



2025 South Dakota Legislature

Senate Bill 63

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

1 **An Act to establish protections for state employees who report crimes, misconduct,**
 2 **or conflicts of interest.**

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

4 **Section 1. That § 3-6C-1 be AMENDED:**

5 **3-6C-1.** Terms as used in chapters 3-6C to 3-6F, inclusive, mean:

- 6 (1) "Appointing authority," the hiring entity;
- 7 (2) "Commission," the Civil Service Commission;
- 8 (3) "Bureau," the Bureau of Human Resources and Administration;
- 9 (4) "Bureau commissioner," a person appointed by and serving at the pleasure of the
 10 Governor to administer one of the bureaus of the executive branch of state
 11 government;
- 12 (5) "Civil service," a system of human resource management for the executive branch
 13 of state government based on merit principles governing the appointment,
 14 promotion, compensation, removal, transfer, and other matters related to human
 15 resource management;
- 16 (6) "Civil service employee," a permanent employee not otherwise exempted by the
 17 provisions of chapter 3-6D;
- 18 (7) "Change in family status," marriage, divorce, or death of the member, spouse, or
 19 any covered dependent; birth or adoption of a child; or a change in the employment
 20 status of the member, spouse, or any covered dependent;
- 21 (8) "Class of positions," all civil service positions that are sufficiently similar in kind or
 22 subject matter of work performed, level of difficulty and responsibility, and
 23 knowledge, skills, and abilities to warrant similar treatment in personnel and pay
 24 administration;
- 25 (9) "Compensation," the total compensation, which includes direct salary and fringe
 26 benefits. Fringe benefits ~~includes~~ include employer paid retirement programs,

1 social security, health insurance, life insurance, and any other programs offering a
2 benefit to the employee in which the employer participates;

3 (10) Conflict of interest," as defined or described in:

4 (a) § 1-16A-6;

5 (b) § 1-16B-67;

6 (c) § 1-16H-12;

7 (d) § 3-16-7;

8 (e) § 3-16-8;

9 (f) § 3-23-1;

10 (g) §§ 5-18A-17 to 5-18A-17.6, inclusive;

11 (h) § 11-11-14;

12 (i) § 22-30A-46;

13 (j) § 42-7A-27; or

14 (k) § 42-7A-28;

15 (11) "Contribution," the dollar amount established by the human resources
16 commissioner sufficient to cover the cost of the insurance plan;

17 ~~(11)~~(12) "Department secretary," a person appointed by and serving at the pleasure of
18 the Governor to administer one of the major departments of the executive branch
19 of state government;

20 ~~(12)~~(13) "Dependent," a person who is:

21 (a) An employee's spouse who is not divorced or legally separated from the
22 employee; or

23 (b) An employee's child who is:

24 (i) Under the age of twenty-six or under the age of twenty-nine if a full-
25 time student; and

26 (ii) Not in military service;

27 ~~(13)~~(14) "Deputy," a person who serves as first assistant to, and at the pleasure of, a
28 department secretary, bureau commissioner, or division director if allowed by law;

29 ~~(14)~~(15) "Division director," a person appointed by and serving at the pleasure of the
30 department secretary or bureau commissioner to administer a division within a
31 major department or bureau of the executive branch of state government;

32 ~~(15)~~(16) "Employee," any person working for state government, paid by the state, or
33 remunerated by other funds raised, appropriated, or otherwise generated by the
34 state. The term does not include any person working for any authority authorized
35 by law;

- ~~(16)~~(17) "Employer," the State of South Dakota;
- ~~(17)~~(18) "Executive branch employee," any employee working for state government except those working for the legislative or judicial branches of state government;
- ~~(18)~~(19) "Human resources commissioner," the commissioner of the bureau;
- ~~(19)~~(20) "Improper governmental conduct," fraud, misappropriation, or misfeasance;
- (21) "Law enforcement employee," any certified law enforcement officer working for the Division of Criminal Investigation or the Highway Patrol;
- ~~(20)~~(22) "Member," a state employee or retiree who is covered by the plan as the primary insured and who may elect to have his or her dependents covered by the plan;
- ~~(21)~~(23) "Permanent employee," an active employee placed in a permanent position, employed by a participating agency. This term does not include temporary, emergency, patient, or student employees;
- ~~(22)~~(24) "Plan," the state employee's benefit insurance plan as created by chapter 3-6E;
- ~~(23)~~(25) "Plan-eligible employee," a permanent employee who is scheduled to work twenty or more hours a week at least six months of the year or an employee employed by an appointing authority who has worked an average of thirty hours or more per week during a twelve-month standard measurement period, as defined by the Patient Protection and Affordable Care Act of 2010, as amended to January 1, 2019;
- ~~(24)~~(26) "Position," a collection of duties and responsibilities assigned by the appointing authority to one person;
- ~~(25)~~(27) "Safety-sensitive position," any law enforcement officer authorized to carry firearms and any custody staff employed by any agency responsible for the rehabilitation or treatment of any adjudicated adult or juvenile;
- ~~(26)~~(28) "Self-insured," a state-supported benefit plan in which the initial risk for any losses is born by the plan;
- ~~(27)~~(29) "Spouse," an employee's husband or wife as a result of marriage that is legally recognized in this state or under the laws of the state where the marriage occurred. The term does not include a spouse as a result of a common-law marriage; and
- ~~(28)~~(30) "Substance," marijuana as defined in subdivision 22-42-1(7) and any controlled drug or substance as defined in chapter 34-20B.

Section 2. That a NEW SECTION be added to chapter 3-6C:

1 A supervising state employee may not discharge, discriminate against, or take any
2 other retaliatory action against a state employee because the state employee has, as a
3 result of suspected criminal activity against the state, improper governmental conduct, or
4 a conflict of interest:

5 (1) Filed a complaint;

6 (2) Instituted or caused to be instituted a proceeding;

7 (3) Requested or participated in an audit;

8 (4) Testified, or will testify, in a proceeding; or

9 (5) Exercised any other right or obligation imposed by this chapter or any law of this
10 state.

11 A state employee who believes retaliation has occurred in violation of this section
12 may, within two years after the first alleged retaliatory action occurs, file a complaint with
13 the attorney general describing the retaliation. The attorney general may institute a civil
14 action in a court of competent jurisdiction alleging a violation of this section. The court
15 may grant any appropriate relief, including an injunction to restrain continued violation of
16 this section and reinstatement of the state employee's former position with back pay.

17 In any action brought pursuant to this section, the attorney general must show, by
18 a preponderance of evidence, that the exercise of any right protected by this section
19 contributed to the alleged retaliatory action. Upon establishment of a prima facie case of
20 retaliation, the supervising state employee alleged to have violated this section has the
21 burden to prove, by clear and convincing evidence, that the state employee's exercise of
22 a right protected by this section did not contribute to the alleged retaliatory action.

23 It is a defense to any action brought pursuant to this section that the alleged
24 retaliatory action was predicated upon grounds other than the state employee's exercise
25 of a right protected by this section.