

2025 South Dakota Legislature

Senate Bill 83**AMENDMENT 83A
FOR THE INTRODUCED BILL**

1 **An Act to revise the penalty and provide treatment for the ingestion of certain**
2 **controlled substances.**

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

4 **Section 1. That § 22-42-5.1 be AMENDED:**

5 **22-42-5.1.** No person may knowingly ingest a controlled drug or substance or
6 have a controlled drug or substance in an altered state in the body unless the substance
7 was obtained directly or pursuant to a valid prescription or order from a practitioner, ~~while~~
8 acting in the course of the practitioner's professional practice, or except as otherwise
9 authorized by chapter 34-20B. A The following penalties apply to a violation of this section
10 for a substance in Schedules I or II is a Class 5 felony. A violation of this section for a
11 substance in Schedules III or IV is a Class 6 felony.:

12 (1) A first violation is a Class 1 misdemeanor, and the court ~~may sentence the person~~
13 ~~to a period of probation that the court deems best. If probation is ordered, the~~
14 ~~court must, as a condition of probation, include, in addition to any other sentence,~~
15 ~~shall order~~ that the person complete a drug and alcohol evaluation and complete
16 any recommended course of treatment. ~~The court may impose other terms and~~
17 ~~conditions of probation as the court deems best;~~

18 (2) A second violation is a Class 1 misdemeanor, and the court, ~~in addition to any other~~
19 ~~sentence,~~ shall sentence the person to a period of supervised probation ~~that the~~
20 ~~court deems best. As a condition of probation, the court shall include and order~~
21 that the person complete a drug and alcohol evaluation and complete any
22 recommended course of treatment. ~~The court may impose other terms and~~
23 ~~conditions of probation as the court deems best;~~

24 (3) A third or subsequent violation, occurring within five years of the person's first
25 conviction, is a Class 6 felony; and

- 1 (4) If the person is an inmate of a state correctional facility, a violation is Class 6
2 felony.

AMENDED