

State of South Dakota

NINETY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2018

675Z0688

SENATE HEALTH AND HUMAN SERVICES ENGROSSED NO. **SB 105** - 1/24/2018

Introduced by: Senators Soholt, Frerichs, Langer, Rusch, Solano, and Wiik and
Representatives Steinhauer, Ahlers, Barthel, Bartling, Clark, Diedrich,
Hawley, and Heinemann

1 FOR AN ACT ENTITLED, An Act to authorize a health care practitioner to administer a
2 toxicology test to an infant under certain circumstances.

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

4 Section 1. That chapter 26-8A be amended by adding a NEW SECTION to read:

5 If a health care practitioner has reason to believe based on a medical assessment of a mother
6 or a newborn infant that the mother used a controlled substance for a nonmedical purpose during
7 the pregnancy, the health care practitioner may administer, with or without the consent of the
8 newborn infant's parent or guardian, a toxicology test to the newborn infant under the health
9 care practitioner's care to determine whether there is evidence of prenatal exposure to a
10 controlled substance. If the test results are positive, the health care practitioner shall report the
11 results pursuant to § 26-8A-8.

12 Section 2. That chapter 26-8A be amended by adding a NEW SECTION to read:

13 A health care practitioner or any other medical personnel administering a toxicology test to
14 determine the presence of a controlled substance in a newborn infant at birth or during the first



1 twenty-eight days after birth and the employer of the person administering the test are immune
2 from civil or criminal liability arising from administration of the test if the health care
3 practitioner ordering the test believes in good faith that the test is permitted under this section
4 and if the test is administered in accordance with an established protocol and reasonable medical
5 practice.

6 If a health care practitioner or any other medical personnel determines in good faith not to
7 administer a toxicology test under this section, the person making the determination and the
8 person's employer are immune from civil or criminal liability arising from not administering the
9 test.

10 Section 3. That chapter 26-8A be amended by adding a NEW SECTION to read:

11 For purposes of this Act, a health care practitioner is a person licensed, accredited, or
12 certified to perform specified health services consistent with state law.