

# State of South Dakota

NINETIETH SESSION  
LEGISLATIVE ASSEMBLY, 2015

850W0299

## HOUSE BILL NO. 1160

Introduced by: Representatives Hickey, Heinemann (Leslie), Johns, Killer, Kirschman, Qualm, Soli, and Willadsen and Senators Hunhoff (Bernie), Heinert, Lederman, Solano, and Sutton

1 FOR AN ACT ENTITLED, An Act to require a defendant to undergo a mental examination  
2 prior to any sentence imposed after a defendant is found guilty but mentally ill.

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

4 Section 1. That § 23A-27-38 be amended to read as follows:

5 23A-27-38. If a defendant is found "guilty but mentally ill" or enters that plea and the plea  
6 is accepted by the court, the court shall ~~impose any sentence which could be imposed upon a~~  
7 ~~defendant pleading or found guilty of the same charge. If the defendant is sentenced to the state~~  
8 ~~penitentiary, he shall~~ order the defendant to undergo further examination ~~and~~ prior to any  
9 sentence imposed. If the defendant is sentenced to the state penitentiary, the defendant may be  
10 given the treatment that is psychiatrically indicated for ~~his~~ the defendant's mental illness. If  
11 treatment is available, it may be provided through facilities under the jurisdiction of the  
12 Department of Social Services. The secretary of corrections may transfer the defendant from the  
13 penitentiary to other facilities under the jurisdiction of the Department of Social Services, with  
14 the consent of the secretary of social services, and return the defendant to the penitentiary after



1 completion of treatment for the balance of the defendant's sentence.