

AN ACT

ENTITLED, An Act to revise reunification of a parent and child if a child has been removed from a home and to revise termination of parental rights.

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

Section 1. That § 26-8A-21 be amended to read as follows:

26-8A-21. The Department of Social Services shall make reasonable efforts prior to the removal of an alleged or adjudicated abused or neglected child from the home of the child's parents, guardian, or custodian to prevent or eliminate the need for removal of the child. If the child has been removed from the home and has been placed in temporary custody of the department, the department shall make reasonable efforts to make it possible for the child to return to the home of the child's parents, guardian, or custodian. If the child is to be or has been removed from the home, the court shall first make a judicial determination that removal of the child from the home is or was necessary because continued presence of the child in the home would be contrary to the welfare of the child and that reasonable efforts by the department to avoid removal of the child from the home have been made. If the child has been removed from the home and has not been returned to the home, the court shall first make a judicial determination that reasonable efforts have been made by the department to return the child to the home and that the child cannot be returned to the home because it would be contrary to the welfare of the child.

Reasonable efforts to prevent the necessity for removal of a child from the home of the child's parents, guardian, or custodian and reasonable efforts to return the child to the home mean provision by the department of any assistance or services that:

- (1) Are appropriate for the child's parents, guardian, custodian or any other caretaker family of the child existing at the time of removal or possible return of the child;
- (2) Are available pursuant to the comprehensive plan of preventive services of the department;
- (3) Could be made available without undue financial burden on the department; or

- (4) Would have a significant likelihood of protecting the child from substantial danger to the child's physical health or from severe emotional damage while enabling the child to remain in the home or to be returned to the home.

In determining the adequacy of reasonable efforts, the court shall consider the assistance, services, and efforts of the department. The court shall also consider the good faith efforts or the lack of good faith efforts made by the child's parents, guardian, custodian, or other caretaker family to cooperate with the department and to effectively utilize the assistance or services for the benefit and welfare of the child.

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

Nothing in § 26-8A-21 requires reunification of a child with a parent who:

- (1) Committed a crime defined in § 22-16-4, 22-16-7, 22-16-9, 22-16-15, 22-16-20, 22-22-19.1, 22-22-22, or 26-10-1 or subdivision 22-22-1(1) or (2);
- (3) Committed a crime defined in § 22-18-1.1 against the child or another child of such parent;  
or
- (5) Has had parental rights to another child terminated by a prior proceeding under § 26-8A-26.

Section 3. That § 26-8A-26 be amended to read as follows:

26-8A-26. If an adjudicated, abused, or neglected child whose parental rights have not been terminated has been in the custody of the Department of Social Services without a court approved plan for long-term foster care and it appears at a dispositional or review hearing that all reasonable efforts have been made to rehabilitate the family, that the conditions which led to the removal of the child still exist, and there is little likelihood that those conditions will be remedied so the child can be returned to the custody of the child's parents, the court shall affirmatively find that good cause exists for termination of the parental rights of the child's parents and the court shall enter an order

terminating parental rights. If the court does not find at the hearing, which shall be conducted in the same manner as a dispositional hearing, that good cause exists for termination of parental rights, the court may make further disposition of the child as follows:

- (1) Return custody of the child to the child's parents, guardian, or custodian, with or without supervision;
- (2) Continue foster care placement of the child for a specified period of time, and, if the child is sixteen years of age or older, direct the department to determine the services needed to assist the child to make the transition from foster care to independent living and, if appropriate, provide a plan for independent living for the child;
- (3) Place the child in the custody of the department, a child placement agency, foster home, or other child care facility for long-term foster care under a court-approved plan which names a specific foster home for the child, with or without guardianship of the child, and determines visitation rights of the child's parents, guardian, or custodian. Under this subdivision, the court may retain jurisdiction of the action and proceedings for future consideration of termination of parental rights if termination of parental rights is the least restrictive alternative available in keeping with the best interests of the child.

In no case may a child remain in foster care for a period in excess of twelve months without the court making a dispositional decree setting forth one of the above options.

Section 4. That chapter 26-8A be amended by adding thereto a NEW SECTION to read as follows:

In addition to the provisions of § 26-8A-26, the court may find that good cause exists for termination of parental rights of a parent who:

- (1) Committed a crime defined in § 22-16-4, 22-16-7, 22-16-9, 22-16-15, 22-16-20, 22-22-19.1, 22-22-22, or 26-10-1 or subdivision 22-22-1(1) or (2);
- (3) Committed a crime defined in § 22-18-1.1 against the child or another child of such parent;

or

- (5) Has had parental rights to another child terminated by a prior proceeding under § 26-8A-26.

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I certify that the attached Act originated in the

HOUSE as Bill No. 1306

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

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

Attest:

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

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

Attest:

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

House Bill No. 1306  
File No. \_\_\_\_\_  
Chapter No. \_\_\_\_\_

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

19\_\_ at \_\_\_\_ M.

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

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The attached Act is hereby approved this \_\_\_\_\_ day of \_\_\_\_\_ , A.D., 19\_\_

\_\_\_\_\_  
Governor

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STATE OF SOUTH DAKOTA,  
ss.

Office of the Secretary of State

Filed \_\_\_\_\_ , 19\_\_  
at \_\_\_\_\_ o'clock \_\_ M.

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

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