



2020 South Dakota Legislature

House Bill 1195

Introduced by: **Representative** Gosch

1 **An Act to establish certain fetal harm as an assault.**

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

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

4 **22-42-23. Controlled Substance--Pregnant--Assault.**

5 If a woman's child is either born with a physical dependence on a controlled
6 substance or is harmed by a controlled substance and the dependence or harm is a result
7 of the woman's illegal use of a controlled substance, as described in § 22-42-5.1, while
8 pregnant, the woman is guilty of assault under § 22-18-1. It is an affirmative defense to
9 a charge under this section that a woman actively enrolled in an addiction recovery
10 program before the child is born, remained in the program after delivery, and successfully
11 completed the program, regardless of whether the child was born with a physical
12 dependence on or was harmed by a controlled substance.