

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

528H0299

SENATE JUDICIARY COMMITTEE ENGROSSED NO.

HB 1180 - 02/04/2002

Introduced by: Representatives Monroe, Bartling, Madsen, and Napoli and Senator Apa

1 FOR AN ACT ENTITLED, An Act to increase the amount of the lien that is permitted on the
2 parents of a minor child for whom legal counsel has been provided.

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

4 Section 1. That § 23A-40-11 be amended to read as follows:

5 23A-40-11. A lien, enforceable as provided by this chapter, upon all the property, both real
6 and personal, of any person, including the parents of a minor child, for whom legal counsel or
7 a public defender has been appointed under the provisions of § 23A-40-6, subdivisions
8 23A-40-7(2) and (3), or § 26-7A-31 may be filed. The services rendered and expenses incurred
9 are a claim against the person and that person's estate, enforceable according to law in an amount
10 to be determined by a judge of the circuit court or a magistrate judge and paid by the county or
11 municipality chargeable for them. A lien on the parents of a minor child pursuant to this section
12 may not exceed one thousand five hundred dollars plus an amount equal to any taxable court
13 costs.

14 Section 2. That § 26-7A-32 be amended to read as follows:

15 26-7A-32. There is hereby created a lien, enforceable as provided in chapter 23A-40, upon



1 all the property, both real and personal, of the parents, jointly or severally, of any child involved
2 in proceedings under this chapter or chapter 26-8A, 26-8B, or 26-8C to repay funds paid by the
3 county for a court-appointed attorney for the child's parents or by the county or the state for the
4 child. The county, on behalf of the county or the state, shall have a claim against the parents and
5 their estates, jointly or severally, as provided in chapter 23A-40.

6 However, except in the case of informal adjustment or suspended imposition of adjudication,
7 no lien or claim against the parents of a child may be created or may arise if the child is not
8 adjudicated to be an abused or neglected child, a child in need of supervision or a delinquent
9 child at the completion of the adjudicatory hearing and the proceedings are terminated.

10 The lien and claim on the property of the parents of a child pursuant to this section may not
11 exceed one thousand five hundred dollars plus an amount equal to any taxable court costs. This
12 limit does not apply to any claim or lien against the parents of a child adjudicated to be an abused
13 or neglected child.