

# State of South Dakota

## EIGHTY-FOURTH SESSION LEGISLATIVE ASSEMBLY, 2009

400Q0184

### SENATE BILL NO. 45

Introduced by: The Committee on Health and Human Services at the request of the  
Department of Human Services

1 FOR AN ACT ENTITLED, An Act to provide an exception to the practice of seclusion as it  
2 pertains to the treatment of a person with a developmental disability.

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

4 Section 1. That § 27B-8-42 be amended to read as follows:

5 27B-8-42. The receipt of services and supports pursuant to this chapter does not operate to  
6 deprive any person with a developmental disability of any other rights, benefits, or privileges,  
7 does not cause the person with a developmental disability to be declared legally incompetent,  
8 and may not be construed to interfere with the rights and privileges of parents or guardians  
9 regarding the minor child. No agency, community service provider, facility, school, or person  
10 who receives public funds and provides services to persons with developmental disabilities may  
11 engage in the following practices:

12 (1) Corporal punishment--physical or verbal abuse, such as shaking, screaming,  
13 swearing, name calling, or any other activity that would be damaging to a person's  
14 physical well-being or self-respect;

15 (2) Seclusion--placement of a person alone in a room or other area from which egress is



1           prevented except if utilized by the South Dakota Developmental Center or a  
2           community support provider in accordance with §§ 27B-8-52, 27B-8-54, and 27B-8-  
3           56;

4       (3)   Denial of food--preventing a person from having access to a nutritionally adequate  
5           diet as a means of modifying behavior. Persons enrolled in residential programs or  
6           living units are expected to partake in meals at a predetermined scheduled time.

7       No person with a developmental disability receiving services may discipline other persons  
8       with developmental disabilities receiving services, and no community service provider or  
9       facility may mistreat, exploit, neglect, or abuse any person with a developmental disability.