

2025 South Dakota Legislature

Senate Bill 83**AMENDMENT 83B
FOR THE INTRODUCED BILL**

1 **An Act to revise the penalty and provide treatment for the ingestion of certain**
2 **controlled substances.**

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

4 **Section 1. That § 22-42-5.1 be AMENDED:**

5 **22-42-5.1.** No person may knowingly ingest a controlled drug or substance or
6 have a controlled drug or substance in an altered state in the body unless the substance
7 was obtained directly or pursuant to a valid prescription or order from a practitioner, ~~while~~
8 acting in the course of the practitioner's professional practice, or except as otherwise
9 authorized by chapter 34-20B. A The following penalties apply to a violation of this section
10 for a substance in Schedules I or II is a Class 5 felony. A violation of this section for a
11 substance in Schedules III or IV is a Class 6 felony.:

12 (1) A first violation is a Class 1 misdemeanor, and the court ~~may sentence the person~~
13 ~~to a period of probation that the court deems best. If probation is ordered, the~~
14 ~~court must, as a condition of probation, include, in addition to any other sentence,~~
15 ~~shall order~~ that the person complete a drug and alcohol evaluation and complete
16 ~~any recommended course of treatment. The court may impose other terms and~~
17 ~~conditions of probation as the court deems best supervised probation using~~
18 ~~evidence-based sentencing practices, which may include the HOPE probation~~
19 ~~program and other programs as established in chapter 16-22;~~

20 (2) A second violation is a Class 1 misdemeanor, and the court ~~shall sentence, in~~
21 ~~addition to any other sentence, may sentence~~ the person to a period of up to one
22 ~~year in jail, and shall sentence the person to a period of supervised probation that~~
23 ~~the court deems best. As a condition of probation, the court shall include using~~
24 ~~evidence-based practices, which may include the HOPE probation program and~~
25 ~~other programs as established in chapter 16-22, and order~~ that the person
26 complete a drug and alcohol evaluation and complete any other recommended

- 1 course of treatment. ~~The court may impose other terms and conditions of probation~~
2 ~~as the court deems best; and~~
- 3 (3) A third or subsequent violation, occurring within ~~five ten~~ years of the person's first
4 conviction, is a Class 6 felony; ~~and~~
- 5 ~~(4) If the person is an inmate of a state correctional facility, a violation is Class 6~~
6 ~~felony.~~

AMENDED