

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

400E0608

## SENATE BILL NO. 218

Introduced by: The Committee on State Affairs at the request of the Governor

1 FOR AN ACT ENTITLED, An Act to to provide for reporting the occurrence of fetal alcohol  
2 syndrome.

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

4 Section 1. That chapter 34-24 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 The Department of Health shall provide for the collection and processing of mandatory  
7 reports of identifiable and suspected cases of fetal alcohol syndrome from all physicians,  
8 hospitals, and institutions. To implement this section, the department may adopt rules, pursuant  
9 to chapter 1-26, specifying the definitions, methods by which reports shall be made, and the  
10 content and timeliness of such reports.

11 Section 2. That chapter 34-24 be amended by adding thereto a NEW SECTION to read as  
12 follows:

13 Any report required to be submitted pursuant to section 1 of this Act is strictly confidential.  
14 The reports may not be released, shared with any agency or institution, or made public, upon  
15 subpoena, search warrant, discovery proceedings or otherwise and are not admissible as evidence

1 in any action of any kind in a court or before any tribunal, board, agency or person. However,  
2 release of medical or epidemiological information may be authorized by the Department of  
3 Health under any of the following circumstances:

- 4 (1) For statistical purposes in such a manner that no person can be identified;
- 5 (2) With the written consent of the person identified in the information released;
- 6 (3) To the extent necessary to enforce the provisions of this Act and rules promulgated  
7 thereunder concerning the prevention and treatment of fetal alcohol syndrome; or
- 8 (4) To the extent necessary to protect the health or life of a named person.

9 Section 3. That chapter 34-24 be amended by adding thereto a NEW SECTION to read as  
10 follows:

11 Except as provided in section 2 of this Act, any person responsible for recording, reporting,  
12 or maintaining medical reports required to be submitted pursuant to section 1 of this Act, who  
13 knowingly or intentionally discloses or fails to protect medical reports declared to be confidential  
14 under section 2 of this Act, or who compels another person to disclose such medical reports, is  
15 guilty of a Class 1 misdemeanor.

16 Section 4. That chapter 34-24 be amended by adding thereto a NEW SECTION to read as  
17 follows:

18 Good faith reporting or disclosure pursuant to section 1 of this Act does not constitute a libel  
19 or slander or a violation of the right to privacy of privileged communication.

20 Section 5. That chapter 34-24 be amended by adding thereto a NEW SECTION to read as  
21 follows:

22 Any person who in good faith complies with the reporting requirements of section 1 of this  
23 Act is immune from civil and criminal liability for such action taken in compliance with the  
24 provisions of section 1 of this Act. Compliance by a person or facility with the reporting

- 1 requirements of section 1 of this Act fulfills any duty of the person or facility to protect the
- 2 public health.