



2023 South Dakota Legislature

Senate Bill 28

Introduced by: The Committee on Judiciary at the request of the Department of Social Services

1 **An Act to revise and repeal obsolete provisions related to the Department of Social**
 2 **Services.**

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

4 **Section 1. That § 1-36-27 be AMENDED:**

5 **1-36-27.** The Human Services Center, Yankton, ~~created by chapter 1-36A~~ is
 6 hereby transferred from the Department of Human Services to the ~~Mental Health Division,~~
 7 Department of Social Services. The secretary of the Department of Social Services shall
 8 perform the functions of the secretary of the Department Human Services, relating to the
 9 Human Services Center, Yankton.

10 **Section 2. That § 28-1-82 be AMENDED:**

11 **28-1-82.** ~~Any~~ A person ~~who knowingly~~ is guilty of unauthorized acquisition or
 12 transfer of Supplemental Nutrition Assistance Program benefits if the person knowingly:
 13 (1) ~~Acquires, purchases, possesses, or uses any food stamp~~ Supplemental Nutrition
 14 Assistance Program EBT card to obtain ~~food stamp~~ Supplemental Nutrition
 15 Assistance Program benefits that the person is not entitled to;
 16 (2) ~~Transfers, sells, trades, gives, or otherwise disposes of any food stamp~~
 17 Supplemental Nutrition Assistance Program EBT card to another person not entitled
 18 to receive or use it in exchange for anything of value;
 19 (3) ~~Acquires, purchases, possesses, or uses any eligible goods purchased with a food~~
 20 ~~stamp~~ Supplemental Nutrition Assistance Program EBT card that the person is not
 21 entitled to; or
 22 (4) ~~Transfers, sells, trades, gives, or otherwise disposes of any eligible goods~~
 23 ~~purchased with a food stamp~~ Supplemental Nutrition Assistance Program EBT card
 24 to another person not entitled to receive it in exchange for anything of value;
 25 ~~is guilty of unauthorized acquisition or transfer of food stamp benefits.~~

1 **Section 3. That § 28-1-83 be AMENDED:**

2 **28-1-83.** Any person convicted of an offense under ~~§ subdivision~~ 28-1-82(1) or
 3 (2) for food stamp benefits with an a Supplemental Nutrition Assistance Program EBT card
 4 value of one thousand dollars or less is guilty of a Class 1 misdemeanor. Any person
 5 convicted of an offense under ~~§ subdivision~~ 28-1-82(1) or (2) for food stamp benefits with
 6 an a Supplemental Nutrition Assistance Program EBT card value of more than one thousand
 7 dollars is guilty of a Class 6 felony. Amounts involved in the acquisition or transfer of EBT
 8 cards in violation of ~~§ subdivisions~~ 28-1-82(1) and (2), committed pursuant to one scheme
 9 or course of conduct in any twelve-month period, may be aggregated in determining the
 10 degree of the offense. Any person convicted of an offense under ~~§ subdivision~~ 28-1-82(3)
 11 or (4) is guilty of a Class 1 misdemeanor.

12 **Section 4. That § 28-1-84 be AMENDED:**

13 **28-1-84.** As used in §§ 28-1-82 to 28-1-84, inclusive, the term, ~~food stamp,~~
 14 Supplemental Nutrition Assistance Program EBT card, means any electronic benefit
 15 transfer card issued for the purchase of food pursuant to the Food Stamp Act of 1997, 7
 16 U.S.C. §§ 2011 to 2029, inclusive, in effect on January 1, 2005. ~~As used in §§ 28-1-82 to~~
 17 ~~28-1-84, inclusive, the term, EBT, means electronic benefit transfer.~~

18 **Section 5. That § 28-12-1 be AMENDED:**

19 **28-12-1.** The Department of Social Services may enter into agreements and
 20 contracts with the ~~United States~~ federal government and its agencies and with the political
 21 subdivisions of this state for the purpose of participating in ~~The the~~ Food Stamp Act of
 22 1964 (P.L. 88-525) and any related acts, as amended to January 1, 2004. The secretary
 23 of social services shall promulgate ~~reasonable and necessary~~ rules, pursuant to chapter
 24 1-26, as required by the federal government for the administration of the ~~food~~
 25 ~~stamp program~~ Supplemental Nutrition Assistance Program in ~~South Dakota~~ this state.
 26 ~~Such~~ The rules ~~shall~~ must be in accordance with federal regulations implementing ~~The the~~
 27 Food Stamp Act of 1964, as amended to January 1, 2004.

28 **Section 6. That § 34-20A-2 be AMENDED:**

29 **34-20A-2.** Terms used in this chapter mean:
 30 (1) "Accredited prevention or treatment facility," a private or public agency meeting
 31 the standards prescribed in § 34-20A-27 or a private or public agency or facility

- 1 surveyed and accredited by the Joint Commission; an Indian Health Service's
 2 quality assurance review under the Indian Health Service Manual, Professional
 3 Standards-Alcohol/Substance Abuse; or the Commission on Accreditation of
 4 Rehabilitation Facilities; or the Council on Accreditation; under the drug and alcohol
 5 treatment standards incorporated and adopted by the ~~division~~ department in rules
 6 promulgated pursuant to chapter 1-26, if proof of the accreditation, with
 7 accompanying recommendations, progress reports, and related correspondence
 8 are submitted to the ~~division~~ department in a timely manner;
- 9 (2) "Addiction counselor," a person licensed or certified as an addiction counselor by
 10 the South Dakota Board of Addiction and Prevention Professionals;
- 11 (3) "Alcoholic," a person who habitually lacks self-control as to the use of alcoholic
 12 beverages, or uses alcoholic beverages to the extent that the person's health is
 13 substantially impaired or endangered or the person's social or economic function
 14 is substantially disrupted;
- 15 (4) "Department," the Department of Social Services;
- 16 (5) "Designated prevention or treatment facility," an accredited agency operating under
 17 the direction and control of the state or providing services under this chapter
 18 through a contract with the ~~division~~ department, or a treatment-facilities facility
 19 operated by the federal government that may be designated by the ~~division~~
 20 department without accreditation by the state;
- 21 (6) ~~"Division," the Division of Behavioral Health within the department;~~
- 22 ~~(7)~~ (7) "Drug abuser," a person who habitually lacks self-control as to the use of controlled
 23 drugs or substances as defined in § 34-20B-3 to the extent that the person's health
 24 is substantially impaired or endangered or that the person's social or economic
 25 function is substantially disrupted;
- 26 ~~(8)~~ (7) "Incapacitated by alcohol or other drugs," that a person, as a result of the use of
 27 alcohol or other drugs, is unconscious, or the person's judgment is otherwise so
 28 impaired that the person is incapable of realizing and making a rational decision
 29 with respect to the person's need for treatment;
- 30 ~~(9)~~ (8) "Incompetent person," a person who has been adjudged incompetent by the circuit
 31 court;
- 32 ~~(10)~~ (9) "Intoxicated person," a person who demonstrates diminished mental or
 33 physical capacity while under the influence of alcohol or other drugs;
- 34 ~~(11)~~ (10) "Prevention," purposeful activities designed to promote personal growth of a
 35 person and strengthen the aspects of the community environment that are

1 supportive to the person in order to preclude, prevent, or impede the development
 2 of alcohol or other drug misuse and abuse;
 3 ~~(12)~~(11) "Secretary," the secretary of the Department of Social Services;
 4 ~~(13)~~(12) "Treatment," the broad range of emergency, outpatient, intermediate, and
 5 inpatient services and care, including diagnostic evaluation, that may be extended
 6 to a person experiencing problems as a result of the use of alcohol or other drugs.

7 **Section 7. That § 34-20A-18 be AMENDED:**

8 **34-20A-18.** The ~~division~~ department may solicit and accept for use any gift of
 9 money or property made by will or otherwise, and any grant of money, services, or
 10 property from the federal government, the state, or any political subdivision thereof, or
 11 any private source, and may do all things necessary to cooperate with the federal
 12 government or any of its agencies in ~~making an application~~ applying for any grant.

13 **Section 8. That § 34-20A-27 be AMENDED:**

14 **34-20A-27.** The ~~division~~ department shall establish reasonable standards and
 15 requirements for accredited prevention or treatment facilities. The ~~division~~ department
 16 may fix the fees to be charged by the ~~division~~ department for the required inspections.
 17 The ~~division may adopt~~ department shall promulgate rules, pursuant to chapter 1-26, in
 18 regard to the following standards and requirements:

- 19 (1) Management and administration, including fiscal control, program planning, and
 20 evaluation;
- 21 (2) Physical facilities and quality control;
- 22 (3) Services administration, including client rights, confidentiality, treatment planning,
 23 and statistical reporting;
- 24 (4) Service components, including ~~inpatient~~ and residential, outpatient treatment,
 25 social detoxification, transitional care, custodial care, counseling and support
 26 services, and prevention services;
- 27 (5) Staff qualifications; and
- 28 (6) ~~Such other~~ Other standards as are necessary for the safety and health of clients
 29 and patients.

30 **Section 9. That § 34-20A-34 be AMENDED:**

1 **34-20A-34.** ~~The division~~ department may acquire, hold, or dispose of real
2 property or any interest in real property, and construct, lease, or otherwise provide
3 facilities for the prevention of alcohol and drug abuse and facilities for the treatment of
4 those persons suffering from alcohol and drug abuse, and for intoxicated persons.

5 **Section 10. That § 34-20A-44 be AMENDED:**

6 **34-20A-44.** ~~The division~~ department shall inspect accredited prevention or
7 treatment facilities to ~~insure~~ ensure compliance with this chapter. For purposes of
8 inspection, the ~~division~~ department shall have access to the facility and its records at
9 reasonable times and in a reasonable manner. This section does not apply to facilities
10 accredited ~~pursuant to accreditation~~ by the Joint Commission, the Commission on
11 Accreditation of Rehabilitation Facilities, an Indian Health Service's quality assurance
12 review under the Indian Health Service Manual, Professional Standards-Alcohol/Substance
13 Abuse, or the Council on Accreditation.

14 **Section 11. That § 34-20A-44.1 be AMENDED:**

15 **34-20A-44.1.** ~~If a public or private agency or facility is considered to be~~The
16 department retains the right of access to all facility premises and relevant records to
17 monitor compliance or investigate complaints brought against an accredited prevention or
18 treatment facility ~~by reason of compliance with accreditation by the Joint Commission, the~~
19 ~~Commission on Accreditation of Rehabilitation Facilities, an Indian Health Service's quality~~
20 ~~assurance review under the Indian Health Service Manual, Professional Standards-~~
21 ~~Alcohol/Substance Abuse, or the Council on Accreditation, as described in § 34-20A-2, the~~
22 ~~division retains the right of access to all facility premises and relevant records to monitor~~
23 ~~compliance or investigate complaints brought against the facility~~ that is not required to be
24 inspected by the department under § 34-20A-44.

25 **Section 12. That § 34-20A-51 be AMENDED:**

26 **34-20A-51.** Subject to rules adopted by the ~~division~~ department, the
27 administrator in charge of an accredited treatment facility may determine who ~~shall be~~ is
28 admitted for treatment. If a person is refused admission to the facility, the administrator,
29 subject to rules adopted by the ~~division~~ department, shall refer the person to another
30 treatment facility for treatment if possible and appropriate.

31 **Section 13. That § 34-20A-66.1 be AMENDED:**

1 **34-20A-66.1.** Payment for treatment under emergency detainment, or under
 2 protective custody pursuant to § 34-20A-55 if emergency detainment is not required, may
 3 be assessed to the individual, to a legally responsible relative or guardian, to the county
 4 of residence if indigent, or billed to the ~~division~~ department through contract with an
 5 approved treatment facility. Any payment for emergency detainment to the Human
 6 Services Center is subject to the requirements of chapter 27A-13.

7 **Section 14. That § 34-20A-89 be AMENDED:**

8 **34-20A-89.** If an approved treatment facility provides treatment of to a person
 9 who was involuntarily committed is provided by an, the approved treatment facility, may
 10 assess the payment for treatment ~~may be assessed~~ to the ~~individual person~~, to legally
 11 responsible relatives, to a conservator, or to the county of residence if indigent, ~~or billed~~
 12 ~~to may bill~~ the ~~division~~ department through contract with the approved treatment
 13 facility. ~~The payment for~~

14 If an accredited treatment facility provides treatment of to a person who was
 15 involuntarily committed to an, the accredited treatment facility shall be assessed assess
 16 payment to the individual, legally responsible relatives, or a conservator.

17 The payment for treatment of a person involuntarily committed to the Human
 18 Services Center is subject to the requirements of chapter 27A-13.

19 **Section 15. That § 28-6A-4 be REPEALED:**

20 ~~The secretary of the Department of Social Services shall, in cooperation with the~~
 21 ~~secretary of health, provide for or coordinate the development of programs for the~~
 22 ~~prevention of chronic renal diseases.~~

23 **Section 16. That § 28-6A-5 be REPEALED:**

24 ~~The secretary of the Department of Social Services shall in cooperation with the~~
 25 ~~secretary of health, institute and carry on an educational program among physicians,~~
 26 ~~hospitals, public health departments, and the public concerning chronic renal failure~~
 27 ~~requiring dialysis or transplant, including the dissemination of information and the~~
 28 ~~conducting of educational programs concerning the causes and prevention of chronic renal~~
 29 ~~diseases and the methods for the care and treatment of persons suffering from these~~
 30 ~~diseases.~~

31 **Section 17. That § 28-6A-11 be REPEALED:**

1 ~~The secretary of the Department of Social Services may make agreements with~~
2 ~~other agencies to use money made available by legislative appropriation to match other~~
3 ~~funds including, but not limited to funds provided by vocational rehabilitation and Title XIX~~
4 ~~of the Social Security Act, to best carry out the intent of the program.~~

5 **Section 18. That § 28-6B-2 be REPEALED:**

6 ~~Within thirty days after July 1, 2016, the Department of Social Services shall submit~~
7 ~~a state plan amendment or waiver for approval by the federal Centers for Medicare and~~
8 ~~Medicaid Services to provide prenatal coverage under the medical assistance program in~~
9 ~~accordance with this chapter.~~

10 **Section 19. That § 34-20A-40 be REPEALED:**

11 ~~The division in the adoption of standards and in the promulgation of other rules~~
12 ~~and regulations shall be governed by the provisions of chapter 1-26.~~