

# SDPSIA (SB70) - 2013

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(enrolled bill):

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Topic	SB70 Section #	Description of Sections	Effective Date
Definitions	1	Definitions of terms used in the Act.	7/1/13
Drug Courts	2-7	Requires the Chief Justice to establish a drug court advisory council; defines a drug court; authorizes the Supreme Court to establish drug court programs in courts with jurisdiction over criminal cases; requires the Supreme Court to establish eligibility criteria for drug court and excludes drug court participants from earned discharge credits in section 22; specifies that statements made by drug court participants or reports made by staff as part of the program regarding a participant's use of controlled substances are not admissible as evidence against the participant in a legal proceeding or prosecution; and requires UJS to report performance measures semiannually to the oversight council established in section 67.	7/1/13
Veterans	8	Describes the procedure for identifying court-involved veterans and active military personnel and determining possible treatment options.	7/1/13
HOPE Courts	9-11	Authorizes the Supreme Court to establish two South Dakota HOPE court pilot programs; requires the Supreme Court to establish rules for the HOPE pilot programs; requires an evaluation of the HOPE pilot programs; and requires UJS to report performance measures semiannually to the oversight council established in section 67.	1/1/14
Tribal Pilots	12 & 13	Authorizes the Department of Corrections (DOC), with the assistance of the Department of Tribal Relations, to establish tribal parole pilot programs to supervise state parolees within Indian County and requires the DOC to report performance measures semiannually to the oversight council established in section 67.	7/1/13
EBP- Probation	14-19	Requires the Supreme Court to establish rules regarding felony probation supervision practices and requires these practices be evidence-based; requires UJS to semiannually report performance measures to the oversight council established in section 67; requires the Supreme Court to establish rules for the development and use of a graduated sanctions procedure and sanction grid to guide Court Service Officers in determining appropriate responses to violations of conditions of probation; requires the State Court Administrator's Office to collect and report graduated sanctions data semiannually to the oversight council established in section 67; requires individuals who supervise and provide intervention services to probationers receive training on evidence-based practices and targeting criminal risk factors to reduce recidivism; and requires UJS to send the case history of a probationer sentenced to a term of imprisonment in the state penitentiary to the DOC.	10/1/13
EBP-Judicial Training	20	Requires magistrate and circuit court judges complete training on evidence-based practices.	10/1/13
Earned Discharge- Probation	22-25	Requires the Supreme Court to establish rules for the criteria and procedure for earning and awarding of earned discharge credits for probation; requires the State Court Administrators Office oversee the awarding of earned discharge credits; authorizes all probationers, except	7/1/13

		persons on probation for sex crimes, shall be eligible for early discharge credits; and requires the State Court Administrators Office to collect and report earned discharge data semiannually to the oversight council established in section 67.	
EBP-Parole	27-34	Requires the use of evidence-based practices in parole-decision making and determining appropriate supervision levels and interventions; requires individuals who supervise and provide intervention services to parolees receive training on evidence-based practices and targeting criminal risk factors to reduce recidivism; requires DOC to monitor the parole supervision practices and training requirements and report semiannually to the oversight council; requires case histories generated by the Executive Director of the Board of Pardons and Paroles to include the results of all risk and needs assessments conducted on the inmate and copies of all documents relevant to the inmate's prior custodies; requires the Executive Director of the Board of Pardons and Paroles, in preparing for each parole hearing, receive from the DOC the results of all risk and needs assessments conducted on the inmate and any available documents relevant to the inmate's prior custody; establishes a list of formal responses ranging from a written reprimand, to community service, to treatment, if available, to incarceration for those who violate parole conditions; and creates training requirements for new and sitting members of the parole board.	7/1/13
Earned Discharge – Parole	36-39	Describes the process for awarding earned discharge credits for parolees; creates a requirement that parole agents report the names of parolees eligible for earned discharge credits earned in the previous month to the DOC; establishes an earned discharge credit review process for parolee objections to an ineligibility decision; and specifies the earned discharge data the DOC is required to collect and report semiannually to the oversight council established in section 67.	7/1/13
Financial Obligations	40 & 43-50	Requires inmates discharging from the DOC who still owe financial obligations to be transferred to the administrative financial obligations system; authorizes the DOC or UJS to place any offender with outstanding court-ordered financial obligations into the administrative financial accountability system; requires that any parolee, inmate or probationer who had discharged from supervision but has outstanding court-ordered financial obligations be transferred to the administrative financial accountability system; requires UJS to administer the administrative financial accountability system and monitor and track payments and sanctions; requires the Supreme Court to promulgate rules for the collection of outstanding debts, including a graduated sanctioning grid policy and a policy for termination of an adjustment of financial obligations; allows financial obligations over 25 years old which are deemed to be uncollectable to be terminated; makes failure to comply with court-ordered	1/1/14

		financial obligation plans, including restitution, a probation violation and allows the court to modify the financial obligation plan; makes the original sentencing court the court of competent jurisdiction for contempt and review hearings as part of the administrative financial accountability system sanctioning grid; and requires UJS to report the implementation and outcomes semiannually to the oversight council established in section 67.	
Old System Parolees	41	Clarifies that the use of evidence-based practices, response to violations, earned discharge and transfer to the administrative financial accountability system applies to old system parolees.	7/1/13
Preliminary Hearings	52	Eliminates preliminary hearings for Class 1 misdemeanors.	7/1/13
Presumptive Probation	53	Creates a presumptive term of probation for Class 5 or Class 6 felonies and describes eligibility criteria.	7/1/13
Ingestion & Altered State	54	Creates the stand-alone offense of possession of a controlled substance in an altered state. If the ingested substance is a Schedule I and Schedule II controlled substance, the penalty will be a Class 5 felony. If the substance is listed in Schedule III or Schedule IV, the penalty will be a Class 6 felony.	7/1/13
Sch. I & II - Manu./Dist.	55	Establishes a Class 3 felony for distribution of drugs. In order to establish distribution, the prosecution must prove three of five factors are present. The factors include: the possession of \$300 or more in cash; a firearm; bulk materials used for the packaging of a controlled substance included recipes, precursor chemicals, laboratory equipment, lighting, ventilation or power generating equipment, and drug transaction records or customer lists.	7/1/13
Sch. III & IV- Manu./Dist.	56 & 57	Adds the term "controlled drug" to the existing controlled substance statutes.	7/1/13
Possession	58	Amends the possession statute and reduces the violation for possessing a Schedule I or II controlled substance from a Class 4 felony to a Class 5 felony and makes it a Class 6 felony to possess a substance listed in Schedule III and Schedule IV. This section also clarifies that ingested substances new provision in section 54 or altered state substances must be used.	7/1/13
Misprision	59	Creates an exception for the crime of misprision of a felony for altered state UA and hot UA felony cases.	7/1/13
Grand Theft	60	Establishes a tiered system for grand theft. Grand theft will be a Class 6 felony if the value is \$1,000 to \$2,500, a Class 5 felony if the value is \$2,500 to \$5,000, a Class 4 felony if the value is \$5,000 to \$100,000 and Class 3 felony if the property is valued at more than \$100,000 but less than \$500,000.	7/1/13
Aggravated Grand Theft	61	Amends the crime of aggravated grand theft which is theft greater than \$500,000. The penalty is a Class 2 felony.	7/1/13

Burglary 3rd	62	Reduces a third degree burglary from a Class 4 felony to a Class 5 felony.	7/1/13
Aggravated DUI	63 & 64	Establishes a sixth or subsequent DUI offense, for offenders with at least five DUI convictions within 25 years, as an aggravated DUI with a penalty of a Class 4 felony and a required term of 10 years of supervision for 10 or more DUI convictions and 5 years of supervision for 5-9 DUI convictions and allows for DUIs older than 10 years to be used if that DUI would fall under the provisions of section 63.	7/1/13
DUI 4th	65 & 66	Clarifies sentencing pursuant to DUI 4 <sup>th</sup> includes the provisions governing suspension of execution of a sentence included in section 66 of the act; modifies the provisions dealing with suspended execution of sentence and allows for persons convicted of DUI 4 <sup>th</sup> to be sentenced to jail for up to a year as a condition of a suspended execution of sentence. This section also encourages the court to not incarcerate an individual for a period that exceeds 60 consecutive days to ensure the court retains authority to impose additional days of imprisonment if necessary during the term of supervision. The court retains jurisdiction to raise or lower the required period of incarceration within the section otherwise allowed by law.	7/1/13
Oversight Council	67-69	Establishes an oversight council and requires UJS to provide staff support to the council; describes the composition of the council; and describes the meeting requirements and powers and duties of the council.	7/1/13
Intervention and Treatment	70	Defines treatment and intervention programs, requires all treatment and intervention programs for parolees and probationers be based on assessments and prioritize the reduction of recidivism as demonstrated by research or documented evidence, and specifies the type of data to be collected and submitted semiannually to the oversight council.	7/1/13
Fiscal Impact Statement	71-75	Requires a fiscal impact statement be included with any legislation bill or ballot initiative which may impact jail or prison populations.	7/1/13
SAVIN	76	Requires the Office of the Attorney General to oversee the establishment, implementation, and maintenance of the statewide automated victim information and notification (SAVIN) system.	7/1/14
Reinvestment Program	77	Requires the DOC to promulgate rules, to administer a reinvestment program for purposes of improving public safety and reducing recidivism. This section requires UJS to provide data to DOC about the number of probationers at the end of each year. A calculation will be done to determine how many felony probationers were sentenced in the last five years. A trend line based on growth will project growth based on past performance. If the use of felony probation and the county has increased beyond the trend line, then the county will be compensated for additional felony probationers under supervision at fiscal year-end. The county Sheriff shall receive \$1,000 for each additional probationer beyond the trend line. In counties without a	6/30/14

		county jail, the sheriff shall receive \$200 per probationer above the trend line as compensation for additional transportation costs.	
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