

24-11-55. Jail mental health screening pilot program.

The South Dakota Sheriffs' Association shall develop a jail mental health screening pilot program and convene at least four jail administrators and at least two mental health providers to select a mental health screening tool for the pilot program. The pilot program shall include at least four jails. The jails in the pilot program shall utilize a mental health screening tool the during the jail intake process and shall collect and report data to the oversight council on the number of persons screened and the number of persons screening positive for signs and symptoms of acute psychiatric disturbance and disorder.

Source: SL 2017, ch 109, § 2.

Commented [YR1]: The SDSA identified a mental health screening tool and conducted a pilot program without further implementation or further oversight. Should this statute remain now that this task was accomplished?

24-11-56. Training to administer jail mental health screening tool.

The South Dakota Sheriffs' Association shall coordinate training for jails to administer the jail mental health screening tool.

Source: SL 2017, ch 109, § 3.

Commented [YR2]: This statute taken alone requires the SDSA to coordinate training for the SDSA to administer "the" (specific) mental health screening tool.

24-11-57. Statewide mental health screening tool.

The South Dakota Sheriffs' Association shall coordinate with the jails in the jail mental health screening pilot program to develop a process to implement a mental health screening tool statewide.

Source: SL 2017, ch 109, § 4, eff. July 1, 2018.

Commented [YR3]: This statute requires the SDSA to develop a mental health screening tool for jails and implement it statewide, regardless of the success of the pilot program.

24-11-58. Annual report to oversight council.

Each jail shall report annually to the oversight council on the number and percentage of persons screened at intake using a mental health screening tool and the number and percentage of positive screenings.

Source: SL 2017, ch 109, § 5, eff. July 1, 2018.

Commented [YR4]: This statute becomes problematic as it is standalone. Any Jail using "a" (non-specific) mental health screening tool is required to report annually to "the oversight council" that no longer is active.

24-11-59. Screening results provided to committing court.

Any jail using a mental health screening tool shall provide the screening results to the circuit committing magistrate or court.

Source: SL 2017, ch 109, § 6, eff. July 1, 2018.

Commented [YR5]: Again as a standalone statute, "Any" jail using "a" mental health screening tool "shall provide the results to the court. This is specifically where the pilot program ended unresolved.

24-11-59.1. Admissibility and use of statement made during jail mental or physical health screening

Any statement made by a defendant in response to a question administered during a jail mental or physical health screening is not admissible against the defendant in the state's case in chief during any evidentiary proceeding related to the reason the defendant was confined in jail.

The screen shall be filed with the committing court and may be used in preparation of a presentence report and at sentencing. Prior to sentencing, the screen shall only be made available to the defendant, defendant's attorney, prosecuting attorney, court services, and any mental health provider ordered to provide an assessment of the defendant as a condition of bond.

Source: SL 2019, ch 234 (Supreme Court Rule 19-13), eff. Apr. 2, 2019.

Commented [YR6]: The first paragraph of this statute is helpful as it appears to protect the information gathered by any jail conducting a mental health or physical health screening. This part of the statute should be retained.

However, the second paragraph requires jails to file mental health screenings and physical screenings with the court and requires those screenings to be made available to specific parties.

It is unlikely this statute would have come into being without the statewide mental health screening tool. Further, because it was not implemented in a timely manner, the unresolved concept has given place to requiring jails to provide "physical" screening records to the court.