

AN ACT

ENTITLED, An Act to abrogate the loss of chance doctrine as set forth in Jorgenson v. Vener.

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

Section 1. The Legislature finds that in those actions founded upon an alleged want of ordinary care or skill the conduct of the responsible party must be shown to have been the proximate cause of the injury complained of. The Legislature also finds that the application of the so called loss of chance doctrine in such cases improperly alters or eliminates the requirement of proximate causation. Therefore, the rule in Jorgenson v. Vener, 2000 SD 87, 616 N.W. 2nd 366 (2000) is hereby abrogated.

Section 2. The Legislature intends only to abrogate the loss of chance doctrine expressly adopted by the court, thereby returning the common law of this state to its status immediately prior to the court's decision. The Legislature does not intend to affect any other rule or principle of statutory or common law, including but not limited to, aggravation of preexisting injuries, proximate causation, and the requirement of informed consent for all medical treatment.

An Act to abrogate the loss of chance doctrine as set forth in Jorgenson v. Vener.

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I certify that the attached Act originated in the

HOUSE as Bill No. 1164

Chief Clerk

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Speaker of the House

Attest:

Chief Clerk

President of the Senate

Attest:

Secretary of the Senate

House Bill No. 1164

File No. _____

Chapter No. _____

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Received at this Executive Office this ____ day of _____ ,

20__ at _____ M.

By _____
for the Governor

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The attached Act is hereby approved this _____ day of _____ , A.D., 20__

Governor

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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