

2020 South Dakota Legislature

House Bill 1195**AMENDMENT 1195D FOR THE HOUSE STATE AFFAIRS BILL**

1 **An Act to provide an affirmative defense to pregnant women for certain controlled**
2 **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 is charged with a crime under violating § 22-42-5 or 22-42-5.1 while
7 pregnant and she was pregnant when the violation occurred, it is an affirmative defense
8 to the charge if the woman provides proof that she:

- 9 (1) ~~received~~ Received adequate prenatal care, actively from a licensed healthcare
10 professional during her pregnancy;
11 (2) ~~Actively~~ enrolled in an addiction recovery program before the child ~~is born,~~
12 ~~remained~~ was born;
13 (3) ~~Remained~~ in the program after delivery, ~~and successfully;~~ and
14 (4) ~~Successfully~~ completed the program, ~~regardless of whether the child was born with~~
15 ~~a physical dependence on or was harmed by a controlled substance.~~