

# State of South Dakota

SEVENTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 1998

804B0725

SENATE HEALTH AND HUMAN SERVICES  
COMMITTEE ENGROSSED NO. **HB1257** -  
2/25/98

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  
14 a child:

- 1 (1) Whose parent, guardian, or custodian<sub>2</sub> 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, guardian<sub>2</sub> or custodian fails or refuses to provide proper or necessary  
7 subsistence, supervision, education, medical care<sub>2</sub> or any other care necessary for the  
8 child's health, guidance<sub>2</sub> or well-being;
- 9 (5) Who is homeless, without proper care<sub>2</sub> or not domiciled with the child's parent,  
10 guardian<sub>2</sub> or custodian through no fault of the child's parent, guardian<sub>2</sub> 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 molestation<sub>2</sub> or sexual exploitation by the  
17 child's parent, guardian, custodian<sub>2</sub> or any other person responsible for the child's care;  
18 or
- 19 (9) Who was subject to prenatal exposure to abusive use of alcohol or any controlled  
20 drug or substance not lawfully prescribed by a practitioner as authorized by chapters  
21 22-42 and 34-20B.

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 7, NAYS 3. H.J. 547

6 2/12/98 House of Representatives Deferred to another day, AYES 62, NAYS 3. H.J. 634

7 2/13/98 Motion to Amend, Passed. H.J. 673

8 2/13/98 Motion to Amend, Passed. H.J. 673

9 2/13/98 House of Representatives Do Pass Amended, Failed, AYES 35, NAYS 31. H.J. 673

10 2/13/98 Intent to reconsider. H.J. 674

11 2/13/98 House of Representatives Reconsidered, AYES 39, NAYS 24. H.J. 681

12 2/13/98 House of Representatives Do Pass Amended, Passed, AYES 37, NAYS 27. H.J. 682

13 2/14/98 First read in Senate and referred to Health and Human Services. S.J. 535

14 2/20/98 Scheduled for Committee hearing on this date.

15 2/23/98 Scheduled for Committee hearing on this date.

16 2/23/98 Health and Human Services Do Pass Amended, Passed, AYES 7, NAYS 0. S.J. 648