

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

572P0653

HOUSE ENGROSSED NO. **HB 1201** - 1/31/2008

Introduced by: Representatives Cutler, Buckingham, Gillespie, Gilson, Lucas, and Peters and
Senators Gray, Dempster, Hunhoff, Katus, and Maher

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the placement or
2 return of abused or neglected children.

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

4 Section 1. That § 1-11-22 be amended to read as follows:

5 1-11-22. ~~The~~ During any stage of a proceeding under chapter 26-8A, the court may
6 condition the placement or return of a an apparent, alleged, or adjudicated abused or neglected
7 child ~~pursuant to § 26-8A-22 or 26-8A-26~~ on participation in the 24/7 sobriety program and
8 payment of associated costs and expenses.

9 Section 2. That chapter 26-8A be amended by adding thereto a NEW SECTION to read as
10 follows:

11 If the court finds the apparent, alleged, or adjudicated abuse or neglect of a child was related
12 to the use of alcohol, marijuana, or any controlled drug or substance, the placement or return of
13 the child may be subject to the condition, if the court so orders, that a parent, guardian,
14 custodian, or any other adult residing in the home submit to tests for alcohol, marijuana, or any
15 controlled drug or substance prior to or during the placement or return of the child. If a parent,



1 guardian, custodian, or any other adult, who resides in the home and has been ordered by the
2 court to submit to testing for alcohol, marijuana, or any controlled drug or substance, tests
3 positive for alcohol, marijuana, or any controlled drug or substance, or fails to submit to the test
4 as required, the Department of Social Services may immediately remove the child from the
5 physical custody of the parent, guardian, or custodian, without prior court order, subject to a
6 review hearing, which may be telephonic, within forty-eight hours excluding Saturdays,
7 Sundays, and court holidays. As used in this section, any controlled drug or substance means
8 a controlled drug or substance which was not lawfully prescribed by a practitioner as authorized
9 by chapters 22-42 and 34-20B.