

State of South Dakota

EIGHTIETH LEGISLATIVE ASSEMBLY, 2005

916L0102

SENATE BILL NO. _____

Introduced by: _____

1 FOR AN ACT ENTITLED, An Act to LAWRENCE-ABUSE, NEGLECT OR
2 EXPLOITATION OF DISABLED ADULTS.

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

4 Section 1. That § 22-46-1 be amended to read as follows:

5 22-46-1. Terms used in this chapter mean:

6 (1) "Abuse," physical harm, bodily injury, or attempt to cause physical harm or injury,
7 or the infliction of fear of imminent physical harm or bodily injury on a disabled
8 adult;

9 (2) "Disabled adult," a person eighteen years of age or older who suffers from a
10 condition of mental retardation, infirmities of aging as manifested by organic brain
11 damage, advanced age, or other physical dysfunctioning to the extent that the person
12 is unable to protect himself or herself or provide for his or her own care;

13 (3) "Exploitation," the wrongful taking or exercising of control over property of a
14 disabled adult with intent to defraud ~~him of it~~ that disabled adult; and

15 (4) "Neglect," harm to a disabled adult's health or welfare, without reasonable medical
16 justification, caused by the conduct of a person responsible for the adult's health or



1 welfare, within the means available for the disabled adult, including the failure to
2 provide adequate food, clothing, shelter, or medical care. ~~If a disabled adult is under
3 treatment solely by spiritual means, the court may, upon good cause shown, order
4 that medical treatment be provided for that disabled adult.~~

5 Section 2. That chapter 34-12 be amended by adding thereto a NEW SECTION to read as
6 follows:

7 If a disabled adult is under treatment solely by spiritual means, the court may, upon good
8 cause shown, order that medical treatment be provided for that disabled adult.

9 Section 3. That § 22-46-2 be amended to read as follows:

10 22-46-2. Any person who abuses or neglects a disabled adult in a manner which does not
11 constitute aggravated assault, ~~but excluding subdivisions 22-18-1(2) and (4)~~, is guilty of a Class
12 6 felony.

13 Section 4. That § 22-46-3 be amended to read as follows:

14 22-46-3. Any person who, having assumed the duty by written contract, by receipt of
15 payment for care, or by order of a court to provide for the support of a disabled adult, and having
16 been entrusted with the property of that disabled adult, with intent to defraud, appropriates such
17 property to a use or purpose not in the due and lawful execution of ~~his~~ that person's trust, is
18 guilty of theft by exploitation. Theft by exploitation is punishable ~~pursuant to the provisions of~~
19 ~~§ 22-30A-17~~ as theft pursuant to chapter 22-30A.

20 Section 5. That § 22-46-5 be amended to read as follows:

21 22-46-5. In investigating violations of this chapter, law enforcement agencies shall cooperate
22 with and assist the Department of Social Services.

23 Section 6. That § 22-46-6 be amended to read as follows:

24 22-46-6. Any institution regulated pursuant to chapter 34-12 and any employee, agent, or

1 member of a medical or dental staff thereof who, in good faith, makes a report of abuse,
2 exploitation, or neglect of a disabled adult, is immune from any liability, civil or criminal, that
3 might otherwise be incurred or imposed, and has the same immunity with respect to
4 participation in any judicial proceeding resulting from such report. ~~Immunity~~ This immunity
5 also extends in a like manner to any public ~~officials~~ official involved in the investigation of
6 abuse, exploitation, or neglect of any disabled ~~adults~~ adult, or to any person or institution
7 provided herein who in good faith cooperates with such public officials in an investigation. The
8 provisions of this section ~~may do not be extended~~ extend to any person alleged to have
9 committed any act of abuse or neglect of a disabled adult.

10 Section 7. The code counsel shall transfer § 22-46-6 to chapter 34-12 and shall renumber
11 the section accordingly and adjust all appropriate cross references.