



2023 South Dakota Legislature

House Bill 1097

Introduced by: **Representative** Deutsch

1 **An Act to revise the definition of an abused or neglected child.**

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

3 **Section 1. That § 26-8A-2 be AMENDED:**

4 **26-8A-2.** In this chapter and chapter 26-7A, the term, abused or neglected child,
5 means a child:

- 6 (1) Whose parent, guardian, or custodian has abandoned the child or has subjected
7 the child to mistreatment or abuse;
- 8 (2) Who lacks proper parental care through the actions or omissions of the child's
9 parent, guardian, or custodian;
- 10 (3) Whose environment is injurious to the child's welfare;
- 11 (4) Whose parent, guardian, or custodian fails or refuses to provide proper or
12 necessary subsistence, supervision, education, medical care, or any other care
13 necessary for the child's health, guidance, or well-being;
- 14 (5) Who is homeless, without proper care, or not domiciled with the child's parent,
15 guardian, or custodian through no fault of the child's parent, guardian, or
16 custodian;
- 17 (6) Who is threatened with substantial harm;
- 18 (7) Who has sustained emotional harm or mental injury as indicated by an injury to
19 the child's intellectual or psychological capacity evidenced by an observable and
20 substantial impairment in the child's ability to function within the child's normal
21 range of performance and behavior, with due regard to the child's culture;
- 22 (8) Who is subject to sexual abuse, sexual molestation, or sexual exploitation as
23 defined in § 22-22-24.3, by the child's parent, guardian, custodian, or any other
24 person responsible for the child's care;

- 1 (9) Who was subject to prenatal exposure to abusive use of alcohol, ~~marijuana~~, or any
2 controlled drug or substance not lawfully prescribed by a practitioner as authorized
3 by chapters 22-42 and 34-20B; ~~or~~
- 4 (10) Whose parent, guardian, or custodian knowingly exposes the child to an
5 environment that is being used for the manufacture, use, or distribution of
6 methamphetamines or any other unlawfully manufactured controlled drug or
7 substance; or
- 8 (11) Whose parent, guardian, or custodian negligently or intentionally causes or permits
9 the child to inhale, ingest, contact, or access marijuana, as defined in subdivision
10 22-42-1(7), unless lawfully certified by a practitioner for medical use by the child
11 under chapter 34-20G, including prenatal exposure.