

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

229E0022

HOUSE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **SB 92** - 02/23/2001

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 or licensed child placement agency shall  
5 take possession of a child who appears to be sixty days of age or younger if the child is  
6 voluntarily delivered to the provider or agency by the child's parent and the parent does not  
7 express an intent to return for the child. Any provider or agency who takes possession of a child  
8 pursuant to this section shall perform any act necessary to protect the physical health and safety  
9 of the child.

10 Section 2. It is not a crime for a parent to deliver a child to an emergency medical services  
11 provider or a licensed child placement agency if the child has not been harmed prior to being left  
12 with the emergency medical services provider or a licensed child placement agency.

1       Section 3. If a parent of a child relinquishes custody of the child to an emergency medical  
2       services provider or a licensed child placement agency as provided in section 1 of this Act, then,  
3       after fourteen days, by operation of law:

4       (1)     All of that parent's rights with respect to the child are terminated; and

5       (2)     The child becomes a ward of the state or licensed child placement agency.

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

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

15      Section 6. The emergency medical services provider or a licensed child placement agency  
16      shall immediately notify the Department of Social Services that the provider or agency has taken  
17      possession of the child. The department or licensed child placement agency shall assume the care,  
18      custody, and control of the child immediately upon receipt of the notice. However, a licensed  
19      child placement agency that has taken possession of a child may assume the care, custody, and  
20      control of the child. The department or licensed child placement agency may not attempt to  
21      identify, contact, or investigate the parent who voluntarily delivered the child to an emergency  
22      medical services provider a licensed child placement agency unless it appears the child has been  
23      harmed.

24      Section 7. If one parent of a child relinquishes custody of the child to an emergency medical

1 services provider or a licensed child placement agency as provided in section 1 of this Act, the  
2 other parent may file an action for custody of the child. The nonrelinquishing parent shall file  
3 such an action within thirty days after the provider or agency accepts custody of the child from  
4 the relinquishing parent. In such an action, the nonrelinquishing parent shall prove the following  
5 by a preponderance of the evidence:

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

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

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

12 Section 9. Sixty days after the emergency medical services provider or licensed child  
13 placement agency takes possession of the child a hearing shall be held in circuit court to  
14 terminate parental rights. Due regard in the administration of this Act shall be afforded to the  
15 Indian Child Welfare Act (25 U.S.C. Secs. 1901-1963) if that Act is applicable.