

State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

853N0650

HOUSE BILL NO. 1153

Introduced by: Representatives Cutler, Gilson, Miles, Novstrup (David), Olson (Russell), Rave, and Rounds and Senators Dempster, Abdallah, Albers, Heidepriem, Maher, and Turbak

1 FOR AN ACT ENTITLED, An Act to revise certain references regarding the reunification of
2 an abused or neglected child with a parent and regarding grounds for termination of parental
3 rights and regarding the operation of the central registry for abuse and neglect.

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

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

6 26-8A-21.1. Nothing in § 26-8A-21 requires reunification of a child with a parent who:

7 (1) Committed a crime defined in § 22-16-4, 22-16-7, ~~22-16-9~~, 22-16-15, 22-16-20, 22-
8 22-1, 22-22-24.3, 22-22A-2, 22-22A-3, 26-10-1, or subdivision 22-19-1(5), or
9 committed conduct described by any of those statutes that violated the law or
10 ordinance of another jurisdiction having elements similar to an offense described by
11 any of those statutes;

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



- 1 (3) Has been determined by a court by clear and convincing evidence to have subjected
2 the child or another child to torture, sexual abuse, abandonment for at least six
3 months, chronic physical, mental, or emotional injury, or chronic neglect if the
4 neglect was a serious threat to the safety of the child or another child;
- 5 (4) Is incarcerated and is unavailable to care for the child during a significant period of
6 the child's minority, considering the child's age and the child's need for care by an
7 adult;
- 8 (5) Has had parental rights to another child involuntarily terminated by a prior legal
9 proceeding;
- 10 (6) Has a documented history of abuse and neglect associated with chronic alcohol or
11 drug abuse;
- 12 (7) Has exposed the child to or demonstrated an inability to protect the child from
13 substantial harm or the risk of substantial harm, and the child or another child has
14 been removed from the parent's custody because the removed child was adjudicated
15 abused and neglected by a court on at least one previous occasion;
- 16 (8) Has exposed the child to or demonstrated an inability to protect the child from
17 substantial harm or the risk of substantial harm, the child has been removed from the
18 parent's custody on two separate occasions, and the Department of Social Services
19 offered or provided family services on each of the two separate occasions the child
20 was removed; or
- 21 (9) Has exposed the child to or demonstrated an inability to protect the child from
22 substantial harm or risk of harm resulting from a crime, act, or omission as specified
23 in subdivision (1), (2), or (3) of this section.

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

1 26-8A-26.1. In addition to the provisions of § 26-8A-26, the court may find that good cause
2 exists for termination of parental rights of a parent who:

3 (1) Committed a crime defined in § 22-16-4, 22-16-7, ~~22-16-9~~, 22-16-15, 22-16-20, 22-
4 22-1, 22-22-24.3, 22-22A-2, 22-22A-3, 26-10-1, or subdivision 22-19-1(5), or
5 committed conduct described by any of those statutes that violated the law or
6 ordinance of another jurisdiction having elements similar to an offense described by
7 any of those statutes;

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

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

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

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

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

23 (7) Has exposed the child to or demonstrated an inability to protect the child from
24 substantial harm or the risk of substantial harm, and the child or another child has

1 been removed from the parent's custody because the removed child was adjudicated
2 abused and neglected by a court on at least one previous occasion;

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

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

11 Section 3. That § 26-8A-12 be amended to read as follows:

12 26-8A-12. The secretary of social services may adopt reasonable and necessary rules for the
13 operation of the central registry for abuse and neglect, including the following:

- 14 (1) Filing of reports;
- 15 (2) Procedures for provision of notice to the subject of a report;
- 16 (3) Amendment and expunction;
- 17 (4) Release of information from the registry;
- 18 (5) Statistical information; and
- 19 (6) Provisions for the keeping and maintenance of records and the type of information
20 placed into the central registry.

21 However, the secretary may not adopt any rule which would permit the removal from the
22 central registry for abuse and neglect of any person who has been convicted of any violation of
23 chapter 22-22, chapter 22-24A, § 22-22A-3, or or § 26-10-1, if the victim of such crime was a
24 child.