



LEGAL PROTECTIONS FOR PUBLIC HEALTH OFFICIALS

South Dakota Fact Sheet

Obstructing Public Officers or Employees

Nationwide, state and local public health officials working to protect the public from COVID-19 are on the receiving end of threatening and harassing conduct for simply fulfilling their duty to protect the public health. In response, the Network conducted research to examine whether the states and Washington, D.C., have criminal statutes punishing individuals who impede public health officials' duties with such behavior. Our research is presented in this [chart](#). Many states have adopted statutes to protect public officials generally; included here are those with broad enough language to include public health officials. However, we have also included the three states with laws that if broadened, would encompass public health officials, namely, Illinois, North Carolina, and Vermont. While 35 states and Washington, D.C., have such a statute, the remaining 15 states either do not have a statute protecting government officials in these circumstances or do not have one protecting public health officials. Of the 35 states and Washington, D.C., all but two, Louisiana and Oklahoma, include protections for state **and** local officials. Below is more information on South Dakota's relevant law.

South Dakota Codified Laws, § 22-11-3, Obstructing Certain Public Officers or Employees

Any person who intentionally obstructs or attempts to obstruct a public officer or employee, not a law enforcement officer, firefighter, or emergency medical technician in the performance of any official duty, or who resists a public officer in performance of that duty, is guilty of a Class 2 misdemeanor.

Relevant Definitions

South Dakota Codified Laws, § 22-1-2

“Public officer,” any person who holds a position in the state government or in any of its political subdivisions, by election or appointment, for a definite period, whose duties are fixed by law, and who is invested with some portion of the sovereign functions of government.

Penalties

South Dakota Codified Laws, §22-6-2



Up to 30 days imprisonment and/or up to \$500 fine

Summary

A person may be guilty of obstructing public officers or employees if he/she attempts to hinder that person in the performance of his/her duty. Public officers may be state or local government (political subdivision) employees. If convicted, a person faces up to 30 days imprisonment and/or up to a \$500 fine.

Template for Notifying Violators

Below is a sample template for notifying individuals regarding their conduct relative to the code.

South Dakota Codified Laws, § 22-11-3 prohibits obstructing public officers or employees. [insert here a description of the conduct with a date—for example: On August 28, 2020, you sent an email threatening harm to the South Dakota Secretary of Health attempting to influence the decision of implementing a mask mandate.] *This may constitute a violation of § 22-11-3. If convicted, you face up to 30 days imprisonment and/or a fine of up to \$500.*

- If the conduct is extreme, add: *We have notified the [insert proper law enforcement agency] of this conduct.*
- If the conduct does not rise to the level of reporting, add: *Should you continue with this conduct, we may report the matter to [insert law enforcement agency].*