



RECEIVED

MAR 19 2018

S.D. SEC. OF STATE

OFFICE OF ATTORNEY GENERAL

1302 East Highway 14, Suite 1
Pierre, South Dakota 57501-8501

Phone (605) 773-3215

Fax (605) 773-4106

TTY (605) 773-6585

<http://atg.sd.gov/>

MARTY J. JACKLEY
ATTORNEY GENERAL

CHARLES D. MCGUIGAN
CHIEF DEPUTY ATTORNEY GENERAL

HAND DELIVERED

March 19, 2018

Hon. Shantel Krebs
Secretary of State
500 E. Capitol
Pierre, SD 57501

**RE: Attorney General's Statement for initiated constitutional amendment
(requiring physical damage)**

Dear Secretary Krebs,

This Office received a proposed initiated constitutional amendment that the sponsor will seek to place on the November 2020 general election ballot. Enclosed is a copy of the proposed constitutional amendment, in final form, that was submitted to this Office. In accordance with SDCL 12-13-25.1, I hereby file the Attorney General's Statement with respect to this amendment.

By copy of this letter, I am providing a copy of the Attorney General's Statement to the sponsor pursuant to SDCL 12-13-25.1.

Very truly yours,

A handwritten signature in black ink, appearing to read "Marty J. Jackley", written over a horizontal line.

Marty J. Jackley
ATTORNEY GENERAL

MJJ/PA/lde
Enc.

cc/enc.: Levi Breyfogle
Jason Hancock, Director of LRC

CONSTITUTIONAL AMENDMENT

ATTORNEY GENERAL'S STATEMENT

Title: An initiated amendment to the South Dakota Constitution requiring physical damage in order for conduct to be considered a violation of the law.

Explanation:

This amendment significantly re-defines what would be considered a violation of state or local law. Under the amendment, conduct is a violation only if the perpetrator damages another person or person's property. Damages must be physical, quantifiable, and have already occurred. Under the amendment, if a victim does not file a charge, there can be no prosecution. If the victim is incapable of doing so, a family member may bring the charge, as long as the victim does not object.

The amendment would take effect July 1, 2021. At that time, victims must be notified in all cases where there are pending charges, uncompleted sentences, or unpaid fines. If a victim does not file a charge as described in this amendment, then the case, sentence, or fine must be dismissed.

The amendment prohibits the use of state and local funds, personnel, or property to implement or enforce any federal law that violates this amendment.

Some of the amendment's provisions are unclear and will require judicial interpretation and clarification. Any state and local laws that do not meet the amendment's requirements would no longer be valid. A substantial re-write of state and local criminal laws will be necessary.

Filed this 19th day of

March 2018

Shantel Krebs

SECRETARY OF STATE

RECEIVED

MAR 19 2018

S.D. SEC. OF STATE

Attorney General
JAN 31 2018

BE IT ENACTED BY THE PEOPLE OF SOUTH DAKOTA:

That Article VI of the Constitution of the State of South Dakota be amended by adding NEW SECTIONS to read as follows:

§ 30. In order for a violation of the law to have been committed each of the following shall occur:

(1) A charge of a violation may only be filed by a individual victim whose person or property have been physically damaged by the defendant. If the victim is incapable of filing a charge of a violation, a family member may, but only if the victim does not object;
and

(2) The damages must be physical, quantifiable, and have already occurred.

§ 31. Each known victim in any pending case on July 1, 2021, in the law enforcement, judicial, or correctional systems shall be notified and the victim may file a charge of a violation. If no victim files a charge of a violation, the case, sentence, or outstanding fine shall be dropped by October 1, 2021. If a charge is filed, the charge shall be initially reviewed within 30 days to verify the person filing the charge was a probable victim of a willful, direct, physical action of the defendant. No restitution shall be paid for time or fines already paid by any person currently or previously incarcerated or paying fines even if a charge of a violation is dropped pursuant to this section.

§ 32. No public-funds of this state, or any political subdivision of this state, may be expended for the implementation, regulation, or enforcement of any federal law, executive order, rule, or regulation regulating any case that is in violation of this amendment. No personnel or property of this state, or any political subdivision of this state, may be utilized for the implementation, regulation, or enforcement of any federal law, executive order, rule, or regulation that is in violation of this amendment.