

# State of South Dakota

EIGHTY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 2009

400Q0183

## SENATE BILL NO. 46

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 change the name of adjustment training center to  
2 community support provider.

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

4 Section 1. That § 27B-1-17 be amended to read as follows:

5 27B-1-17. Terms used in this title mean:

6 (1) ~~"Adjustment training center," any nonprofit facility that is certified by the department~~  
7 ~~to provide prevocational or vocational training, residential training, and other~~  
8 ~~supports and services as needed by persons with developmental disabilities;~~

9 ~~—(2)—~~ "Aversive intervention technique," the application, contingent upon the exhibition  
10 of a maladaptive behavior, of extremely unpleasant, startling, or painful stimuli that  
11 have a potentially noxious effect;

12 ~~(3)~~(2) "Behavior intervention program," a written set of instructions for changing or  
13 modifying the behavior of a person with a developmental disability that specifies  
14 behavior objectives for completion, procedures to implement behavior objectives,  
15 and data collection procedures and is written to increase desirable behaviors or



1 decrease undesirable behaviors;

2 ~~(4)~~(3) "Community services provider," any person or entity, whether for-profit or  
3 not-for-profit, which receives compensation for providing services to persons with  
4 developmental disabilities;

5 (4) "Community support provider," any nonprofit facility that is certified by the  
6 department to provide prevocational or vocational training, residential training, and  
7 other supports and services as needed by persons with developmental disabilities;

8 (5) "Danger to others," behavior which supports a reasonable expectation that the person  
9 will inflict serious physical injury upon another person in the very near future. Such  
10 behavior shall be evidenced by recent acts which constitute a danger of serious  
11 physical injury to another person. Such acts may include a recently expressed threat  
12 if the threat is such that, if considering its context or person's recent previous acts, it  
13 is substantially supportive of an expectation that the threat will be carried out;

14 (6) "Danger to self," recent behavior or related physical conditions which show there is  
15 a danger of serious personal harm in the very near future as evidenced by an inability  
16 to provide for some basic human needs such as food, clothing, shelter, physical  
17 health, or personal safety;

18 (7) "Department," the Department of Human Services;

19 (8) "Destructive behavior," behavior that presents a danger to self or a danger to others;

20 (9) "Director," the director of the South Dakota Developmental Center or a community  
21 service provider;

22 (10) "Facility," the South Dakota Developmental Center in Redfield, South Dakota;

23 (11) "Informed consent," written consent voluntarily, knowingly, and competently given  
24 without any element of force, fraud, deceit, duress, threat, or other form of coercion,

1 after explanation of all information that a reasonable person would consider  
2 significant to the decision in a manner reasonably comprehensible to general lay  
3 understanding;

4 (12) "Least restrictive," an intervention in the life of a person with a developmental  
5 disability that is the least intrusive and disruptive to the person's life and represents  
6 the least departure from normal patterns of living that can be effective in meeting the  
7 person's developmental needs;

8 (13) "PASARR" or "Preadmission Screening/Annual Resident Review," a federally  
9 mandated review of the application to a skilled nursing facility by a person with a  
10 known or suspected mental illness or developmental disability, or both, in order to  
11 determine if the skilled nursing facility or another community service provider can  
12 appropriately serve the person's needs;

13 (14) "Qualified mental retardation professional," any person with at least one year of  
14 experience working directly with mental retardation or other developmental  
15 disabilities and is either a doctor of medicine or osteopathy, a registered nurse, or a  
16 person who holds at least a bachelor's degree in a professional category.

17 Section 2. That § 27B-1-19 be amended to read as follows:

18 27B-1-19. Any ~~adjustment training center~~ community support provider shall have a drug  
19 screening policy for applicants seeking employment whose primary duty includes patient or  
20 resident care or supervision. Any ~~adjustment training center~~ community support provider shall  
21 have a drug screening policy for employees whose primary duty includes patient or resident care  
22 or supervision, based upon reasonable suspicion of illegal drug use by such employee.

23 Section 3. That subdivision (69) of § 3-12-47 be amended to read as follows:

24 (69) "Teacher," any person who has a valid teacher's certificate issued by the State of

1 South Dakota, who is in the employ of a public school district, and shall also include  
2 the certified teachers employed by the Human Services Center, South Dakota  
3 Developmental Center--Redfield, State Penitentiary, Division of Education Services  
4 and Resources, State Training School, School for the Deaf, School for the Blind and  
5 the Visually Impaired, Children's Care Hospital and School, public nonprofit special  
6 education facilities, ~~adjustment training centers~~ community support providers  
7 certified by the Department of Human Services and public financed multi-district  
8 education programs;

9 Section 4. That § 10-4-9.3 be amended to read as follows:

10 10-4-9.3. Property owned by any corporation, organization, or society and used primarily  
11 for human health care and health care related purposes is exempt from taxation. Such  
12 corporation, organization or society shall be nonprofit and recognized as an exempt organization  
13 under section 501(c)(3) of the United States Internal Revenue Code, as amended, and in effect  
14 on January 1, 2004, and none of its assets may be available to any private interest. The property  
15 shall be a health care facility licensed pursuant to chapter 34-12, orphanage, mental health center  
16 or ~~adjustment training center~~ community support provider regulated under chapter 27A-5, or  
17 camp. The facility shall admit all persons for treatment consistent with the facility's ability to  
18 provide health care services required by the patient until the facility is filled to its ordinary  
19 capacity and conform to all applicable regulations of and permit inspections by the state as  
20 otherwise provided by law.

21 Section 5. That § 23A-10A-13 be amended to read as follows:

22 23A-10A-13. The term, "approved facility," as used in this chapter, means the Human  
23 Services Center; the state developmental centers; ~~an adjustment training center~~ a community  
24 support provider; a mental health center, as defined by subdivision 27A-1-1(12), or any other

1 facility approved by the Department of Human Services for placement or treatment of mentally  
2 ill or developmentally disabled persons.

3 Section 6. That § 27A-5-9 be amended to read as follows:

4 27A-5-9. The boards of county commissioners and the municipal governing bodies may  
5 contribute sums of money annually from their general fund to any mental health center, clinic,  
6 or ~~adjustment training center~~ community support provider approved by the Department of  
7 Human Services, or to each of such facilities, without regard to whether they are within or  
8 outside of their respective jurisdictions.

9 Section 7. That § 32-5-42.1 be amended to read as follows:

10 32-5-42.1. Motor vehicles which are the property of nonprofit ~~adjustment training centers~~  
11 community support providers (sheltered workshops) recognized or approved by the Department  
12 of Education in this state, and which are used exclusively by such nonprofit ~~adjustment training~~  
13 ~~centers~~ community support providers (sheltered workshops), may be registered upon  
14 application, in the manner provided for other motor vehicles. However, the custodian of the  
15 vehicle shall make application directly to the department. No fees may be charged for the  
16 registration of the vehicle. The department shall furnish number plates for the vehicle upon  
17 payment of the actual cost of the plates. All costs collected under the provisions of this section  
18 shall be deposited in the license plate special revenue fund. Disbursements from the fund shall  
19 be made by warrants drawn by the state auditor on vouchers duly approved by the department.

20 Section 8. That subdivision (10) of § 36-9-28 be amended to read as follows:

21 (10) The administration of medications, other than by the parenteral route, by staff of  
22 ~~adjustment training centers~~ community support providers, group homes, and  
23 supervised apartments certified or approved by the Department of Human Services,  
24 when under the supervision of a licensed registered nurse. The Department of Human

1 Services, in consultation with the South Dakota Board of Nursing, shall promulgate  
2 rules pursuant to chapter 1-26 for administration of medications by such staff;

3 Section 9. That § 36-32-12 be amended to read as follows:

4 36-32-12. This chapter does not apply to the activities and services of a person practicing  
5 professional counseling as defined in subdivision 36-32-1(5) as part of that person's duties as  
6 a:

- 7 (1) Professional licensed or certified under this title acting in a manner consistent with  
8 state law regarding the scope of practice;
- 9 (2) Person employed by a school, college, university, or other institution of higher  
10 learning;
- 11 (3) Person employed by a federal, state, county, or local governmental institution or  
12 agency while performing those duties for which the person was employed by such  
13 institution, agency, or facility;
- 14 (4) Person who is employed by a licensed health care facility, an accredited prevention  
15 or treatment facility, ~~an adjustment training center~~ a community support provider, a  
16 nonprofit mental health center, or a licensed or registered child welfare agency;
- 17 (5) Member of the clergy while acting in a ministerial capacity if the activity is within  
18 the scope of performance of regular or specialized duties;
- 19 (6) Post-graduate supervised trainee who has an approved plan of supervision on file  
20 with the board;
- 21 (7) Mental health practitioner who has a minimum of a master's degree in counseling or  
22 a related mental health field with a plan of supervision and original transcripts on file  
23 with the board before July 1, 2008; or
- 24 (8) Students enrolled in recognized programs of study leading to counseling degrees may

- 1 practice only under the direct supervision of a counselor educator or counselor
- 2 licensed under this chapter.