



# State of South Dakota

EIGHTIETH SESSION  
LEGISLATIVE ASSEMBLY, 2005

553L0351

HOUSE HEALTH AND HUMAN SERVICES  
COMMITTEE ENGROSSED NO. **HB 1095** -  
02/02/2005

**This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.**

Introduced by: Representatives Dykstra, Cutler, Davis, Elliott, Hackl, Kraus, Miles, Murschel, Rave, and Tornow and Senators Duenwald, Adelstein, and Dempster

1 FOR AN ACT ENTITLED, An Act to provide for a drug screening program for certain facilities  
2 providing patient or resident care or supervision.

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

4 Section 1. That chapter 1-36A be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 The commissioner of the Bureau of Personnel shall establish and implement a drug  
7 screening program for applicants who seek positions at the Human Services Center or the South  
8 Dakota Developmental Center whose primary duty includes patient or resident care or  
9 supervision. The commissioner may establish and implement a drug screening program for  
10 employees holding positions at the Human Services Center or the South Dakota Developmental  
11 Center whose primary duty includes patient or resident care or supervision, based upon  
12 reasonable suspicion of illegal drug use by any such employee.

13 Section 2. That chapter 1-36A be amended by adding thereto a NEW SECTION to read as



1 follows:

2 Any printed public announcement or advertisement soliciting applications for employment  
3 at the South Dakota Human Services Center or South Dakota Developmental Center for a  
4 position in which the primary duty includes patient or resident care or supervision, shall include  
5 a statement of the requirements of the drug screening program established pursuant to this Act.

6 Section 3. That chapter 1-36A be amended by adding thereto a NEW SECTION to read as  
7 follows:

8 Individual test results and medical information collected pursuant to this Act are  
9 confidential. This information may be revealed only as authorized by the commissioner of the  
10 Bureau of Personnel. An applicant or employee may have access to the information or test  
11 results upon written request to the commissioner.

12 Section 4. That chapter 1-36A be amended by adding thereto a NEW SECTION to read as  
13 follows:

14 Except as provided in section 3 of this Act, any person responsible for recording, reporting,  
15 or maintaining medical information required pursuant to the provisions of this Act, who  
16 knowingly or intentionally discloses or fails to protect medical information declared to be  
17 confidential under section 3 of this Act, or who compels another person to disclose such medical  
18 information, is guilty of a Class 2 misdemeanor.

19 Section 5. That chapter 1-36A be amended by adding thereto a NEW SECTION to read as  
20 follows:

21 The commissioner of the Bureau of Personnel may promulgate rules, pursuant to chapter 1-  
22 26, necessary to carry out the provisions of this Act with regard to:

- 23 (1) Listing of positions whose primary duty includes patient or resident care or  
24 supervision;

- 1       (2)   Substances to be screened;
- 2       (3)   Drug screening procedures for applicants for positions at the South Dakota Human  
3           Services Center or the South Dakota Developmental Center whose primary duty  
4           includes patient or resident care or supervision;
- 5       (4)   Drug screening procedures for employees at the South Dakota Human Services  
6           Center or the South Dakota Developmental Center whose primary duty includes  
7           patient or resident care or supervision;
- 8       (5)   Procedures for collecting, analyzing, and evaluating test samples;
- 9       (6)   Confidentiality of testing procedures;
- 10      (7)   Referral for education or treatment;
- 11      (8)   Consequences that may result from valid positive test results or from failure to  
12           submit to a test.

13       Section 6. That chapter 27B-1 be amended by adding thereto a NEW SECTION to read as  
14 follows:

15       Any adjustment training center shall have a drug screening policy for applicants seeking  
16 employment whose primary duty includes patient or resident care or supervision. Any  
17 adjustment training center shall have a drug screening policy for employees whose primary duty  
18 includes patient or resident care or supervision, based upon reasonable suspicion of illegal drug  
19 use by such employee. No adjustment training center may have a drug screening policy that is  
20 less stringent than the drug screening program adopted pursuant to this Act.

# State of South Dakota

## EIGHTIETH LEGISLATIVE ASSEMBLY, 2005

400L0313

### SENATE ENGROSSED NO. **SB 40** - 01/24/2005

Introduced by: The Committee on Commerce at the request of the Department of Health

1 FOR AN ACT ENTITLED, An Act to establish minimum fire safety standards for specialty  
2 resorts.

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

4 Section 1. That chapter 34-18 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 Any specialty resort establishment with less than ten occupants shall meet the following  
7 minimum fire safety standards:

- 8 (1) All primary exits that lead to the exterior of the structure shall be unlocked, free from  
9 obstruction, and clearly marked with illuminated exit signs. Sleeping rooms with  
10 direct exits to the exterior of the building are exempt from this requirement;
- 11 (2) There shall be a smoke detector in each sleeping room. The owner or manager shall  
12 test any battery operated smoke detector at least twice a year;
- 13 (3) Any sleeping room below grade or upper level shall be equipped with an operable  
14 egress window; and
- 15 (4) Portable fire extinguishers with a minimum 2-A rating shall be made available on  
16 each floor and shall be inspected and tagged annually.



1 Section 2. That chapter 34-18 be amended by adding thereto a NEW SECTION to read as  
2 follows:

3 Any specialty resort establishment with ten or more occupants shall meet the following  
4 minimum fire safety standards:

5 (1) Each floor where occupants are sleeping shall have access to at least two remote  
6 exits;

7 (2) All primary exits that lead to the exterior of the structure shall be unlocked, free from  
8 obstruction, and clearly marked with illuminated exit signs. Sleeping rooms with  
9 direct exits to the exterior of the building are exempt from this requirement;

10 (3) There shall be a smoke detector in each sleeping room. The owner or manager shall  
11 test any battery operated smoke detector at least twice a year;

12 (4) Any sleeping room below grade or upper level shall be equipped with an operable  
13 egress window; and

14 (5) Portable fire extinguishers with a minimum 2-A rating shall be made available on  
15 each floor and shall be inspected and tagged annually.

# State of South Dakota

EIGHTIETH  
LEGISLATIVE ASSEMBLY, 2005

400L0371

HOUSE HEALTH AND HUMAN SERVICES  
COMMITTEE ENGROSSED NO. **SB 55** - 02/04/2005

Introduced by: The Committee on Health and Human Services at the request of the  
Department of Social Services

1 FOR AN ACT ENTITLED, An Act to provide for a preference for placement of abused and  
2 neglected children with relatives and to provide a hearing for review of adoptive placement  
3 decisions.

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

5 Section 1. That § 26-7A-19 be amended to read as follows:

6 26-7A-19. If the child is an apparent, alleged, or adjudicated abused or neglected child, after  
7 the temporary custody hearing the court may:

8 (1) Order the release of the child from temporary custody, either with or without  
9 restriction or condition or upon written promise of the child's parents, guardian, or  
10 custodian regarding the care and protection of the child; or

11 (2) Continue the temporary custody of the child under the terms and conditions for  
12 duration and placement that the court requires, including placement of temporary  
13 custody of the child with the Department of Social Services, in foster care or shelter.

14 The court and the Department of Social Services shall give placement preference to  
15 a relative or custodian who is available and who has been determined by the



1 department to be qualified, provided that placement with the relative or custodian is  
2 in the best interest of the child. If temporary custody of the child is continued by the  
3 court, the court may provide for visitation of the child by the child's parents,  
4 guardian, custodian, or family members in keeping with the best interests of the  
5 child;~~and~~

6 ~~—(3)—~~ If the child is in temporary custody of the Department of Social Services and has not  
7 been adjudicated as an abused or neglected child, the court shall review the child's  
8 temporary custody placement at least once every sixty days.

9 As used in this section, the term, relative, means an adult who is related to the child by  
10 blood, adoption, or marriage, and who is the child's grandparent, aunt, uncle, sibling, brother-in-  
11 law, sister-in-law, niece, nephew, great grandparent, great uncle, great aunt, first cousin, second  
12 cousin, stepparent, or stepsibling.

13 As used in this section, the term, custodian, means an adult who is the biological parent,  
14 adoptive parent, or guardian of the child's sibling or half-sibling.

15 Section 2. That chapter 26-7A be amended by adding thereto a NEW SECTION to read as  
16 follows:

17 Subsequent to a temporary custody hearing, if a placement is made of an apparent, alleged,  
18 or adjudicated abused or neglected child, placement preference shall be given to a relative  
19 entitled to placement under § 26-7A-19.

20 Section 3. That chapter 26-8A be amended by adding thereto a NEW SECTION to read as  
21 follows:

22 Except under circumstances where placement was with another relative of the child, any  
23 relative who has been denied adoptive placement by the Department of Social Services may  
24 request a hearing to determine if the placement was an abuse of discretion. The request shall be

1 filed with the circuit court having jurisdiction pursuant to § 26-8A-29 and shall be filed within  
2 thirty days of written notification from the department by regular mail to the relative's last  
3 known address. The hearing shall be held within thirty days of the filing of the request for  
4 hearing and may be continued for not more than thirty days upon good cause shown. The  
5 relative shall be granted limited intervention only for the purpose of the placement review  
6 hearing.

7 No intervention may be allowed in a proceeding involving an apparent, alleged, or  
8 adjudicated abused or neglected child, including an adoption or guardianship proceeding for a  
9 child placed in the custody of the Department of Social Services pursuant to § 26-8A-27, except  
10 as provided by this chapter and under the Indian Child Welfare Act, (25 U.S.C. 1901 to 1963,  
11 inclusive), as amended to January 1, 2005.