

2020 South Dakota Legislature

House Bill 1195**AMENDMENT 1195F FOR THE SENATE STATE AFFAIRS BILL**

1 **An Act to provide ~~an affirmative defense to~~ for the dismissal of charges against**
2 **pregnant women for certain controlled substance offenses under certain**
3 **circumstances.**

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

5 **Section 1.** That a NEW SECTION be added:

6 **22-42-23. Controlled Substance--Pregnant--Assault.**

7 ~~If a woman is charged with violating § 22-42-5 or 22-42-5.1 and she was pregnant~~
8 ~~when the violation occurred, it is an affirmative defense to the charge if the woman~~
9 ~~provides proof who was pregnant at the time of an alleged violation of § 22-42-5 or 22-~~
10 ~~42-5.1 provides evidence that she:~~

- 11 (1) ~~Received adequate prenatal care from a licensed health care professional during~~
12 ~~her pregnancy;~~
- 13 (2) ~~Actively enrolled in an addiction recovery program before the child was born;~~
- 14 (3) ~~Remained in the program after delivery; and~~
- 15 (4) ~~Successfully completed the program.~~
- 16 the state shall dismiss the charge.