

State of South Dakota

SEVENTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 1998

804B0725

HOUSE HEALTH AND HUMAN SERVICES COMMITTEE ENGROSSED NO. **HB1257** - 2/11/98

Introduced by: Representatives Eccarius, Brown (Jarvis), Duenwald, Duniphan, Fitzgerald, Gabriel, Hagen, Madden, Peterson (Bill), Smidt, Van Gerpen, and Volesky and Senators Everist and Staggers

1 FOR AN ACT ENTITLED, An Act to provide for the protection of children from prenatal
2 exposure to alcohol and drugs.

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

4 Section 1. That § 34-20A-63 be amended to read as follows:

5 34-20A-63. An intoxicated person who:

6 (1) Has threatened, attempted, or inflicted physical harm on himself or herself or on
7 another or is likely to inflict physical harm on another unless committed; or

8 (2) Is incapacitated by the effects of alcohol or drugs; or

9 (3) Is pregnant and abusing alcohol or drugs;

10 may be committed to an approved treatment facility for emergency treatment. A refusal to
11 undergo treatment does not constitute evidence of lack of judgment as to the need for treatment.

12 Section 2. That § 26-8A-2 be amended to read as follows:

13 26-8A-2. In this chapter and chapter 26-7A, the term "abused or neglected child" means a
14 child:

- 1 (1) Whose parent, guardian, or custodian₂ has abandoned the child or has subjected the
2 child to mistreatment or abuse;
- 3 (2) Who lacks proper parental care through the actions or omissions of the child's parent,
4 guardian or custodian;
- 5 (3) Whose environment is injurious to the child's welfare;
- 6 (4) Whose parent, guardian₂ or custodian fails or refuses to provide proper or necessary
7 subsistence, supervision, education, medical care₂ or any other care necessary for the
8 child's health, guidance₂ or well-being;
- 9 (5) Who is homeless, without proper care₂ or not domiciled with the child's parent,
10 guardian₂ or custodian through no fault of the child's parent, guardian₂ or custodian;
- 11 (6) Who is threatened with substantial harm;
- 12 (7) Who has sustained emotional harm or mental injury as indicated by an injury to the
13 child's intellectual or psychological capacity evidenced by an observable and
14 substantial impairment in the child's ability to function within the child's normal range
15 of performance and behavior, with due regard to the child's culture; ~~or~~
- 16 (8) Who is subject to sexual abuse, sexual molestation₂ or sexual exploitation by the
17 child's parent, guardian, custodian₂ or any other person responsible for the child's care;
18 or
- 19 (9) Who was subject to prenatal exposure to alcohol or any controlled drug or substance
20 not lawfully prescribed by a practitioner as authorized by chapters 22-42 and 34-20B.
21 Such exposure shall be evidenced by withdrawal symptoms in the child at birth, results
22 of a toxicology test performed on the mother at delivery or the child at birth, or
23 medical effects, or developmental delays during the child's first year of life that
24 medically indicate prenatal exposure to alcohol or any controlled drug or substance.
25

1 Section 3. That chapter 22-42 be amended by adding thereto a NEW SECTION to read as
2 follows:

3 Any woman who knowingly ingests, inhales, injects, or otherwise takes into the body:

4 (1) Any alcohol beverage;

5 (2) Any controlled drug or substance; or

6 (3) Any other substance for purposes of becoming intoxicated;

7 during pregnancy, unless lawfully prescribed by a practitioner, is guilty of a Class 6 felony.

8 Notwithstanding any other provision of law, no woman is exempt from the provisions of this
9 section.

10 Section 4. That § 35-4-99 be amended to read as follows:

11 35-4-99. All licensed premises shall prominently display the sign provided for in § 35-4-100.

12 The sign shall be displayed in such a manner as to provide an unobstructed view to the customers
13 of such licensee. Failure to display such sign is a ~~petty offense~~ Class 1 misdemeanor.

1 **BILL HISTORY**

2 1/22/98 First read in House and referred to Health and Human Services. H.J. 182

3 2/4/98 Scheduled for Committee hearing on this date.

4 2/11/98 Scheduled for Committee hearing on this date.

5 2/11/98 Health and Human Services Do Pass Amended, Passed, AYES 6, NAYS 4.