



NEWS RELEASE

Marty J. Jackley
South Dakota Attorney General

Charles McGuigan
Chief Deputy Attorney General

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CONTACT: Sara Rabern (605) 773-3215

Attorney General Jackley’s 2018 Legislative Package

PIERRE, S.D. - Attorney General Marty Jackley announces that the Attorney General’s proposed legislative package for 2018 will include a request that our Legislature consider and enact the following:

1. Increase penitentiary sentences for distribution and manufacture of methamphetamine

“America is living a methamphetamine epidemic that is affecting South Dakota and hurting our families and communities. Almost all the meth distributed into our communities is being manufactured outside the state. It is time to send a message to anyone distributing meth to our communities and children that they will face significant penalties that include enhanced sentences and mandatory penitentiary time.”

Most Sheriffs, Chiefs of Police and State’s Attorneys will confirm that a significant majority of crimes committed in our state involve addiction and drug abuse in some form. Increased meth arrests in our state demonstrate we are continuously fighting the effects of this national meth epidemic. Table I below outlines the methamphetamine arrest statistics for 2002—October 2016:

Table I:

Methamphetamine Arrest Stats

	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	thru November 2016
Meth labs	31	41	33	17	9	7	6	8	14	7	27	39	38	23	9
Meth arrests	467	503	700	724	522	312	162	311	443	402	669	1,229	1,517	2,126	3,179
Meth seized	39 lbs.	14 lbs.	14 lbs.	21 lbs.	25 lbs.	45 lbs.	38 lbs.	19 lbs.	23 lbs.	10 lbs.	48 lbs.	79 lbs.	22 lbs	31 lbs.	130 lbs.

It is important that South Dakota continue to fight back with strong prevention programs, treatment programs, and enforcement against those distributing drugs in our state.

Prevention: In the fall of 2016, the Attorney General's Office, along with our law enforcement partners, sponsored the statewide methamphetamine awareness campaign found at www.nomethever.com. In May of 2017, *Project Stand Up* to drugs was launched by the Attorney General's Office, Sanford Health, South Dakota Sheriff's Association, South Dakota Police Chief's Association and the South Dakota Department of Public Safety. *Project Stand Up* is a coordinated effort to stand up to illegal drug use in South Dakota with the anonymous texting tip line – Text "Drugs" to 82257.

Treatment: The Attorney General's Office, its law enforcement partners and the judicial system have and will continue to actively support and create Drug Courts, Hope Courts, and Veterans Courts that focus on treating addiction for users (not distributors or manufacturers) of illegal drugs. In addition, South Dakota's 24/7 Sobriety Program under the Attorney General and run by our Sheriff's Departments continues to be a successful monitoring program with drug testing and oversight components.

Enforcement: In 2012, the Attorney General's Office sponsored SB 41 which made the sale of a main ingredient used in the manufacture of methamphetamine, pseudoephedrine, electronic. This legislation allowed for the beginning of a more searchable and useful database of pseudoephedrine sales that has successfully reduced the availability of pseudoephedrine for the manufacture of methamphetamine in South Dakota.

Unfortunately, drug users have turned to trafficking drugs primarily from our nation's southern border. In July of 2014, as the Chairman of the Conference of Western Attorneys General, Attorney General Jackley entered into the Attorneys General agreement with the United Mexican States in combatting drug crimes, weapons trafficking and human trafficking. It remains Attorney General Jackley's hope that in light of the national meth epidemic, our federal partners will further assist with the Conference of Western Attorneys General and the United Mexican States in this important effort to stop drug trafficking into our states.

New Legislation: The new legislative proposal focuses on the distribution and manufacture of meth and includes the following:

- Increases the penalty for the distribution and manufacturing of methamphetamine to a Class 3 felony, which carries a maximum penalty of 15 years imprisonment and a fine of \$30,000. Current law is a Class 4 felony (10 years/\$20,000).

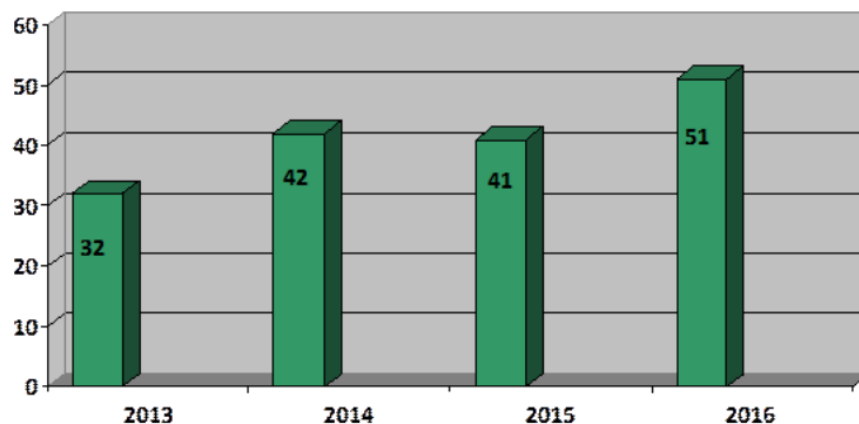
- Enhances the distribution and manufacture of methamphetamine if the person possesses certain triggering items including cash, firearms, and items associated with the trafficking of drugs to a Class 2 felony, which carries a maximum penalty of 25 years imprisonment and a fine of \$50,000. Current law is a Class 3 felony (15 years/\$30,000)
- Enhances the distribution of methamphetamine to a minor to a Class 1 felony that carries a maximum penalty of 50 years imprisonment and a fine of \$50,000. Current law is a Class 2 felony (25 years/\$50,000)
- Provides for a mandatory state penitentiary sentence for the distribution and manufacture of methamphetamine to include: 1 year for a first conviction; 10 years for a second or subsequent conviction; 5 years for the first conviction of distribution to a minor; and 15 years for a second or subsequent conviction of the distribution of methamphetamine to a minor. Current law provides for mandatory sentences that are rarely applied.
- A court may only go below the mandatory sentence if the court makes written findings that a defendant meets the following criteria that is modeled after the federal safety valve drug abuse law:
 - (1) the defendant does not have a prior violent felony as defined by §22-1-2(9);
 - (2) the defendant did not use violence or credible threats of violence or possess a firearm or other dangerous weapon (or induce another participant to do so) in connection with the offense;
 - (3) the offense did not result in death or serious bodily injury to any person;
 - (4) the defendant was not an organizer, leader, manager, or supervisor of others in the offense; and
 - (5) not later than the time of the sentencing hearing, the defendant has truthfully provided to the State all information and evidence the defendant has concerning the offense or offenses that were part of the same course of conduct or of a common scheme or plan, but the fact that the defendant has no relevant or useful other information to provide or that the State is already aware of the information shall not preclude a determination by the court that the defendant has complied with this requirement.

2. Enhance penalties for persons who distribute and manufacture controlled substances when a person dies as a result of using that substance

“The manufacture and distribution of illegal drugs creates both a public health and safety concern. Anyone who manufactures and distributes illegal drugs that result in a death should be held accountable.”

In 2016, South Dakota families and communities experienced 51 accidental overdose deaths. The history of accidental overdose deaths in South Dakota is shown in Graph I below:

**Graph I: Accidental Overdose Deaths in SD
SD Department of Health**



Under the proposed legislation, any person who intentionally and unlawfully distributes or manufactures a controlled substance and another person dies as a result of using that substance, shall have their sentence of the principal felony enhanced by two levels. By way of example, if the person is found guilty of unlawful distribution of methamphetamine under current law, it would be a Class 4 felony with a maximum punishment of up to 10 years. If the recipient of the methamphetamine dies, it would be increased two levels to a Class 2 felony punishable up to 25 years.

3. An Act to Require the Reporting of Data Breaches of Personal Information to Consumers and to the Attorney General

“Data breaches such as occurred with Equifax and Target have affected thousands of South Dakotans’ financial security and personal information. South Dakota needs a fair reporting law which is not burdensome and requires consumers to be informed of the loss of their personal information. This equips them to make informed decisions about their financial security and to assist law enforcement in its investigation of major data breaches.”

Under the proposed legislation, upon discovery of a breach of a system security, the information holder must disclose the breach to any resident of South Dakota whose personal or protected information was acquired by an unauthorized person within 45 days of that discovery. Furthermore, if that breach of the security system exceeds 250 South Dakota residents, the Attorney General must also be informed within 45 days. The notice by the information holder may be by written notice, electronic notice, or substitute notice. A failure to comply with the notice requirement would be a Deceptive Act under existing South Dakota law (§37-24-6) for purposes of criminal and civil enforcement. The Attorney General may also bring an action to recover civil damages of not more than \$10,000 per day per violation.

4. An Act to Strengthen Human Trafficking Laws

“It is important that we protect our children with both strong human trafficking prevention laws and cooperative law enforcement operations that focus on removing sexual predators from our streets. The proposal is intended to strengthen and support the law enforcement undercover operations that are focusing on removing sexual predators from our streets before a young child is victimized and trafficked.”

South Dakota law currently makes first degree human trafficking a Class 2 felony punishable by up to 25 years imprisonment and a fine of \$50,000. This proposed legislation will further strengthen our human trafficking laws that apply to minors by making an attempt to commit a violation of first degree human trafficking where the victim is a minor punishable in the same manner as if it was carried through. Table II below shows that South Dakota law enforcement have completed the following successful operations to date:

Table II: Human Trafficking Arrests

Date	LOCATION	ARRESTS
February 2013	Watertown	0
April 2013	Rapid City	2
August 2013	Sturgis	9
March 2014	Sioux Falls	2
August 2014	Sturgis	6
April 2015	Sioux Falls	6
August 2015	Sturgis	4
October 2015	Pierre	1
August 2016	Rapid City	9
August 2017	Rapid City	9
August 2016	RAPID CITY PD OPERATION	8
		56

5. An Act to Improve South Dakota’s Sex Offender Registry

“South Dakota’s Sex Offender Registry exceeds national standards, partners with our Reservation communities, and protects our children. South Dakota was the fourth registry in the nation to be certified and has a compliance rate of 98.5 percent with 3,616 registered sex offenders. The proposal both clarifies the requirements for sex offender registration and provides enhancement for habitual registration violations.”

In 2010, the South Dakota Legislature worked with law enforcement to revise and strengthen South Dakota’s Sex Offender Registry. Under South Dakota law, any person convicted of a listed sex crime is required to register as a sex offender. The proposed amendment seeks to continue to strengthen South Dakota’s Registry and keep South Dakota compliant with federal requirements and certification. The amendment clarifies the requirements for sex offenders to register. This includes more clearly defining a “community safety zone” and “school” for registration purposes. It further provides an enhancement for those sex offenders that are convicted of their second and subsequent violations to become a Class 5 felony punishable by a maximum of 5 years imprisonment and a fine of \$10,000.