

ARTICLE 44:12

TATTOOING, SALINE TATTOO REMOVAL, AND BODY PIERCING

Chapter

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CHAPTER 44:12:01

MINIMUM SANITATION STANDARDS FOR TATTOOING AND SALINE TATTOO REMOVAL

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44:12:01:01. Definitions. The terms As used in this chapter mean:

(1) "Autoclave," means a device for sterilization by steam, usually at 250 degrees Fahrenheit, for a specified length of time as determined by the manufacturer's instructions;

(2) "Communicable disease," means a disease which is capable of being transmitted from person to person;

(3) "Department," means the state Department of Health;

(4) "Disposable setup," means a setup that consists of one liner tube, one shade tube, and a needle bar setup for the liner tube and the shade tube;

(5) "Minor," means a person who is under the age of 18 years;

(6) "Patron," means a person who receives a tattoo or saline tattoo removal;

(7) "Permanent tattoo establishment," means a building where tattooing is practiced on a year-round basis;

(8) "Saline tattoo removal," means the insertion of a saline solution in skin to lighten or remove an existing tattoo. The term does not include the use of other acids or of lasers as described in SDCL 36-4-8.2;

(9) "Saline tattoo removal area," means, within a saline tattoo removal establishment, the immediate vicinity where saline tattoo removal is performed;

(10) "Saline tattoo removal artist," means a person engaged in the practice of saline tattoo removal;

(11) "Saline tattoo removal establishment," means the building or structure where saline tattoo removal is practiced;

(~~8~~12) "Tattoo artist," means a person engaged in the practice of tattooing or microblading, or both;

(~~9~~13) "Tattoo establishment," means the building or structure where tattooing is practiced;

(1014) ~~Tattooing~~, " means to make marks or designs into the skin by puncturing it and inserting indelible colors. ~~Tattooing~~ The term includes microblading and similar techniques used to partially or fully simulate natural hair;

(1115) "Tattooing area," means, within a tattoo establishment, the immediate vicinity where tattooing is performed; and

(1216) "Temporary tattoo establishment," means a building or structure where tattooing is practiced for not more than 30 days.

Source: 19 SDR 64, effective November 3, 1992; 39 SDR 119, effective January 8, 2013; 45 SDR 31, effective September 10, 2018.

General Authority: SDCL 34-1-17(8).

Law Implemented: SDCL 9-34-17, 34-1-17(8).

44:12:01:02. Applicability. The standards in this article apply to ~~both~~ temporary and permanent tattoo, and saline tattoo removal, establishments.

Source: 19 SDR 64, effective November 3, 1992.

General Authority: SDCL 34-1-17(8).

Law Implemented: SDCL 9-34-17, 34-1-17(8).

44:12:01:03. Tattoo and saline tattoo removal establishments -- General provisions. A tattoo or saline tattoo removal establishment ~~shall~~ must be a minimum of 60 square feet for one tattoo artist or saline tattoo removal artist and 40 square feet for each additional artist. A tattoo

establishment ~~shall~~ or saline tattoo removal artist must be enclosed and physically separated by solid partitions at least seven feet high or walls extending from floor to ceiling from facilities used for practices other than tattooing, saline tattoo removal, and body piercing. Floors and walls ~~of the tattooing area shall~~ must be smooth, easily cleanable, nonabsorbent, and in good repair. Ceilings above the ~~tattooing area shall~~ must be smooth, easily cleanable, and in good repair. A minimum of 30 foot-candles of light shall be provided for applying the tattoo or performing saline tattoo removal and a minimum of 10 foot-candles for general lighting.

Source: 19 SDR 64, effective November 3, 1992; 39 SDR 119, effective January 8, 2013.

General Authority: SDCL 34-1-17(8).

Law Implemented: SDCL 9-34-17, 34-1-17(8).

44:12:01:04. Tattoo and saline tattoo removal establishments -- Handwashing facility required. An easily accessible handwashing facility supplied with warm, potable, running water ~~shall~~ must be provided in or directly adjacent to the tattooing or saline tattoo removal area. Each handwashing facility ~~shall~~ must be provided with liquid soap and single-use paper towels or a commercial hand dryer.

Source: 19 SDR 64, effective November 3, 1992; 39 SDR 119, effective January 18, 2013.

General Authority: SDCL 34-1-17(8).

Law Implemented: SDCL 9-34-17, 34-1-17(8).

44:12:01:05. Tattoo and saline tattoo removal establishments -- Toilet facilities. Toilet facilities must be available for employee or patron use.

Source: 19 SDR 64, effective November 3, 1992.

General Authority: SDCL 34-1-17(8).

Law Implemented: SDCL 9-34-17, 34-1-17(8).

44:12:01:06. Tattoo and saline tattoo removal establishments -- General-use equipment.

Tables, chairs, and other general-use equipment must be constructed of plastic, metal with enamel or porcelain coating, or stainless steel. General-use equipment must be maintained in an easily cleanable condition. Covered waste containers with single-use plastic liners must be provided.

Source: 19 SDR 64, effective November 3, 1992.

General Authority: SDCL 34-1-17(8).

Law Implemented: SDCL 9-34-17, 34-1-17(8).

44:12:01:07. Tattoo and saline tattoo removal establishments -- Animals prohibited --

Restricted activities. Animals other than service animals are prohibited in tattoo or saline tattoo removal establishments. Smoking, eating, and drinking are prohibited within 10 feet of the tattooing or saline tattoo area. No tattoo or saline tattoo removal, establishment may be used for any activity that is not directly associated with the practice of tattooing, saline tattoo removal, or body piercing.

Source: 19 SDR 64, effective November 3, 1992; 39 SDR 119, effective January 8, 2013.

General Authority: SDCL 34-1-17(8).

Law Implemented: SDCL 9-34-17, 34-1-17(8).

44:12:01:08. Tattoo and saline tattoo removal establishments -- Maintenance. A tattoo or saline tattoo removal establishment must be maintained in a clean, sanitary, vermin-free condition and in good repair.

Source: 19 SDR 64, effective November 3, 1992.

General Authority: SDCL 34-1-17(8).

Law Implemented: SDCL 9-34-17, 34-1-17(8).

44:12:01:09. Tattoo and saline tattoo removal establishments -- Inspection. A tattoo or saline tattoo removal establishment must be inspected at least annually to determine compliance with this chapter.

Source: 19 SDR 64, effective November 3, 1992.

General Authority: SDCL 34-1-17(8).

Law Implemented: SDCL 9-34-17, 34-1-17(8).

44:12:01:10. Required equipment for tattoo and saline tattoo removal establishments. A tattoo or saline tattoo removal establishment ~~shall~~ must be equipped with a steam pressure autoclave capable of producing 15 pounds of pressure per square inch for the time specified in the manufacturer's user manual. The autoclave ~~shall~~ must have an internal heat source, a temperature gauge with a sensor for the exhaust, a pressure gauge, and an operational safety valve. If the establishment uses only single-use, pre-sterilized, disposable instruments and products, an autoclave is not required.

Source: 19 SDR 64, effective November 3, 1992; 39 SDR 119, effective January 8, 2013.

General Authority: SDCL 34-1-17(8).

Law Implemented: SDCL 9-34-17, 34-1-17(8).

44:12:01:11. Required equipment for tattoo and saline tattoo removal artists -- Reusable equipment. A tattoo or saline tattoo removal artist using reusable equipment ~~shall~~ must have the following equipment:

- (1) Twenty-five liner tubes of ~~whatever~~ any preferred style and design ~~preferred~~ in sealed sterile envelopes;
- (2) Twenty-five shader tubes of ~~whatever~~ any preferred style and design ~~preferred~~ in sealed sterile envelopes;
- (3) Fifty needle bar setups with needles attached in sealed sterile envelopes;
- (4) Five hundred disposable pigment containers, except that no saline tattoo removal artist only providing saline tattoo removal services is required to have equipment for pigments;
- (5) Three hundred disposable latex or vinyl examination gloves;
- (6) One gallon each of germicidal soap, isopropyl alcohol, and distilled water for prepping skin;
- (7) Access to the applicable sterilization and sanitization measures in this chapter;
- (8) Closed dustproof containers for the exclusive storage of instruments, dyes, pigments, stencils, and other equipment;
- (9) Gauze and bandages; and
- (10) ~~Autoclave~~ An autoclave.

Source: 19 SDR 64, effective November 3, 1992; 39 SDR 119, effective January 8, 2013.

General Authority: SDCL 34-1-17(8).

Law Implemented: SDCL 9-34-17, 34-1-17(8).

44:12:01:11.01. Required equipment for tattoo and saline tattoo removal artists -- Single use disposable equipment. A tattoo or saline tattoo removal artist using disposable equipment ~~shall~~ must have the following equipment:

(1) Two hundred and fifty disposable setups for a temporary tattoo establishments establishment;

(2) One hundred disposable setups for a permanent establishment;

(3) Five hundred disposable pigment containers except that no saline tattoo removal artist only providing saline tattoo removal services is required to have equipment for pigments;

(4) Three hundred disposable latex or vinyl examination gloves;

(5) One gallon each of germicidal soap, isopropyl alcohol, and distilled water for prepping skin;

(6) Access to the applicable sterilization and sanitization measures in this chapter;

(7) Closed dustproof containers for the exclusive storage of instruments, dyes, pigments, stencils, and other equipment; and

(8) Gauze and bandages.

All single-use products ~~used~~ shall be discarded after they are used.

Source: 39 SDR 119, effective January 8, 2013.

General Authority: SDCL 34-1-17(8).

Law Implemented: SDCL 9-34-17, 34-1-17(8).

44:12:01:12. Tattoo and saline tattoo removal artist -- Restricted activities. A tattoo or saline tattoo removal artist may not engage in the practice of tattooing or saline tattoo removal while under the influence of alcohol or other mind-altering drugs. A minor is prohibited from the practice of tattooing or saline tattoo removal. ~~A tattoo~~ An artist shall take precautions to prevent disease transmission to the patron. The skin of the ~~tattoo~~ artist ~~shall~~ must be free of rash or infection. No person or artist affected with a boil, infected wound, open sore, abrasion, weeping skin lesion, or acute respiratory infection ~~shall~~ may work in an area of a tattoo or saline tattoo removal establishment in which there is a likelihood of contaminating equipment, supplies, or working surfaces. ~~A tattoo~~ An artist shall wear clean, laundered clothing and ~~shall~~ must wear a clean outer garment or coverup while tattooing or performing saline tattoo removal.

Source: 19 SDR 64, effective November 3, 1992; 39 SDR 119, effective January 8, 2013.

General Authority: SDCL 34-1-17(8).

Law Implemented: SDCL 9-34-17, 34-1-17(8).

44:12:01:13. Tattoo and saline tattoo removal artist -- Patrons restricted -- Notice posted. A tattoo or saline tattoo removal artist may not ~~tattoo~~ provide services to a patron without first obtaining a signed consent. ~~A tattoo~~ An artist may not ~~tattoo~~ provide services to a patron with who has an evident skin lesion or skin infection or who is known or suspected to have an infectious or contagious disease in a communicable stage. No ~~tattoo~~ artist may ~~tattoo~~ provide services to a patron who is under the influence of alcohol or other mind-altering drugs.

A minor may not be tattooed or to have a tattoo removed unless the minor's parents or legal guardian have signed a consent form authorizing the tattoo or tattoo removal.

A tattoo or saline tattoo removal artist shall conspicuously post a notice stating that it is illegal to tattoo or to remove a tattoo from any person under the age of 18 without the parents' or legal guardian's signed consent.

Source: 19 SDR 64, effective November 3, 1992; 39 SDR 119, effective January 8, 2013.

General Authority: SDCL 34-1-17(8).

Law Implemented: SDCL 9-34-17, 34-1-17(8).

Cross-Reference: Tattooing minor without parental consent as misdemeanor, SDCL 26-10-19.

44:12:01:14. Communicable disease reporting. A tattoo or saline tattoo removal artist shall report within three days to the department any known or suspected communicable disease associated with the practice of tattooing or saline tattoo removal. A report may be filed during normal business hours by a toll-free report line at 1-800-592-1861 or 605-773-3737; by a fax at 605-773-5509; or by a secure website at <https://apps.sd.gov/PH93Morbidity/secure/index.aspx>. A report may be filed after normal business hours for a Category I disease by calling 605-773-3737 or 1-800-592-1861.

Source: 19 SDR 64, effective November 3, 1992; 39 SDR 119, effective January 8, 2013; 45 SDR 31, effective September 10, 2018.

General Authority: SDCL 34-1-17(8).

Law Implemented: SDCL 9-34-17, 34-1-17(8).

Cross-Reference: Mandatory communicable disease reports from physicians, laboratories and institutions -- State tuberculosis register -- Surveillance and control -- Adoption of rules, SDCL 34-22-12.

44:12:01:15. Record of patrons. A tattoo or saline tattoo removal artist shall keep a record of each patron ~~which~~ that includes name, address, age, consent form, and the locations; and description of tattoos. This record ~~shall~~ must be available for inspection and kept for a period of at least two years.

Source: 19 SDR 64, effective November 3, 1992; 39 SDR 119, effective January 8, 2013.

General Authority: SDCL 34-1-17(8).

Law Implemented: SDCL 9-34-17, 34-1-17(8).

44:12:01:16. Sterilization methods. Equipment requiring sterilization ~~shall~~ must be sterilized by using the method of steam pressure sterilization with at least 15 pounds of pressure per square inch at a temperature of 250 degrees Fahrenheit in an autoclave for the length of time as instructed in the manufacturer's operational manual. ~~This shall~~ The temperature must be certified by a chemical indicator which is attached to the autoclave bag and turns color when the required temperature has been reached. A tattoo or saline tattoo removal establishment owner or operator shall provide lab result slips that state that each autoclave has been bacteriologically tested monthly with commercially prepared packets of *Bacillus stearothermophilus* or another *Bacillus* species and has passed the test. ~~These~~ Each lab result ~~slips shall~~ slip must be available for inspection and kept for at least one year. Dry heat is not an acceptable method of sterilization for the purpose of this article.

Source: 19 SDR 64, effective November 3, 1992; 39 SDR 119, effective January 8, 2013.

General Authority: SDCL 34-1-17(8).

Law Implemented: SDCL 9-34-17, 34-1-17(8).

44:12:01:17. Sterile equipment -- Packaging and storage. All sterile equipment and supplies ~~shall~~ must be stored in a closed, dustproof container ~~in such a manner as~~ to prevent being contaminated. All needles and tubes ~~shall~~ must be packaged prior to autoclaving either individually or in quantities for individual tattoos. Autoclave packages ~~shall~~ must be constructed so that the contents are visible without opening the package. Autoclave packages containing equipment that has been autoclaved ~~shall~~ must be dated with an expiration date. The expiration date may not exceed 30 days from the date autoclaved. Sterile equipment may not be used after the expiration date without being resterilized. Commercially available, individually packaged, sterilized equipment may be used ~~within~~ before the manufacturer's expiration date.

Source: 19 SDR 64, effective November 3, 1992; 39 SDR 119, effective January 8, 2013.

General Authority: SDCL 34-1-17(8).

Law Implemented: SDCL 9-34-17, 34-1-17(8).

44:12:01:18. Needle construction -- Sterilization required. All needles must be either stainless steel or nickel-plated carbon steel. Needles may be soldered to stainless steel bars using a silver-bearing solder. Lead-bearing solder may not be used in this process. Needles are a single-service item and must be thoroughly cleaned and sterilized between patrons. Rusty or faulty needles may not be used for tattooing or saline tattoo removal.

Source: 19 SDR 64, effective November 3, 1992.

General Authority: SDCL 34-1-17(8).

Law Implemented: SDCL 9-34-17, 34-1-17(8).

44:12:01:19. Tube construction -- Sterilization required. Each reusable tube, including the grips on the tube, ~~shall~~ must be either stainless steel, nickel-plated carbon steel, or Lexan. The grips may also be constructed of anodized aluminum. Lead-bearing solder may not be used in the construction of the tube. Each tube ~~shall~~ must be thoroughly cleaned and sterilized between patrons.

Source: 19 SDR 64, effective November 3, 1992; 39 SDR 119, effective January 8, 2013.

General Authority: SDCL 34-1-17(8).

Law Implemented: SDCL 9-34-17, 34-1-17(8).

44:12:01:20. Tattoo and saline tattoo removal machine sanitization. A tattoo or saline tattoo removal machine ~~shall~~ must be stored in a manner that prevents contamination. The open end of the ~~tattoo~~ machine ~~shall~~ must be cleaned and sanitized with an approved sanitizer before each use. See Appendix B at the end of this article for a listing of approved sanitizing solutions.

Source: 19 SDR 64, effective November 3, 1992; 39 SDR 119, effective January 8, 2013.

General Authority: SDCL 34-1-17(8).

Law Implemented: SDCL 9-34-17, 34-1-17(8).

44:12:01:21. Razor requirements. Razors must be disposable and single-use-only. Single-use razors may be used for only one patron ~~only~~ and must then be discarded.

Source: 19 SDR 64, effective November 3, 1992.

General Authority: SDCL 34-1-17(8).

Law Implemented: SDCL 9-34-17, 34-1-17(8).

44:12:01:22. General-use equipment -- Sanitization required. All surfaces, counters, and general-use equipment in the tattooing or saline tattoo removal area must be cleaned and sanitized before a patron is seated. See Appendix B at the end of this article for a listing of approved sanitizing solutions.

Source: 19 SDR 64, effective November 3, 1992.

General Authority: SDCL 34-1-17(8).

Law Implemented: SDCL 9-34-17, 34-1-17(8).

44:12:01:23. Linen cleaning and storage. Cloth towels, robes, and similar items used in conjunction with tattooing or saline tattoo removal must be laundered in a washing machine with hot water, laundry detergent, and chlorine bleach between uses. A closed, dustproof container must be provided for the storage of clean towels and linen. A hamper or similar receptacle must be provided for the storage of soiled towels and linen.

Source: 19 SDR 64, effective November 3, 1992.

General Authority: SDCL 34-1-17(8).

Law Implemented: SDCL 9-34-17, 34-1-17(8).

44:12:01:24. Hygienic practices -- Gloves required. A tattoo or saline tattoo removal artist shall use antiseptic techniques at all times in the practice of tattooing or saline tattoo removal. A ~~tattoo~~ An artist shall scrub hands with liquid soap and water thoroughly before beginning preparation

~~to tattoo. Hands shall~~ The artist's hands must be dried with individual, single-use towels or a commercial hand dryer. At all times when preparing the skin and while ~~applying the actual tattoo~~ providing services, the ~~tattoo~~ artist ~~shall~~ must wear latex or vinyl examination gloves, which shall be discarded upon completion ~~of the tattoo~~ of service. ~~A tattoo~~ An artist must ~~shall~~ discard the gloves the artist is wearing, rewash the artist's hands, and put on new gloves after an interruption in the tattoo or saline tattoo removal process ~~which that~~ requires use of the artist's hands.

Source: 19 SDR 64, effective November 3, 1992; 39 SDR 119, effective January 8, 2013.

General Authority: SDCL 34-1-17(8).

Law Implemented: SDCL 9-34-17, 34-1-17(8).

44:12:01:25. Skin preparation. The skin area to be tattooed or from which a tattoo is to be removed must be shaved if ~~needed~~ necessary and must be washed with germicidal soap and water, rinsed, dried, and washed again with 70 percent isopropyl alcohol. A single-use gauze pad or tissue may be used for washing the skin. All single-use products used must be discarded after they are used.

Source: 19 SDR 64, effective November 3, 1992.

General Authority: SDCL 34-1-17(8).

Law Implemented: SDCL 9-34-17, 34-1-17(8).

44:12:01:26. Pigment requirements. All pigments must be nontoxic and antiseptic. All pigments ~~which are~~ in a dry form must be suspended in a solution of isopropyl alcohol, distilled water, or witch hazel with only nontoxic and antiseptic additives. Pigments must be dispensed from a main plastic container with a sealable top ~~which that~~ allows a single-service portion of the to be

dispensed into a single-use container. All pigment dispensed and the material into which ~~it~~ pigment has been dispensed must be immediately discarded upon completion of the tattoo.

Source: 19 SDR 64, effective November 3, 1992.

General Authority: SDCL 34-1-17(8).

Law Implemented: SDCL 9-34-17, 34-1-17(8).

44:12:01:28. Tattoo application. Before tattooing the design on the patron's skin, the tattoo artist shall apply a thin coating of a petroleum jelly or antibacterial ointment over the area to be tattooed. ~~This shall~~ The coating must be applied with cotton swabs, gauze, or wooden tongue depressors ~~which shall~~ that must be immediately be discarded. ~~This application~~ The coating may not be directly ~~spread~~ applied with an ungloved hand.

Source: 19 SDR 64, effective November 3, 1992; 39 SDR 119, effective January 8, 2013.

General Authority: SDCL 34-1-17(8).

Law Implemented: SDCL 9-34-17, 34-1-17(8).

44:12:01:31. Use of styptics. Styptics, if used to arrest bleeding, may be used only in liquid or powder form and must be applied with cotton swabs or gauze ~~which~~ that is immediately discarded.

Source: 19 SDR 64, effective November 3, 1992.

General Authority: SDCL 34-1-17(8).

Law Implemented: SDCL 9-34-17, 34-1-17(8).

44:12:01:32. Use of antibacterial ointment required ~~Care instructions~~. Upon completion of the tattoo, a the tattoo artist shall apply an antibacterial ointment to the tattoo with a single-use cotton swab, gauze pad, or wooden tongue depressor ~~which shall~~ that must be immediately discarded. After application of the antibacterial ointment, the tattoo artist shall apply a clean bandage. ~~The tattoo artist shall provide written instructions regarding the proper care and precautions for a new tattoo to each patron. Care instructions shall include the following recommendations:~~

- ~~—— (1) Remove the bandage after 24 hours;~~
- ~~—— (2) Wash tattoo gently with mild soap and water and pat dry;~~
- ~~—— (3) Apply an antibacterial ointment at least twice daily;~~
- ~~—— (4) Avoid exposing the tattoo to direct sunlight for two weeks;~~
- ~~—— (5) Avoid swimming or soaking of the tattoo until healed;~~
- ~~—— (6) Avoid scratching or picking of the tattoo; and~~
- ~~—— (7) If redness or swelling develops, contact your doctor.~~

Source: 19 SDR 64, effective November 3, 1992; 39 SDR 119, effective January 8, 2013.

General Authority: SDCL 34-1-17(8).

Law Implemented: SDCL 9-34-17, 34-1-17(8).

44:12:01:32.01. Care instructions. The artist shall provide written instructions regarding the proper care and precautions for a new or newly removed tattoo to each patron. Care instructions must include the following recommendations:

(1) Removal of bandages (tattoo only);

(2) Washing of tattoo or tattoo removal area;

(3) Application of an antibacterial ointment;

(4) Avoiding exposure to direct sunlight, swimming, soaking, or scratching; and

(5) If redness or swelling develops, contact your doctor.

Source: 19 SDR 64, effective November 3, 1992; 39 SDR 119, effective January 8, 2013.

General Authority: SDCL 34-1-17(8).

Law Implemented: SDCL 9-34-17, 34-1-17(8).

44:12:01:33. Storage of soiled equipment. Upon completion of a tattoo or saline tattoo removal, ~~a tattoo artist shall immerse any~~ all reusable needles and tubes used ~~for the tattoo shall~~ must be immersed in an effective sanitizing solution, as identified in Appendix A at the end of this article, until they can be cleaned and sterilized.

Source: 19 SDR 64, effective November 3, 1992; 38 SDR 119, effective January 8, 2013.

General Authority: SDCL 34-1-17(8).

Law Implemented: SDCL 9-34-17, 34-1-17(8).

44:12:01:34. Disposal of contaminated products. Gauze, cotton swabs, or other single use products that are contaminated with body fluids ~~shall~~ must be disposed of in impervious double plastic bags that are securely sealed. When needles, tubes, single-use products, or other multiple use

products used in conjunction with the practice of tattooing or saline tattoo removal are disposed of, they ~~shall~~ must be sterilized and placed in an impervious, rigid container that is securely sealed.

Source: 19 SDR 64, effective November 3, 1992; 39 SDR 119, effective January 8, 2013.

General Authority: SDCL 34-1-17(8).

Law Implemented: SDCL 9-34-17, 34-1-17(8).

44:12:01:35. Inspection fees. A municipality that requests ~~that~~ the department to conduct inspections of tattoo or saline tattoo removal establishments shall remit \$150 to the department for each inspection conducted. If the department conducts multiple inspections during a special event, the fee is \$100 for each inspection conducted.

A municipality shall make any request for inspections in writing.

Source: 19 SDR 64, effective November 3, 1992; 39 SDR 119, effective January 8, 2013.

General Authority: SDCL 34-1-16.1, 34-1-17(8).

Law Implemented: SDCL 9-34-17, 34-1-16.1, 34-1-17(8).