

State of South Dakota

EIGHTIETH SESSION
LEGISLATIVE ASSEMBLY, 2005

553L0351

SENATE ENGROSSED NO. **HB 1095** - 02/25/2005

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 or the South Dakota State Veterans' Home whose primary duty
9 includes patient or resident care or supervision. The commissioner may establish and implement
10 a drug screening program for employees holding positions at the Human Services Center or the
11 South Dakota Developmental Center or the South Dakota State Veterans' Home whose primary
12 duty includes patient or resident care or supervision, based upon reasonable suspicion of illegal
13 drug use by any such employee.

14 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 or the
4 South Dakota State Veterans' Home for a position in which the primary duty includes patient
5 or resident care or supervision, shall include a statement of the requirements of the drug
6 screening program established pursuant to this Act.

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

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

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

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

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

22 The commissioner of the Bureau of Personnel may promulgate rules, pursuant to chapter 1-
23 26, necessary to carry out the provisions of this Act with regard to:

24 (1) Listing of positions whose primary duty includes patient or resident care or

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

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

17 Any adjustment training center shall have a drug screening policy for applicants seeking
18 employment whose primary duty includes patient or resident care or supervision. Any
19 adjustment training center shall have a drug screening policy for employees whose primary duty
20 includes patient or resident care or supervision, based upon reasonable suspicion of illegal drug
21 use by such employee.