

State of South Dakota

NINETY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2016

400X0294

SENATE BILL NO. 25

Introduced by: The Committee on Judiciary at the request of the Office of the Attorney General

1 FOR AN ACT ENTITLED, An Act to revise certain provisions concerning forfeiture of
2 property interests of persons convicted of certain crimes.

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

4 Section 1. That § 22-24A-15 be amended to read:

5 22-24A-15. Any person who is convicted of an offense under §§ 22-19A-1, 22-24A-1 to 22-
6 24A-20, inclusive, 22-24B-1, 22-49-1 to 22-49-3, inclusive, 23A-27-14.1, 43-43B-1 to 43-43B-
7 3, inclusive, and 22-23-2, 22-23-8, and 22-23-9, or under 18 U.S.C. §§ 1466A, 1470, 1591,
8 2251, 2251A, 2252, 2252A, 2252B, 2252C, 2260, 2421, 2422, and 2423, as of January 1, 2016,

9 shall forfeit to the state the person's interest in the following and no property right exists in
10 them:

11 (1) Any photograph, film, videotape, book, digital media or visual depiction that has
12 been manufactured, distributed, purchased, possessed, acquired, or received in
13 violation of §§ 22-19A-1, 22-24A-1 to 22-24A-20, inclusive, 22-24B-1, 23A-27-
14 14.1, and 43-43B-1 to 43-43B-3, inclusive;

15 (2) Any material, product, and equipment of any kind that is used or intended for use in



1 manufacturing, processing, publishing, selling, possessing, or distributing any visual
2 depiction proscribed by §§ 22-19A-1, 22-24A-1 to 22-24A-20, inclusive, 22-24B-1,
3 23A-27-14.1, and 43-43B-1 to 43-43B-3, inclusive;

4 (3) Any property that is used, or intended for use, as a container for property described
5 in subdivisions (1) and (2) of this section, including any computers and digital media;

6 (4) Any conveyances including aircraft, vehicles, or vessels, that transport, possess, or
7 conceal, or that is used, or intended for use, to transport, or in any manner facilitate
8 any activity proscribed under §§ 22-19A-1, 22-24A-1 to 22-24A-20, inclusive, 22-
9 24B-1, 22-49-1 to 22-49-3, inclusive, 23A-27-14.1, and 43-43B-1 to 43-43B-3,
10 inclusive;

11 (5) Any book, record, and research, including microfilm, tape, and data that is used, or
12 intended for use, in violation of §§ 22-19A-1, 22-24A-1 to 22-24A-20, inclusive, 22-
13 24B-1, 22-49-1 to 22-49-3, inclusive, 23A-27-14.1, and 43-43B-1 to 43-43B-3,
14 inclusive;

15 (6) Any funds or other things of value used for the purposes of unlawfully carrying out
16 any activity proscribed by §§ 22-19A-1, 22-24A-1 to 22-24A-20, inclusive, 22-24B-
17 1, 22-49-1 to 22-49-3, inclusive, 23A-27-14.1, 43-43B-1 to 43-43B-3, inclusive, and
18 22-23-2, 22-23-8, and 22-23-9; and

19 (7) Any asset, interest, profit, income, and proceed acquired or derived from the unlawful
20 activity proscribed by §§ 22-19A-1, 22-24A-1 to 22-24A-20, inclusive, 22-24B-1,
21 22-49-1 to 22-49-3, inclusive, 23A-27-14.1, 43-43B-1 to 43-43B-3, inclusive, and
22 22-23-2, 22-23-8, and 22-23-9.

23 Any property described in subdivision (1) of this section shall be deemed contraband and
24 shall be summarily forfeited to the state. Any other property seized and forfeited shall be used

1 to reimburse the actual costs of the criminal investigation and prosecution. Any amount over
2 and above the amount necessary to reimburse for the investigation and prosecution shall be used
3 to satisfy any civil judgments received by victims. All remaining proceeds from the sale of any
4 forfeited property shall be paid into the South Dakota internet crimes against children fund.