6 of this Act.

Section 4. That § 34-48-8 be amended to read as follows:

34-48-8. Except as provided in section 6 of this Act, any deploying public agency or covered entity providing assistance in response to a request under this chapter shall maintain ownership of and liability for all assistance provided, including:

- (1) Worker's compensation coverage for personnel employed, authorized, or designated to act by or on behalf of the deploying public agency or covered entity;
- (2) Insurance coverage for employees, agents, or volunteers of the deploying public agency or covered entity;
- (3) Property; and
- (4) Personnel benefits.

Section 5. That chapter 34-48 be amended by adding thereto a NEW SECTION to read as follows:

Any law enforcement officer responding to a request under the provisions of this chapter shall be treated as a law enforcement officer of the requesting agency for liability purposes while in its jurisdiction, and the requesting agency shall obtain and maintain liability coverage for those law enforcement officers responding to requests. While a law enforcement officer is assigned to temporary duty within the jurisdiction of another public agency, any liability that accrues on account of the negligent or otherwise tortious act of the law enforcement officer while performing the duty is the responsibility of the requesting public agency and not the deploying public agency.

This section does not apply to any law enforcement officer or other employee of a state agency of the State of South Dakota, an agency of the United States, or a tribal government.

Section 6. That chapter 34-48 be amended by adding thereto a NEW SECTION to read as follows:

Any law enforcement officer who is ordered by the deploying agency or who responds to the request of the authorities of another public agency to perform law enforcement duties outside

territorial limits of the public agency where the officer is employed, is entitled to the same wage, salary, pension, worker's compensation, and all other service rights for this service as for service rendered within the limits of the public agency where the law enforcement officer is regularly employed. All wage and disability payments, pension and worker's compensation claims, damage to equipment and clothing, and medical expense arising from such service to the requesting agency shall be paid by the public agency or town regularly employing the law enforcement officer.

A deploying public agency that provides law enforcement assistance and requests reimbursement shall be reimbursed by the requesting agency for actual expenses incurred by the deploying agency, which shall include wages and salary, employee benefits such as disability and pension, fuel and oil, incidental repairs, room and board, equipment, clothing and supplies, and the cost of workers' compensation insurance premiums at the time of employment.

This section does not apply to any law enforcement officer or other employee of a state agency of the State of South Dakota, an agency of the United States, or a tribal government.

An Act to revise certain provisions relating to liability and to worker's compensation and disability payments for law enforcement officers performing duties in other jurisdictions.

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I certify that the attached Act originated in the

SENATE as Bill No. 206

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

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

Attest:

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

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

Attest:

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

Senate Bill No. 206  
File No. \_\_\_\_\_  
Chapter No. \_\_\_\_\_

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Received at this Executive Office this \_\_\_\_\_ day of \_\_\_\_\_ ,

20\_\_\_\_ at \_\_\_\_\_ M.

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

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

\_\_\_\_\_  
Governor

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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