

2019 Proposed Court Rule

A proposed rule concerning the admissibility of statements made during a jail mental health screen.

Section 1. That a new rule be added to SDCL ch. 24-11 as follows:

Any statement made by a defendant during the administration of a jail mental health screen is not admissible against the defendant in any criminal proceeding. The screen shall be filed with the court and will only be made available to the defendant, defendant's attorney and prosecuting attorney.

Explanation for Proposal

The proposed rule change is intended to make any statements obtained pursuant to a jail mental health screen inadmissible against the person completing the screen in any criminal proceeding. As part of the jail mental health screening pilot program concerns have been raised that if during the administration of the screen the defendant makes statements that may be used against them during the criminal proceeding defense attorneys will advise their clients not to cooperate with the screening process. The jail screen is intended to identify individuals that may need further assessment and connect them to services. It is not intended to capture evidence or be used against the individual as evidence in a court proceeding.

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.

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.

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.