

State of South Dakota

EIGHTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2012

400T0193

HOUSE BILL NO. 1027

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1 FOR AN ACT ENTITLED, An Act to repeal certain outdated or unnecessary statutes related
2 to the Division of Behavioral Health within the Department of Social Services.

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

4 Section 1. That § 27A-3-1.1 be repealed.

5 ~~— 27A-3-1.1. There is created the Mental Health Planning and Coordination Advisory Council~~
6 ~~which shall be appointed by and serve at the pleasure of the Governor. The council shall be~~
7 ~~assigned to the Department of Social Services. Technical assistance and staff support shall be~~
8 ~~provided to the council by the Department of Social Services. The secretary of social services~~
9 ~~shall be responsible for the coordination of activities between the advisory council and the~~
10 ~~Department of Social Services.~~

11 Section 2. That § 27A-3-1.3 be repealed.

12 ~~— 27A-3-1.3. The council shall advise the Department of Social Services in developing and~~
13 ~~in the modification of any necessary state or federal mental health plans, and shall advise the~~
14 ~~department in influencing and achieving greater coordination of planning and service delivery~~
15 ~~efforts among the various federal, state, local, or private agencies involved in the mental health~~



1 ~~service delivery network, and shall continually work for needed program and service expansion~~
2 ~~and achievement of the highest possible quality service. The council shall serve as an advocate~~
3 ~~for all individuals needing mental health services within the state.~~

4 Section 3. That § 27A-3-1.4 be repealed.

5 ~~— 27A-3-1.4. In addition to the council's functions provided in § 27A-3-1.3 the council shall~~
6 ~~advise the Department of Social Services on policy related matters and on matters related to the~~
7 ~~allocation of federal and state funds to the mental health centers in the state and the South~~
8 ~~Dakota Human Services Center, on matters concerning regulation, staff requirements,~~
9 ~~administration, audit and record keeping, and services to be provided by mental health centers~~
10 ~~and the South Dakota Human Services Center. The council shall further advise the department~~
11 ~~upon matters concerning the department's duties as provided in this chapter.~~

12 Section 4. That § 27A-3-1.5 be repealed.

13 ~~— 27A-3-1.5. The Mental Health Planning and Coordination Advisory Council, created by~~
14 ~~§ 27A-3-1.1, shall meet at least quarterly unless otherwise determined by the council. The~~
15 ~~council shall prepare an annual written report to the Governor on or by December first of each~~
16 ~~year.~~

17 Section 5. That § 27A-3-2 be repealed.

18 ~~— 27A-3-2. The Department of Social Services shall develop, adopt, approve, and administer~~
19 ~~state plans of coordination in fields of mental health for the State of South Dakota in~~
20 ~~cooperation with all governmental and private departments, resources, and organizations~~
21 ~~concerned with mental health.~~

22 Section 6. That § 27A-3-3 be repealed.

23 ~~— 27A-3-3. The Department of Social Services shall cooperate with federal agencies in the~~
24 ~~administration of the federal statutes and acts relating to mental health programs and the~~

1 ~~treatment of mental illness, accept the benefits of such federal statutes and acts subject to~~
2 ~~chapter 4-8B, and comply with the requirements thereof.~~

3 Section 7. That § 27A-3-4 be repealed.

4 ~~—27A-3-4. The Department of Social Services shall conform the state plans and the federal~~
5 ~~requirements and submit them to the federal agencies in order to qualify for grants available to~~
6 ~~the State of South Dakota in the field of mental health.~~

7 Section 8. That § 27A-3-5 be repealed.

8 ~~—27A-3-5. The Department of Social Services shall coordinate the utilization of existing~~
9 ~~facilities, state departments, boards, or commissions involved in the field of mental health.~~

10 Section 9. That § 27A-3-7 be repealed.

11 ~~—27A-3-7. The Department of Social Services shall enter into contractual agreements with~~
12 ~~professional personnel to provide diagnosis, treatment, hospitalization, and other necessary~~
13 ~~services, within the limits of available appropriations, for the care of emotionally disturbed~~
14 ~~children, or those children who are referred to the department for evaluation of the same. Such~~
15 ~~contractual agreements shall be consistent with existing state statutes and are not binding on the~~
16 ~~department except to the extent that the department has been granted authority and financial~~
17 ~~ability by the Legislature to enter into and perform such contractual agreements. The department~~
18 ~~is the responsible agency for the establishment of any programs providing services for~~
19 ~~emotionally disturbed children including those services made available at an existing state~~
20 ~~institution.~~

21 Section 10. That § 27A-3-9 be repealed.

22 ~~—27A-3-9. No state appropriations or other funds available to the Division of Elementary and~~
23 ~~Secondary Education may be used for the out-of-state placement of emotionally disturbed~~
24 ~~children so assigned for purposes other than educational. Children who are in need of out-of-~~

1 ~~state placement for treatment of an emotional disturbance shall be referred by the Division of~~
2 ~~Elementary and Secondary Education to the Department of Social Services for assignment, care,~~
3 ~~and treatment.~~

4 Section 11. That § 27A-3-10 be repealed.

5 ~~— 27A-3-10. The Department of Social Services shall consider the needs in the field of mental~~
6 ~~health, including the treatment of mental illness, and the needs of the Human Services Center~~
7 ~~and the community mental health centers in the State of South Dakota and make~~
8 ~~recommendations to the Legislature and the Governor for changes in existing legislation.~~

9 Section 12. That § 27A-4-2 be repealed.

10 ~~— 27A-4-2. The Department of Social Services shall have general control of the policies of the~~
11 ~~South Dakota Human Services Center. The Department of Social Services may promulgate rules~~
12 ~~pursuant to chapter 1-26, and may prescribe departmental policies and procedures necessary for~~
13 ~~the government of the Human Services Center not inconsistent with the laws of the state.~~

14 Section 13. That § 27A-4-5 be repealed.

15 ~~— 27A-4-5. The Department of Social Services shall provide a seal for the South Dakota~~
16 ~~Human Services Center upon which shall be inscribed the name of such center and such other~~
17 ~~words and devices as may be deemed appropriate.~~

18 ~~— The administrator may affix the seal of the center to any certificate, order, or affidavit.~~

19 Section 14. That § 27A-4-10 be repealed.

20 ~~— 27A-4-10. The Division of Elementary and Secondary Education and the Department of~~
21 ~~Social Services may contract and pay for services provided children in the juvenile mental~~
22 ~~health unit of the South Dakota Human Services Center.~~

23 Section 15. That § 27A-5-2 be repealed.

24 ~~— 27A-5-2. The Department of Social Services may contract with any agency of the United~~

1 ~~States government or any agency of the state government or its political subdivisions for the~~
2 ~~purposes of assisting in the operation and programs of local mental health centers, receiving~~
3 ~~grants of federal funds for those purposes pursuant to chapter 4-8B, and expending such funds~~
4 ~~under rules promulgated by the department pursuant to chapter 1-26.~~

5 Section 16. That § 27A-5-3 be repealed.

6 ~~—27A-5-3. The Department of Social Services shall provide for a separate account for local~~
7 ~~mental health centers and in its discretion divide and allocate between the accounts any funds~~
8 ~~appropriated by the Legislature or granted by any federal agency which are not otherwise~~
9 ~~specifically designated to any of the accounts.~~

10 Section 17. That § 27A-5-4 be repealed.

11 ~~—27A-5-4. The Department of Social Services shall distribute funds appropriated by the~~
12 ~~Legislature or granted by any federal agency pursuant to chapter 4-8B to mental health centers~~
13 ~~in the state on the basis of the provisions of a state plan or plans under its control and as~~
14 ~~determined by the department. The aid distributed to local mental health centers and all other~~
15 ~~expenses incurred in the administration or provisions of any federal acts relating thereto shall~~
16 ~~be paid out of funds of the department appropriated for that purpose and from the federal funds~~
17 ~~allotted to the State of South Dakota for similar purposes. The state treasurer shall be the~~
18 ~~custodian of all moneys paid to the state from federal appropriation for such purposes and shall~~
19 ~~distribute such moneys on warrants issued by the state auditor upon vouchers approved by the~~
20 ~~department. The department shall annually authorize its secretary to certify to the state auditor~~
21 ~~the amount apportioned as state and federal aid to each center approved under the provisions~~
22 ~~of this chapter. The state auditor shall, upon receipt of such certificates, draw warrants on the~~
23 ~~state treasury in favor of the treasurer of each center for the sum so specified for any center~~
24 ~~approved by the department.~~

1 Section 18. That § 27A-5-5 be repealed.

2 ~~—27A-5-5. In determining the benefits to which each local mental health center is entitled, the~~
3 ~~Department of Social Services shall consider first the statewide needs for such services or~~
4 ~~training, the area and persons served by each center, the service, care, and training provided, and~~
5 ~~within practical limitations, adopt and revise the policies, standards, and requirements to keep~~
6 ~~pace with the changing needs of the State of South Dakota.~~

7 Section 19. That § 27A-5-6 be repealed.

8 ~~—27A-5-6. The Department of Social Services shall establish fiscal control and fund~~
9 ~~accounting procedures as may be necessary, and assure proper disbursements of, and accounting~~
10 ~~for, state and federal funds for local mental health centers.~~

11 Section 20. That § 27A-15-2 be repealed.

12 ~~—27A-15-2. A minor may be admitted or involuntarily committed to an inpatient psychiatric~~
13 ~~facility for inpatient treatment only in accordance with the provisions of this chapter.~~

14 Section 21. That § 27A-15-6.1 be repealed.

15 ~~—27A-15-6.1. An inpatient psychiatric facility providing inpatient psychiatric care to minors~~
16 ~~in South Dakota shall submit information requested by the department for the purpose of~~
17 ~~compiling statistical information regarding the admissions of minors.~~

18 ~~—The department shall promulgate rules pursuant to chapter 1-26 necessary to carry out the~~
19 ~~purpose of this section.~~

20 Section 22. That § 34-20A-3.2 be repealed.

21 ~~—34-20A-3.2. There is created the Drug and Alcohol Abuse Advisory Council. The advisory~~
22 ~~council shall advise the Division of Drug and Alcohol Abuse concerning statewide needs~~
23 ~~relative to the treatment, prevention, and rehabilitation of drug and alcohol abusers; advise the~~
24 ~~Division of Drug and Alcohol Drug Abuse on the coordination and planning activities between~~

1 ~~state and local government agencies and private providers for treatment, prevention, and~~
2 ~~rehabilitation of drug and alcohol abusers; advise the division regarding studies for prevention,~~
3 ~~treatment, and rehabilitation of drug and alcohol abuses; and advise the division on all functions~~
4 ~~delegated to the division.~~

5 ~~— The composition of the advisory council is as follows:~~

6 ~~— (1) — The attorney general of the State of South Dakota or his designee;~~

7 ~~— (2) — The secretary of education or his designee;~~

8 ~~— (3) — A pharmacist;~~

9 ~~— (4) — The secretary of social services or his designee;~~

10 ~~— (5) — A qualified mental health professional as defined by § 27A-1-3;~~

11 ~~— (6) — Four members at large, interested in drug abuse two of whom are recovering drug~~
12 ~~abusers;~~

13 ~~— (7) — Four members at large, interested in alcohol abuse and alcoholism, two of whom are~~
14 ~~recovering alcoholics;~~

15 ~~— (8) — The director of Indian Affairs or his designee;~~

16 ~~— (9) — The secretary of health or his designee.~~

17 ~~— Appointment to the advisory council shall be made by the Governor. The first four at large~~
18 ~~members appointed by the Governor shall serve for a period of two years. The last four at large~~
19 ~~members appointed by the Governor shall serve for a period of one year. All terms thereafter~~
20 ~~are for two years.~~

21 Section 23. That § 34-20A-6 be repealed.

22 ~~— 34-20A-6. The Division of Drug and Alcohol Abuse shall develop a statewide plan for a~~
23 ~~comprehensive and coordinated system of prevention and treatment services, and assist in the~~
24 ~~development of regional and local plans in cooperation with public and private agencies,~~

1 ~~organizations, and individuals. The division shall provide technical assistance and consultation~~
2 ~~services for these purposes.~~

3 Section 24. That § 34-20A-9 be repealed.

4 ~~— 34-20A-9. The Division of Drug and Alcohol Abuse may sponsor, engage in, and encourage~~
5 ~~research into the causes and nature of alcohol and drug abuse as well as the prevention and~~
6 ~~treatment thereof. The division may serve as a clearinghouse for information relating to alcohol~~
7 ~~and drug abuse.~~

8 Section 25. That § 34-20A-10 be repealed.

9 ~~— 34-20A-10. The Division of Drug and Alcohol Abuse shall specify uniform content and~~
10 ~~methods for keeping statistical information by accredited facilities and collect and make~~
11 ~~available relevant statistical information.~~

12 Section 26. That § 34-20A-12 be repealed.

13 ~~— 34-20A-12. The Division of Drug and Alcohol Abuse may organize and foster training~~
14 ~~programs for persons engaged in the prevention and treatment of alcohol and drug abuse.~~

15 Section 27. That § 34-20A-13 be repealed.

16 ~~— 34-20A-13. The Division of Drug and Alcohol Abuse may assist in the development of, and~~
17 ~~cooperate with, alcohol and drug education and treatment programs for employees of state and~~
18 ~~local governments and businesses and industries in the state.~~

19 Section 28. That § 34-20A-14 be repealed.

20 ~~— 34-20A-14. The Division of Drug and Alcohol Abuse shall cooperate with other~~
21 ~~departments and agencies in establishing and conducting programs to provide prevention and~~
22 ~~treatment for alcohol and drug abusers and intoxicated persons in or on parole from penal~~
23 ~~institutions.~~

24 Section 29. That § 34-20A-16 be repealed.

1 ~~— 34-20A-16. The Division of Drug and Alcohol Abuse shall cooperate with the Department~~
2 ~~of Education, boards of education, schools, police departments, courts, and other public and~~
3 ~~private agencies, organizations and individuals in establishing programs for prevention and~~
4 ~~treatment and in preparing curriculum materials thereon for use at all levels of school education.~~

5 Section 30. That § 34-20A-17 be repealed.

6 ~~— 34-20A-17. The Division of Drug and Alcohol Abuse may prepare, publish, evaluate, and~~
7 ~~disseminate educational material dealing with the nature and effects of alcohol and other drugs~~
8 ~~of abuse.~~

9 Section 31. That § 34-20A-19 be repealed.

10 ~~— 34-20A-19. The Division of Drug and Alcohol Abuse shall review all state health, welfare,~~
11 ~~and treatment plans to be submitted for federal funding under federal legislation, and advise the~~
12 ~~Governor on provisions to be included relating to alcohol and drug abuse.~~

13 Section 32. That § 34-20A-20 be repealed.

14 ~~— 34-20A-20. The Division of Drug and Alcohol Abuse may administer or supervise the~~
15 ~~administration of the provisions relating to alcohol and drug abuse of any state plan submitted~~
16 ~~for federal funding pursuant to state or federal health, welfare, or treatment legislation.~~

17 Section 33. That § 34-20A-21 be repealed.

18 ~~— 34-20A-21. The Division of Drug and Alcohol Abuse shall cooperate with the Department~~
19 ~~of Public Safety in establishing and conducting programs designed to deal with the problem of~~
20 ~~persons operating motor vehicles while intoxicated.~~

21 Section 34. That § 34-20A-22 be repealed.

22 ~~— 34-20A-22. The Division of Drug and Alcohol Abuse shall encourage all health and~~
23 ~~disability insurance programs to include alcoholism and drug abuse as covered illnesses.~~

24 Section 35. That § 34-20A-23 be repealed.

1 ~~— 34-20A-23. The Division of Drug and Alcohol Abuse may plan, establish, and maintain~~
2 ~~prevention and treatment programs as necessary or desirable.~~

3 Section 36. That § 34-20A-25 be repealed.

4 ~~— 34-20A-25. The Division of Drug and Alcohol Abuse shall encourage general hospitals and~~
5 ~~other appropriate health facilities to admit without discrimination persons suffering from alcohol~~
6 ~~and drug abuse and intoxicated persons and to provide them with adequate and appropriate~~
7 ~~medical care.~~

8 Section 37. That § 34-20A-32 be repealed.

9 ~~— 34-20A-32. The Division of Drug and Alcohol Abuse may divide the state into appropriate~~
10 ~~regions for the development and coordination of prevention and treatment services on a regional~~
11 ~~level. In establishing the regions, consideration shall be given to municipality, and county lines~~
12 ~~and population concentrations.~~

13 Section 38. That § 34-20A-35 be repealed.

14 ~~— 34-20A-35. The Division of Drug and Alcohol Abuse shall maintain, supervise, and control~~
15 ~~all facilities operated by it subject to policies of the Department of Human Services.~~

16 Section 39. That § 34-20A-36 be repealed.

17 ~~— 34-20A-36. The Division of Drug and Alcohol Abuse may coordinate its activities and~~
18 ~~cooperate with other alcohol and drug prevention and treatment programs in this and other~~
19 ~~states. The division may make contracts and other joint or cooperative arrangements with state,~~
20 ~~local, or private agencies in this and other states for prevention services, treatment services,~~
21 ~~including detoxification services, and for the common advancement of prevention programs as~~
22 ~~well as alcohol and drug abuse treatment programs.~~

23 Section 40. That § 34-20A-37 be repealed.

24 ~~— 34-20A-37. The Division of Drug and Alcohol Abuse may contract with public and private~~

1 ~~agencies, organizations, and individuals to pay them for services rendered or furnished to~~
2 ~~persons for the prevention or treatment of alcohol and drug abuse.~~

3 Section 41. That § 34-20A-46 be repealed.

4 ~~— 34-20A-46. The Division of Drug and Alcohol Abuse may suspend, revoke, limit, or restrict~~
5 ~~accreditation or refuse to grant accreditation subject to the provisions of chapter 1-26.~~

6 Section 42. That § 34-20A-47 be repealed.

7 ~~— 34-20A-47. The Division of Drug and Alcohol Abuse shall maintain a list of accredited~~
8 ~~prevention and treatment facilities. The division shall annually prepare, publish, and distribute~~
9 ~~the list.~~

10 Section 43. That § 34-20A-48 be repealed.

11 ~~— 34-20A-48. The circuit court may review any denial, restriction, or revocation of~~
12 ~~accreditation and grant other relief required to enforce the provisions of this chapter.~~

13 Section 44. That § 34-20A-90 be repealed.

14 ~~— 34-20A-90. The registration and other records of treatment facilities shall remain~~
15 ~~confidential and are privileged to the patient.~~

16 Section 45. That § 34-20A-91 be repealed.

17 ~~— 34-20A-91. The director may make available information from patients' records for purposes~~
18 ~~of research into the causes and treatment of alcohol and drug abuse. Information under this~~
19 ~~section may not be published in a way that discloses patients' names or other identifying~~
20 ~~information.~~

21 Section 46. That § 34-20A-95 be repealed.

22 ~~— 34-20A-95. Nothing in this chapter affects any law, ordinance, resolution, or rule against~~
23 ~~drunken driving, driving under the influence of alcohol, or other similar offense involving the~~
24 ~~operation of a vehicle, aircraft, boat, machinery, or other equipment, or regarding the sale,~~

1 ~~purchase, dispensing, possessing, or use of alcoholic beverages at stated times and places or by~~
2 ~~a particular class of persons or possessing a loaded firearm while intoxicated.~~

3 Section 47. That § 34-20A-96 be repealed.

4 ~~— 34-20A-96. If any provision of this chapter or the application thereof to any person or~~
5 ~~circumstance is held invalid, the invalidity does not affect other provisions or applications of~~
6 ~~the chapter which can be given effect without the invalid provision or application, and to this~~
7 ~~end the provisions of this chapter are severable.~~