

# State of South Dakota

## SEVENTY-SIXTH SESSION LEGISLATIVE ASSEMBLY, 2001

229E0022

### SENATE BILL NO. 92

Introduced by: Senators Ham, Albers, Bogue, Daugaard, Dennert, Everist, Kleven, Madden, Reedy, Staggers, Sutton (Dan), Symens, Vitter, and Volesky and Representatives Hennies (Thomas), Adelstein, Bartling, Begalka, Brown (Richard), Burg, Clark, Davis, Derby, Duenwald, Duniphan, Frost, Garnos, Hanson (Gary), Hennies (Don), Holbeck, Hunhoff, Jaspers, Jensen, Kloucek, Koistinen, Konold, McCoy, Rhoden, Slaughter, and Wick

1 FOR AN ACT ENTITLED, An Act to provide for the care of certain abandoned children and  
2 for the termination of parental rights.

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

4 Section 1. An emergency medical services provider shall take possession of a child who is  
5 sixty days of age or younger if the child is voluntarily delivered to the provider by the child's  
6 parent and the parent does not express an intent to return for the child. Any provider who takes  
7 possession of a child pursuant to this section shall perform any act necessary to protect the  
8 physical health and safety of the child.

9 Section 2. It is not a crime to deliver a child to an emergency medical services provider if the  
10 child has not been harmed prior to being left with the emergency medical services provider.

11 Section 3. If a parent of a child relinquishes custody of the child to an emergency medical  
12 services provider as provided in section 1 of this Act, then, after five days, by operation of law  
13 and without any court proceeding:

- (1) All of the parent's rights with respect to the child are terminated;
- (2) The child becomes a ward of the state; and
- (3) The child is immediately available for adoption.

Section 4. Any emergency medical services provider that accepts custody of a child pursuant to section 1 of this Act may ask the child's parent for pertinent medical information relating to the child's medical history. However, the parent leaving the child is not required to provide any information, including the parent's name.

Section 5. Any emergency medical services provider that accepts custody of a child pursuant to section 1 of this Act is immune from civil, criminal, and administrative liability for any act of commission or omission in connection with the acceptance of that custody or the provision of care for the child while the child is in the provider's custody.

Section 6. The emergency medical services provider shall notify the Department of Social Services that the provider has taken possession of the child no later than the close of the first business day after the date on which the provider took possession of the child. The department shall assume the care, custody, and control of the child immediately upon receipt of the notice. The department may not attempt to identify, contact, or investigate the parent who voluntarily delivered the child to an emergency medical services provider unless it appears the child has been harmed.

Section 7. If one parent of a child relinquishes custody of the child to an emergency medical services provider as provided in section 1 of this Act, the other parent may file an action for custody of the child. The nonrelinquishing parent shall file such an action within thirty days after the provider accepts custody of the child from the relinquishing parent. In such an action, the nonrelinquishing parent shall prove the following by a preponderance of the evidence:

- (1) He or she is the parent of the child; and

1       (2)    He or she did not consent to relinquishment of the child's custody to the provider.

2       If a parent fails to file an action within the thirty-day period, the parent is forever barred from  
3   filing an action for custody of the child and, by operation of law and without any court  
4   proceeding, all of the parent's rights with respect to the child are terminated.

5       Section 8. For the purposes of this Act, an emergency medical services provider is a licensed  
6   health care facility or a clinic, any agent of a licensed health care facility or a clinic, a law  
7   enforcement officer, an emergency medical technician, or a firefighter.