

AN ACT

ENTITLED, An Act to authorize a health care practitioner to administer a toxicology test to an infant under certain circumstances.

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

Section 1. That chapter 26-8A be amended by adding a NEW SECTION to read:

If a health care practitioner has reason to believe based on a medical assessment of a mother or a newborn infant that the mother used a controlled substance for a nonmedical purpose during the pregnancy, the health care practitioner may administer, with or without the consent of the newborn infant's parent or guardian, a toxicology test to the newborn infant under the health care practitioner's care to determine whether there is evidence of prenatal exposure to a controlled substance. If the test results are positive, the health care practitioner shall report the results pursuant to § 26-8A-8.

Section 2. That chapter 26-8A be amended by adding a NEW SECTION to read:

A health care practitioner or any other medical personnel administering a toxicology test to determine the presence of a controlled substance in a newborn infant at birth or during the first twenty-eight days after birth and the employer of the person administering the test are immune from civil or criminal liability arising from administration of the test if the health care practitioner ordering the test believes in good faith that the test is permitted under this section and if the test is administered in accordance with an established protocol and reasonable medical practice.

If a health care practitioner or any other medical personnel determines in good faith not to administer a toxicology test under this section, the person making the determination and the person's employer are immune from civil or criminal liability arising from not administering the test.

Section 3. That chapter 26-8A be amended by adding a NEW SECTION to read:

For purposes of this Act, a health care practitioner is a person licensed, accredited, or certified to perform specified health services consistent with state law.

An Act to authorize a health care practitioner to administer a toxicology test to an infant under certain circumstances.

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I certify that the attached Act originated in the

SENATE as Bill No. 105

\_\_\_\_\_  
Secretary of the Senate

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\_\_\_\_\_  
President of the Senate

Attest:

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_  
Speaker of the House

Attest:

\_\_\_\_\_  
Chief Clerk

Senate Bill No. 105  
File No. \_\_\_\_\_  
Chapter No. \_\_\_\_\_

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Received at this Executive Office this \_\_\_\_ day of \_\_\_\_\_ ,

20\_\_\_\_ at \_\_\_\_\_ M.

By \_\_\_\_\_  
for the Governor

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The attached Act is hereby approved this \_\_\_\_\_ day of \_\_\_\_\_ , A.D., 20\_\_\_\_

\_\_\_\_\_  
Governor

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STATE OF SOUTH DAKOTA,  
ss.

Office of the Secretary of State

Filed \_\_\_\_\_ , 20\_\_\_\_  
at \_\_\_\_\_ o'clock \_\_ M.

\_\_\_\_\_  
Secretary of State

By \_\_\_\_\_  
Asst. Secretary of State