

State of South Dakota

EIGHTIETH SESSION
LEGISLATIVE ASSEMBLY, 2005

375L0597

HOUSE BILL NO. 1117

Introduced by: Representatives Jensen, Davis, Dennert, and Novstrup and Senators Koskan and Bartling

1 FOR AN ACT ENTITLED, An Act to permit a county to file a lien against the property of the
2 parents for payment of temporary care, temporary custody, shelter, or detention provided to
3 a child if a judge has ordered payments of part of the costs.

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

5 Section 1. That § 26-7A-94 be amended to read as follows:

6 26-7A-94. The following provisions govern the payment of costs of custodial care of any
7 child who is the subject of proceedings under this chapter or chapter 26-8A, 26-8B, or 26-8C:

8 (1) The child's parents, guardian, or custodian shall pay the costs of custodial care of the
9 child at all times while the child is in the custodial care of the parents, guardian, or
10 custodian;

11 (2) The costs of custodial care of any child before disposition of the child shall be paid
12 initially by the county in which the proceedings are conducted except for the costs
13 of custodial care of an apparent or alleged abused or neglected child in the temporary
14 custody of the Department of Social Services who is placed in a licensed foster home
15 or in licensed facilities. Custodial care costs for such a child shall be paid by the



1 Department of Social Services;

2 (3) The cost of placing any child in a detention facility after disposition shall be
3 sustained initially by the county in which the proceedings are concluded;

4 (4) If the court commits a child to the Department of Corrections and the child has to
5 await placement, the county in which the proceedings are concluded shall pay
6 initially the costs of custodial care for seven days immediately following issuance of
7 the final decree of disposition while the child awaits placement. After the seven-day
8 period has expired, the Department of Corrections shall pay the costs of custodial
9 care or reimburse the county responsible for providing that care;

10 (5) If the court places a child at the Human Services Center, and the child has to await
11 placement, the county in which the proceedings are concluded shall pay the costs of
12 custodial care for seven days immediately following issuance of the final decree of
13 disposition. After the seven-day period has expired, the Department of Human
14 Services shall pay the costs of custodial care or reimburse the county responsible for
15 providing that care while the child awaits placement; and

16 (6) The county may file a lien pursuant to §§ 26-7A-95 and 26-7A-98 on all property,
17 both real and personal, of the parents, jointly or severally, of any child placed in
18 temporary care, temporary custody, shelter, or detention if the county is responsible
19 for the costs after disposition and the judge has ordered repayment of part of the
20 costs. No lien may be created or may arise if the child is not adjudicated to be an
21 abused or neglected child, a child in need of supervision, or a delinquent child at the
22 completion of the adjudicatory hearing and the proceedings terminated. The judge
23 shall follow the provisions established in § 25-7-6.2 when determining the amount
24 of the repayment costs. The lien filed pursuant to this section may not exceed ten

1 thousand dollars plus any taxable court costs. This limit does not apply to any claim
2 or lien against the parents of a child adjudicated to be an abused or neglected child.
3 The priority of the county lien shall be established pursuant to § 44-2-1. The lien is
4 enforceable pursuant to the provisions of chapter 23A-20.