

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

400E0341

## HOUSE ENGROSSED NO. **SB 53** - 02/27/2001

Introduced by: The Committee on State Affairs at the request of the Department of Social Services

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the reunification of  
2 an abused or neglected child with a parent and the subsequent termination of parental rights.

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

4 Section 1. That § 26-8A-21.1 be amended to read as follows:

5 26-8A-21.1. Nothing in § 26-8A-21 requires reunification of a child with a parent who:

- 6 (1) Committed a crime defined in § 22-16-4, 22-16-7, 22-16-9, 22-16-15, 22-16-20, 22-  
7 22-1, 22-22-19.1, 22-22-22, ~~or 26-10-1 or subdivision 22-22-1(1) or (2), or~~  
8 subdivision 22-19-1(5), or committed conduct described by any of those statutes that  
9 violated the law or ordinance of another jurisdiction having elements similar to an  
10 offense described by any of those statutes;
- 11 (2) Committed a crime defined in § 22-18-1.1 against the child or another child of such  
12 parent; ~~or,~~ or committed conduct described by that section that violated the law or  
13 ordinance of another jurisdiction having elements similar to the offense described by  
14 that section;
- 15 (3) Has been determined by a court by clear and convincing evidence to have subjected

1 the child or another child to torture, sexual abuse, abandonment for at least six  
2 months, chronic physical, mental, or emotional injury, or chronic neglect if the neglect  
3 was a serious threat to the safety of the child or another child;

4 (4) Is incarcerated and is unavailable to care for the child during a significant period of  
5 the child's minority, considering the child's age and the child's need for care by an  
6 adult;

7 ~~(3)~~(5) Has had parental rights to another child involuntarily terminated by a prior legal  
8 proceeding;

9 ~~(4)~~(6) Has a documented history of abuse and neglect associated with chronic alcohol or  
10 drug abuse; or

11 ~~(5)~~(7) Has exposed the child to or demonstrated an inability to protect the child from  
12 substantial harm or the risk of substantial harm, and the child or another child has  
13 been removed from the parent's custody because the removed child has been was  
14 adjudicated abused and neglected by a court on at least one previous occasion;

15 (8) Has exposed the child to or demonstrated an inability to protect the child from  
16 substantial harm or the risk of substantial harm, the child has been removed from the  
17 parent's custody on two separate occasions, and the Department of Social Services  
18 offered or provided family services on each of the two separate occasions the child  
19 was removed; or

20 (9) Has exposed the child to or demonstrated an inability to protect the child from  
21 substantial harm or risk of harm resulting from a crime, act, or omission as specified  
22 in subdivision (1), (2), or (3) of this section.

23 Section 2. That § 26-8A-26.1 be amended to read as follows:

24 26-8A-26.1. In addition to the provisions of § 26-8A-26, the court may find that good cause

1 exists for termination of parental rights of a parent who:

2 (1) Committed a crime defined in § 22-16-4, 22-16-7, 22-16-9, 22-16-15, 22-16-20, 22-  
3 22-1, 22-22-19.1, 22-22-22, ~~or 26-10-1 or subdivision 22-22-1(1) or (2)~~, or  
4 subdivision 22-19-1(5), or committed conduct described by any of those statutes that  
5 violated the law or ordinance of another jurisdiction having elements similar to an  
6 offense described by any of those statutes;

7 (2) Committed a crime defined in § 22-18-1.1 against the child or another child of such  
8 parent; ~~or~~, or committed conduct described by that section that violated the law or  
9 ordinance of another jurisdiction having elements similar to the offense described by  
10 that section;

11 (3) Has been determined by a court by clear and convincing evidence to have subjected  
12 the child or another child to torture, sexual abuse, abandonment for at least six  
13 months, chronic physical, mental, or emotional injury, or chronic neglect if the neglect  
14 was a serious threat to the safety of the child or another child;

15 (4) Is incarcerated and is unavailable to care for the child during a significant period of  
16 the child's minority, considering the child's age and the child's need for care by an  
17 adult;

18 ~~(3)~~(5) Has had parental rights to another child involuntarily terminated by a prior legal  
19 proceeding;

20 ~~(4)~~(6) Has a documented history of abuse and neglect associated with chronic alcohol or  
21 drug abuse; ~~or~~

22 ~~(5)~~(7) Has exposed the child to or demonstrated an inability to protect the child from  
23 substantial harm or the risk of substantial harm, and the child or another child has  
24 been removed from the parent's custody because the removed child ~~has been~~ was

1 adjudicated abused and neglected by a court on at least one previous occasion;

2 (8) Has exposed the child to or demonstrated an inability to protect the child from  
3 substantial harm or the risk of substantial harm, the child has been removed from the  
4 parent's custody on two separate occasions, and the Department of Social Services  
5 offered or provided family services on each of the two separate occasions the child  
6 was removed; or

7 (9) Has exposed the child to or demonstrated an inability to protect the child from  
8 substantial harm or risk of harm resulting from a crime, act, or omission as specified  
9 in subdivision (1), (2), or (3) of this section.