

State of South Dakota

EIGHTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2012

400T0194

SENATE BILL NO. 13

Introduced by: The Committee on Judiciary at the request of the Department of Social Services

1 FOR AN ACT ENTITLED, An Act to revise certain provisions pertaining to reunification and
2 termination of parental rights.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 26-8A-21.1 be amended to read as follows:

5 26-8A-21.1. Nothing in § 26-8A-21 requires reunification of a child with a parent who:

6 (1) Committed a crime defined in § 22-16-4, 22-16-7, 22-16-15, 22-16-20, 22-22-1, 22-
7 22-24.3, 22-22A-2, 22-22A-3, 26-10-1, or subdivision 22-19-1(5), or committed
8 conduct described by any of those statutes that violated the law or ordinance of
9 another jurisdiction having elements similar to an offense described by any of those
10 statutes;

11 (2) Aided or abetted, attempted, conspired, or solicited to commit a crime defined in
12 § 22-16-4, 22-16-7, 22-16-15, or 22-16-20 or the law or ordinance of another
13 jurisdiction having elements similar to an offense described by any of those statutes;

14 (3) Committed a crime defined in § 22-18-1.1, 22-22-7, or subdivision 22-23-2(2)
15 against the child or another child of such parent, or committed conduct described by



1 ~~that section~~ those sections that violated the law or ordinance of another jurisdiction
2 having elements similar to the offense described by ~~that section~~ those sections;

3 ~~(3)~~(4) Has been determined by a court by clear and convincing evidence to have subjected
4 the child or another child to torture, sexual abuse, abandonment for at least six
5 months, chronic physical, mental, or emotional injury, or chronic neglect if the
6 neglect was a serious threat to the safety of the child or another child;

7 ~~(4)~~(5) Is incarcerated and is unavailable to care for the child during a significant period of
8 the child's minority, considering the child's age and the child's need for care by an
9 adult;

10 ~~(5)~~(6) Has had parental rights to another child involuntarily terminated by a prior legal
11 proceeding;

12 ~~(6)~~(7) Has a documented history of abuse and neglect associated with chronic alcohol or
13 drug abuse;

14 ~~(7)~~(8) Has exposed the child to or demonstrated an inability to protect the child from
15 substantial harm or the risk of substantial harm, and the child or another child has
16 been removed from the parent's custody because the removed child was adjudicated
17 abused and neglected by a court on at least one previous occasion;

18 ~~(8)~~(9) Has exposed the child to or demonstrated an inability to protect the child from
19 substantial harm or the risk of substantial harm, the child has been removed from the
20 parent's custody on two separate occasions, and the Department of Social Services
21 offered or provided family services on each of the two separate occasions the child
22 was removed; ~~or~~

23 ~~(9)~~(10) Has exposed the child to or demonstrated an inability to protect the child from
24 substantial harm or risk of harm resulting from a crime, act, or omission as

1 specified in subdivision (1), (2), or (3) of this section; or

2 (11) Is required to register as a sex offender pursuant to chapter 22-24B.

3 Section 2. That § 26-8A-26.1 be amended to read as follows:

4 26-8A-26.1. In addition to the provisions of § 26-8A-26, the court may find that good cause
5 exists for termination of parental rights of a parent who:

6 (1) Committed a crime defined in § 22-16-4, 22-16-7, 22-16-15, 22-16-20, 22-22-1, 22-
7 22-24.3, 22-22A-2, 22-22A-3, 26-10-1, or subdivision 22-19-1(5), or committed
8 conduct described by any of those statutes that violated the law or ordinance of
9 another jurisdiction having elements similar to an offense described by any of those
10 statutes;

11 (2) Aided or abetted, attempted, conspired, or solicited to commit a crime defined in
12 § 22-16-4, 22-16-7, 22-16-15, or 22-16-20 or the law or ordinance of another
13 jurisdiction having elements similar to an offense described by any of those statutes;

14 (3) Committed a crime defined in § 22-18-1.1, 22-22-7, or subdivision 22-23-2(2)
15 against the child or another child of such parent, or committed conduct described by
16 ~~that section~~ those sections that violated the law or ordinance of another jurisdiction
17 having elements similar to the offense described by ~~that section~~ those sections;

18 ~~(3)~~(4) Has been determined by a court by clear and convincing evidence to have subjected
19 the child or another child to torture, sexual abuse, abandonment for at least six
20 months, chronic physical, mental, or emotional injury, or chronic neglect if the
21 neglect was a serious threat to the safety of the child or another child;

22 ~~(4)~~(5) Is incarcerated and is unavailable to care for the child during a significant period of
23 the child's minority, considering the child's age and the child's need for care by an
24 adult;

1 ~~(5)~~(6) Has had parental rights to another child involuntarily terminated by a prior legal
2 proceeding;

3 ~~(6)~~(7) Has a documented history of abuse and neglect associated with chronic alcohol or
4 drug abuse;

5 ~~(7)~~(8) Has exposed the child to or demonstrated an inability to protect the child from
6 substantial harm or the risk of substantial harm, and the child or another child has
7 been removed from the parent's custody because the removed child was adjudicated
8 abused and neglected by a court on at least one previous occasion;

9 ~~(8)~~(9) Has exposed the child to or demonstrated an inability to protect the child from
10 substantial harm or the risk of substantial harm, the child has been removed from the
11 parent's custody on two separate occasions, and the Department of Social Services
12 offered or provided family services on each of the two separate occasions the child
13 was removed; ~~or~~

14 ~~(9)~~(10) Has exposed the child to or demonstrated an inability to protect the child from
15 substantial harm or risk of harm resulting from a crime, act, or omission as
16 specified in subdivision (1), (2), or (3) of this section; or

17 (11) Is required to register as a sex offender pursuant to chapter 22-24B.