



## 2021 South Dakota Legislature

# House Bill 1161

Introduced by: **Representative Hansen**

1 **An Act to update certain provisions regarding pregnancy help center consultations.**

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

3 **Section 1.** That § 34-23A-59 be AMENDED.

4 **34-23A-59. Pregnancy help center consultations.**

5 A pregnancy help center consultation required by §§ 34-23A-53 to 34-23A-59.2,  
6 inclusive, shall be implemented as follows:

7 (1) The pregnancy help center shall be permitted to:

8 (a) Interview the pregnant mother to determine whether the pregnant mother  
9 has been subject to any coercion to have an abortion, or is being pressured  
10 into having an abortion;

11 (b) Provide counseling in connection with any coercion or pressure;

12 (c) Inform the pregnant mother in writing or orally, or both, of the counseling,  
13 education, and assistance available to the pregnant mother to assist her in  
14 maintaining her relationship with her unborn child and in caring for the child  
15 through the pregnancy help center or any other organization, faith-based  
16 program, or governmental program;

17 (d) Provide a statement orally and in writing to the pregnant mother that "an  
18 abortion will terminate the life of a whole, separate, unique, living human  
19 being," and provide counseling in lay terms that explain this disclosure, and  
20 to ascertain that the pregnant mother understands this disclosure, and for  
21 the purpose of this disclosure, the definition of human being found in  
22 subdivision 34-23A-1(4) applies; and

23 (e) Provide statements orally and in writing setting forth the disclosures required  
24 by subsections 34-23A-10.1(1)(c) and (d) and provide counseling in lay  
25 terms that explain those disclosures. The pregnancy help center may, if it  
26 deems it appropriate, discuss matters pertaining to adoption;

- 1           (2) The pregnancy help center, its agents, or employees may not:
- 2               (a) Discuss with any pregnant mother religion or religious beliefs, either of the
- 3                     mother or the counselor, unless the pregnant mother consents in writing;
- 4               (b) Discuss the physical or psychological risks to a woman posed by an abortion.
- 5                     However, if, during the mandatory pregnancy help center consultation
- 6                     interview, the pregnant mother requests the opportunity to discuss the risks
- 7                     of an abortion with pregnancy help center personnel, the pregnancy help
- 8                     center may schedule a separate and distinct appointment for the pregnant
- 9                     mother to meet with a physician for the purpose of discussing the physical
- 10                    and psychological risks of abortion. Any requests shall be evidenced in writing
- 11                    signed by the pregnant mother;
- 12           (3) The pregnancy help center is under no obligation to communicate with the abortion
- 13                    provider in any way, and is under no obligation to submit any written or other form
- 14                    of confirmation that the pregnant mother consulted with the pregnancy help center.
- 15                    The pregnancy help center may voluntarily provide a written statement of
- 16                    assessment to the abortion provider, whose name the woman shall give to the
- 17                    pregnancy help center, if the pregnancy help center obtains information that
- 18                    indicates that the pregnant mother has been subjected to coercion or that her
- 19                    decision to consider an abortion is otherwise not voluntary or not informed. The
- 20                    physician shall make the physician's own independent determination whether or not
- 21                    a pregnant mother's consent to have an abortion is voluntary, uncoerced, and
- 22                    informed before having the pregnant mother sign a consent to an abortion. The
- 23                    physician shall review and consider any information provided by the pregnancy help
- 24                    center as one source of information, which in no way binds the physician, who shall
- 25                    make an independent determination consistent with the provisions of §§ 34-23A-
- 26                    53 to 34-23A-59.2, inclusive, the common law requirements, and accepted medical
- 27                    standards;
- 28           (4) Any written statement or summary of assessment prepared by the pregnancy help
- 29                    center as a result of counseling of a pregnant mother as a result of the procedures
- 30                    created by §§ 34-23A-53 to 34-23A-59.2, inclusive, may be forwarded by the
- 31                    pregnancy help center, in its discretion, to the abortion physician. If forwarded to
- 32                    the physician, the written statement or summary of assessment shall be maintained
- 33                    as a permanent part of the pregnant mother's medical records. Other than
- 34                    forwarding such documents to the abortion physician, no information obtained by
- 35                    the pregnancy help center from the pregnant mother may be released, without the

1 written signed consent of the pregnant mother or unless the release is in accordance  
2 with federal, state, or local law;

- 3 (5) ~~Commencing on September 1, 2016, the counseling authorized pursuant to this~~  
4 ~~section shall be conducted in accordance with the Uniform Policy and Procedures~~  
5 ~~Guidelines developed and promulgated by the South Dakota Association of~~  
6 ~~Registered Pregnancy Help Centers and adopted in 2015. Commencing on~~  
7 September 1, 2021, the Registered Pregnancy Help Center counseling authorized  
8 by subsections (1)(d) and (1)(e) shall be conducted in accordance with the  
9 Addendum to the Uniform Policy and Procedure Guidelines developed and  
10 promulgated by the South Dakota Association of Registered Pregnancy Help Centers  
11 and adopted in 2018.

12 Nothing in §§ 34-23A-53 to 34-23A-59.2, inclusive, may be construed to impose any  
13 liability upon a pregnancy help center. However, the failure of a pregnancy help center to  
14 comply with the conditions of § 34-23A-58.1, 34-23A-59.1 or this section for being  
15 authorized to provide the pregnancy help center counseling, if uncorrected, may result in  
16 the Department of Health removing the pregnancy help center from the state's registry of  
17 pregnancy help centers.

18 **Section 2.** This Act shall be effective on September 1, 2021.