



## 2020 South Dakota Legislature

# House Bill 1195

HOUSE STATE AFFAIRS ENGROSSED

Introduced by: **Representative** Gosch

1 **An Act to provide an affirmative defense to pregnant women for certain controlled**  
2 **substance offenses.**

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

4 **Section 1.** That a NEW SECTION be added:

5 **22-42-23. Controlled Substance--Pregnant--Assault.**

6 If a woman is charged with a crime under § 22-42-5 or 22-42-5.1 while pregnant,  
7 it is an affirmative defense if the woman provides proof she received adequate prenatal  
8 care, actively enrolled in an addiction recovery program before the child is born, remained  
9 in the program after delivery, and successfully completed the program, regardless of  
10 whether the child was born with a physical dependence on or was harmed by a controlled  
11 substance.