



2025 South Dakota Legislature

House Bill 1195

HOUSE JUDICIARY ENGROSSED

Introduced by: **Representative Hughes**

1 **An Act to revise a provision related to the termination of parental rights of a child**
 2 **adjudicated abused or neglected.**

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

4 **Section 1. That § 26-8A-26.1 be AMENDED:**

5 **26-8A-26.1.** In addition to the provisions of § 26-8A-26, the court may find that
 6 good cause exists for termination of parental rights of a parent who:

7 (1) Committed a crime defined in § 22-16-4, 22-16-7, 22-16-15, 22-16-20, 22-22-1,
 8 22-22-24.3, 22-22A-2, 22-22A-3, 26-10-1, or subdivision 22-19-1(5), or
 9 committed conduct described ~~by any of those statutes that violated the~~ in these
 10 sections, in violation of a law or ordinance of another jurisdiction having elements
 11 similar to an offense described ~~by any of those statutes in these sections;~~

12 (2) Aided or abetted, attempted, conspired, or solicited to commit a crime defined in
 13 § 22-16-4, 22-16-7, 22-16-15, or 22-16-20, ~~or the~~ defined in a law or ordinance
 14 of another jurisdiction having elements similar to an offense described ~~by any of~~
 15 ~~those statutes in these sections;~~

16 (3) Committed a crime defined in § 22-18-1.1, 22-22-7, or subdivision 22-23-2(2)
 17 against the child or another child of ~~such the~~ parent, or committed conduct
 18 described ~~by those in these sections that violated the,~~ in violation of a law or
 19 ordinance of another jurisdiction having elements similar to the offense described
 20 ~~by those sections in these sections;~~

21 (4) Has been determined by a court by clear and convincing evidence to have subjected
 22 the child or another child to torture, sexual abuse, abandonment for at least six
 23 months, chronic physical, mental, or emotional injury, or chronic neglect, ~~if the~~
 24 neglect was a serious threat to the safety of the child or another child;

- 1 (5) Is incarcerated and is unavailable to care for the child during a significant period
2 of the child's minority, considering the child's age and the child's need for care by
3 an adult;
- 4 (6) Has had parental rights to another child involuntarily terminated by a prior legal
5 proceeding;
- 6 (7) Has a documented history of abuse and neglect associated with chronic alcohol or
7 drug abuse;
- 8 (8) Has exposed the child to or demonstrated an inability to protect the child from
9 substantial harm or the risk of substantial harm, and the child or another child has
10 been removed from the parent's custody because the removed child was
11 adjudicated abused and neglected by a court on at least one previous occasion;
- 12 (9) Has exposed the child to or demonstrated an inability to protect the child from
13 substantial harm or the risk of substantial harm, the child has been removed from
14 the parent's custody on two separate occasions, and the Department of Social
15 Services offered or provided family services on each of the two separate occasions
16 the child was removed;
- 17 (10) Has exposed the child to or demonstrated an inability to protect the child from
18 substantial harm or risk of harm resulting from a crime, act, or omission as
19 specified in subdivision (1), (2), or (3) of this section;~~or~~
- 20 (11) Is required to register as a sex offender pursuant to chapter 22-24B; or
- 21 (12) Files a petition for voluntary termination of parental rights pursuant to § 25-5A-6.
- 22 This subdivision only applies if:
- 23 (a) The court finds the voluntary termination of parental rights is in the best
24 interest of the child; and
- 25 (b) Due regard is afforded to the Indian Child Welfare Act (25 U.S.C. §§ 1901-
26 1963), if that Act is applicable.