

## AN ACT

ENTITLED, An Act to provide for the care of certain abandoned children and for the termination of parental rights.

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

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

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

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

- (1) All of that parent's rights with respect to the child are terminated; and
- (2) The child becomes a ward of the state or licensed child placement agency.

Section 4. Any emergency medical services provider or licensed child placement agency 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 name of the parents.

Section 5. Any emergency medical services provider or licensed child placement agency that accepts physical 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 or agency's custody.

Section 6. The emergency medical services provider or a licensed child placement agency shall immediately notify the Department of Social Services that the provider or agency has taken possession of the child. The department or licensed child placement agency shall assume the care, custody, and control of the child immediately upon receipt of the notice. However, a licensed child placement agency that has taken possession of a child may assume the care, custody, and control of the child. The department or licensed child placement agency may not attempt to identify, contact, or investigate the parent who voluntarily delivered the child to an emergency medical services provider or a licensed child placement agency 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 or a licensed child placement agency 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 or agency 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
- (2) He or she did not consent to relinquishment of the child's custody to the provider or agency.

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

Section 9. Sixty days after the emergency medical services provider or licensed child placement agency takes possession of the child a hearing shall be held in circuit court to terminate parental

rights. Due regard in the administration of this Act shall be afforded to the Indian Child Welfare Act (25 U.S.C. Secs. 1901-1963) if that Act is applicable.

An Act to provide for the care of certain abandoned children and for the termination of parental rights.

=====

I certify that the attached Act  
originated in the

SENATE as Bill No. 92

\_\_\_\_\_  
Secretary of the Senate  
=====

\_\_\_\_\_  
President of the Senate

Attest:

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_  
Speaker of the House

Attest:

\_\_\_\_\_  
Chief Clerk

Senate Bill No. 92  
File No. \_\_\_\_\_  
Chapter No. \_\_\_\_\_

=====

Received at this Executive Office  
this \_\_\_\_\_ day of \_\_\_\_\_ ,

20\_\_\_\_ at \_\_\_\_\_ M.

By \_\_\_\_\_  
for the Governor  
=====

The attached Act is hereby  
approved this \_\_\_\_\_ day of  
\_\_\_\_\_, A.D., 20\_\_\_\_

\_\_\_\_\_  
Governor  
=====

STATE OF SOUTH DAKOTA,  
ss.  
Office of the Secretary of State

Filed \_\_\_\_\_, 20\_\_\_\_  
at \_\_\_\_\_ o'clock \_\_ M.

\_\_\_\_\_  
Secretary of State

By \_\_\_\_\_  
Asst. Secretary of State