

State of South Dakota

SEVENTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 1998

400B0814

SENATE HEALTH AND HUMAN SERVICES
COMMITTEE ENGROSSED NO. **SB227** -
2/2/98

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsors.

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

1 FOR AN ACT ENTITLED, An Act to require training in parenting skills for certain persons.

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

3 Section 1. That § 26-8A-21 be amended to read as follows:

4 26-8A-21. The Department of Social Services shall make reasonable efforts prior to the
5 removal of an alleged or adjudicated abused or neglected child from the home of the child's
6 parents, guardian, or custodian to prevent or eliminate the need for removal of the child. If the
7 child has been removed from the home and has been placed in temporary custody of the
8 Department of Social Services, the department shall make reasonable efforts to make it possible
9 for the child to return to the home of the child's parents, guardian, or custodian. If the child is
10 to be or has been removed from the home, the court shall first make a judicial determination that
11 removal of the child from the home is or was necessary because continued presence of the child
12 in the home would be contrary to the welfare of the child and that reasonable efforts by the
13 Department of Social Services to avoid removal of the child from the home have been made. If
14 the child has been removed from the home and has not been returned to the home, the court shall

1 first make a judicial determination that reasonable efforts have been made by the Department of
2 Social Services to return the child to the home and that the child cannot be returned to the home
3 because it would be contrary to the welfare of the child.

4 Reasonable efforts to prevent the necessity for removal of a child from the home of the child's
5 parents, guardian, or custodian and reasonable efforts to return the child to the home mean
6 provision by the Department of Social Services of any assistance or services that:

- 7 (1) Are appropriate for the child's parents, guardian, custodian, or any other caretaker
8 family of the child existing at the time of removal or possible return of the child,
9 including instruction on parenting;
- 10 (2) Are available pursuant to the comprehensive plan of preventive services of the
11 Department of Social Services;
- 12 (3) Could be made available without undue financial burden on the Department of Social
13 Services; or
- 14 (4) Would have a significant likelihood of protecting the child from substantial danger to
15 the child's physical health or from severe emotional damage while enabling the child
16 to remain in the home or to be returned to the home.

17 In determining the adequacy of reasonable efforts, the court shall consider the assistance,
18 services, and efforts of the Department of Social Services. The court shall also consider the good
19 faith efforts or the lack of good faith efforts made by the child's parents, guardian, custodian, or
20 other caretaker family to cooperate with the department and to effectively utilize the assistance
21 or services for the benefit and welfare of the child.

22 Section 2. That chapter 26-9 be amended by adding thereto a NEW SECTION to read as
23 follows:

24 If any person convicted of contributory abuse or contributory neglect is the child's parent,
25 guardian, or custodian, the court shall include as part of the sentence, or conditions required as

1 part of the suspended execution or imposition of such sentence, that the person receive
2 instruction on parenting approved or provided by the Department of Social Services.

3 Section 3. That § 26-10-1 be amended to read as follows:

4 26-10-1. Any person who abuses, exposes, tortures, torments, or cruelly punishes a minor
5 in a manner which does not constitute aggravated assault, is guilty of a Class 4 felony.

6 If any person convicted of this offense is the minor's parent, guardian, or custodian, the court
7 shall include as part of the sentence, or conditions required as part of suspended execution or
8 imposition of such sentence, that the person receive instruction on parenting approved or
9 provided by the Department of Social Services. This requirement does not apply if there is a
10 reasonable expectation that parental rights will be terminated.

11 Section 4. That § 25-10-5 be amended to read as follows:

12 25-10-5. Upon notice and a hearing, if the court finds by a preponderance of the evidence
13 that domestic abuse has taken place, the court may provide relief as follows:

- 14 (1) Restrain any party from committing acts of domestic abuse;
- 15 (2) Exclude the abusing party from the dwelling which the parties share or from the
16 residence of the petitioner;
- 17 (3) Award temporary custody or establish temporary visitation with regards to minor
18 children of the parties;
- 19 (4) Establish temporary support for minor children of the parties or a spouse;
- 20 (5) Order that either or both of the parties obtain counseling;
- 21 (6) Order other relief as the court deems necessary for the protection of a family or
22 household member, including orders or directives to a sheriff or constable.

23 Any relief granted by the order for protection shall be for a fixed period and may not exceed
24 three years.

25 If any minor child resides with either party, the court shall order that the parties receive

1 instruction on parenting approved or provided by the Department of Social Services as part of
2 any relief granted.

3 Section 5. That chapter 25-10 be amended by adding thereto a NEW SECTION to read as
4 follows:

5 If any person is convicted of a crime involving domestic abuse, and that person is the parent,
6 guardian, or custodian of a minor child who resides with that person or the victim of the crime,
7 the court shall include as part of the sentence, or conditions required as part of the suspended
8 execution or imposition of such sentence, that the person receive instruction on parenting
9 approved or provided by the Department of Social Services. However, this section does not
10 apply to any person convicted and imprisoned for any felony for such a duration that there is no
11 expectation of release for at least four years.

1 **BILL HISTORY**

2 1/26/98 First read in Senate and referred to Health and Human Services. S.J. 201

3 1/30/98 Scheduled for Committee hearing on this date.

4 2/2/98 Health and Human Services Do Pass Amended, Passed, AYES 5, NAYS 1. S.J. 279