

## 2020 South Dakota Legislature

**House Bill 1195****AMENDMENT 1195C FOR THE INTRODUCED BILL**

1 **An Act to ~~establish certain fetal harm as an assault~~provide an affirmative defense**  
2 **to pregnant women for certain controlled substance offenses.**

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

4 **Section 1.** That a NEW SECTION be added:

5 **22-42-23. Controlled Substance--Pregnant--Assault.**

6 If a woman's child is either born with a physical dependence on a controlled  
7 substance or is harmed by a controlled substance and the dependence or harm is a result  
8 of the woman's illegal use of a controlled substance, as described in § 22-42-5.1, woman  
9 is charged with a crime under § 22-42-5 or 22-42-5.1 while pregnant, the woman is guilty  
10 of assault under § 22-18-1. It is an affirmative defense to a charge under this section  
11 that a if the woman provides proof she received adequate prenatal care, actively enrolled  
12 in an addiction recovery program before the child is born, remained in the program after  
13 delivery, and successfully completed the program, regardless of whether the child was  
14 born with a physical dependence on or was harmed by a controlled substance.