

2025 South Dakota Legislature

House Bill 1195**AMENDMENT 1195A
FOR THE INTRODUCED BILL**

1 **An Act to revise a provision related to the termination of parental rights of a child**
2 **adjudicated abused or neglected.**

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

4 **Section 1. That § 26-8A-26.1 be AMENDED:**

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

- 7 (1) Committed a crime defined in § 22-16-4, 22-16-7, 22-16-15, 22-16-20, 22-22-1,
8 22-22-24.3, 22-22A-2, 22-22A-3, 26-10-1, or subdivision 22-19-1(5), or
9 committed conduct described ~~by any of those statutes that violated the~~ in these
10 sections, in violation of a law or ordinance of another jurisdiction having elements
11 similar to an offense described by any of those statutes in these sections;
- 12 (2) Aided or abetted, attempted, conspired, or solicited to commit a crime defined in
13 § 22-16-4, 22-16-7, 22-16-15, or 22-16-20, ~~or the~~ defined in a law or ordinance
14 of another jurisdiction having elements similar to an offense described by any of
15 those statutes in these sections;
- 16 (3) Committed a crime defined in § 22-18-1.1, 22-22-7, or subdivision 22-23-2(2)
17 against the child or another child of ~~such the~~ parent, or committed conduct
18 ~~described by those~~ in these sections ~~that violated the,~~ in violation of a law or
19 ordinance of another jurisdiction having elements similar to the offense described
20 by those sections in these sections;
- 21 (4) Has been determined by a court by clear and convincing evidence to have subjected
22 the child or another child to torture, sexual abuse, abandonment for at least six
23 months, chronic physical, mental, or emotional injury, or chronic neglect, ~~if the~~
24 neglect was a serious threat to the safety of the child or another child;

- 1 (5) Is incarcerated and is unavailable to care for the child during a significant period
 2 of the child's minority, considering the child's age and the child's need for care by
 3 an adult;
- 4 (6) Has had parental rights to another child involuntarily terminated by a prior legal
 5 proceeding;
- 6 (7) Has a documented history of abuse and neglect associated with chronic alcohol or
 7 drug abuse;
- 8 (8) Has exposed the child to or demonstrated an inability to protect the child from
 9 substantial harm or the risk of substantial harm, and the child or another child has
 10 been removed from the parent's custody because the removed child was
 11 adjudicated abused and neglected by a court on at least one previous occasion;
- 12 (9) Has exposed the child to or demonstrated an inability to protect the child from
 13 substantial harm or the risk of substantial harm, the child has been removed from
 14 the parent's custody on two separate occasions, and the Department of Social
 15 Services offered or provided family services on each of the two separate occasions
 16 the child was removed;
- 17 (10) Has exposed the child to or demonstrated an inability to protect the child from
 18 substantial harm or risk of harm resulting from a crime, act, or omission as
 19 specified in subdivision (1), (2), or (3) of this section; ~~or~~
- 20 (11) Is required to register as a sex offender pursuant to chapter 22-24B; or
- 21 ~~(12) Makes a voluntary adoption plan with prospective adoptive parents chosen by the~~
 22 ~~parent, in conjunction with a child placement agency or private attorney, and files~~
 23 ~~Files a petition for voluntary termination of parental rights pursuant to § 25-5A-6,~~
 24 ~~or consents to a specific adoption pursuant to § 25-6-4. This subdivision only~~
 25 ~~applies if:~~
- 26 ~~(a) The court finds the voluntary termination of parental rights or consent to~~
 27 ~~adoption is in the best interest of the child; and~~
- 28 ~~(b) The other parent or putative father has consented to the voluntary~~
 29 ~~termination of the other parent or putative father's parental rights or the~~
 30 ~~specific adoption, unless the other parent or putative father's consent is~~
 31 ~~judicially waived pursuant to chapter 25-6; and~~
- 32 ~~(c) Due regard is afforded to the Indian Child Welfare Act (25 U.S.C. §§ 1901-~~
 33 ~~1963), if that Act is applicable.~~