

State of South Dakota

NINETY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2017

829Y0597

SENATE BILL NO. 151

Introduced by: Senators Curd and Maher

1 FOR AN ACT ENTITLED, An Act to create a complaint procedure to resolve allegations of
2 misconduct regarding certain public officials.

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

4 Section 1. That the code be amended by adding a NEW SECTION to read:

5 Any person may initiate an investigation into the alleged misconduct, breach of a statutory
6 duty, or malfeasance of a legislator, a candidate for the Legislature or other statewide elective
7 office, a current or former employee of the executive branch of state government, or an elected
8 or appointed officer of the executive branch of state government.

9 Section 2. That the code be amended by adding a NEW SECTION to read:

10 A person may initiate an investigation by filing a written complaint with:

- 11 (1) The Government Operations and Audit Committee for allegations about a legislator:
12 (2) The secretary of state for allegations about a candidate for the Legislature or
13 statewide office; or
14 (3) The State Board of Internal Control for allegations about a current or former
15 employee in the executive branch or an elected or appointed officer of the executive



1 branch.

2 Section 3. That the code be amended by adding a NEW SECTION to read:

3 The written complaint alleging the misconduct, breach of statutory duty, or malfeasance
4 shall be signed and sworn to by the complainant, fully state all the facts relied on by the
5 complainant, and identify the sources of the factual information. The written complaint shall be
6 sufficiently detailed and the allegations internally consistent to be plausible. The complaint shall
7 be evaluated from the standpoint of a reasonable person. The lack of credible factual evidence
8 to corroborate the allegation of misconduct shall undermine the complaint. Conclusions,
9 opinions, suppositions, rumors, and innuendoes may not be considered in the review of the
10 complaint.

11 Section 4. That the code be amended by adding a NEW SECTION to read:

12 An investigation by an entity identified in section 2 of this Act, may include inquiries by
13 mail, in-person or phone interviews, consultations with the person making the complaint or the
14 accused person, taking sworn statements or depositions, or other actions deemed necessary to
15 complete the investigation. The complaint and the information related to the complaint are
16 confidential and not a public record pursuant to chapter 1-27.

17 Section 5. That the code be amended by adding a NEW SECTION to read:

18 If a complaint is considered to be without merit after the investigation is complete, the
19 complaint may be dismissed. The person who was accused and the person who made the
20 complaint shall be notified of the investigation findings, conclusions, and dismissal.

21 Section 6. That the code be amended by adding a NEW SECTION to read:

22 If a complaint is considered to have merit after an investigation is complete, the complaint,
23 the investigation findings, and conclusion shall be forwarded to:

24 (1) The Division of Criminal Investigation, a state's attorney, or the attorney general for

- 1 an alleged criminal law violation to determine if a criminal prosecution is justified;
- 2 (2) The Executive Board of the Legislative Research Council to determine the
- 3 appropriate recommendation of discipline including expulsion from the Legislature;
- 4 or
- 5 (3) The Governor to remedy the misconduct of employees, appointed officers, or elected
- 6 officers of the executive branch.
- 7 Any complaint that is considered to have merit by the secretary of state after the
- 8 investigation is complete may be resolved pursuant to the enforcement authority provided to the
- 9 secretary of state pursuant to chapter 12-27.