

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

463E0749

HOUSE BILL NO. 1275

Introduced by: Representatives Broderick, Garnos, and Jaspers and Senator Sutton (Dan)

1 FOR AN ACT ENTITLED, An Act to revise the definition of custodian as it relates to child
2 abuse or neglect.

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

4 Section 1. That § 26-7A-1 be amended to read as follows:

5 26-7A-1. Terms used in this chapter and in chapters 26-8A, 26-8B, and 26-8C mean:

6 (1) "Abused or neglected child," a child as defined in § 26-8A-2;

7 (2) "Adjudicatory hearing," a hearing to determine whether the allegations of a petition
8 alleging that a child is abused or neglected are supported by clear and convincing
9 evidence or whether the allegations of a petition alleging a child to be in need of
10 supervision or a delinquent are supported by evidence beyond a reasonable doubt;

11 (3) "Adult," a person eighteen years of age or over, except any person under twenty-one
12 years of age who is under the continuing jurisdiction of the court or who is before the
13 court for an alleged delinquent act committed before the person's eighteenth birthday;

14 (4) "Advisory hearing," the initial hearing conducted by the court to inform the child and
15 the child's parents, guardian, custodian, or other interested parties of their statutory

- 1 and constitutional rights;
- 2 (5) "Association," an association, institution, or corporation which includes in its
3 purposes the care or disposition of children coming within the provisions of this
4 chapter or chapter 26-8A, 26-8B, or 26-8C;
- 5 (6) "Child," a person less than eighteen years of age and any person under twenty-one
6 years of age who is under the continuing jurisdiction of the court or who is before the
7 court for an alleged delinquent act committed before the person's eighteenth birthday;
- 8 (7) "Child in need of supervision," a child as defined in § 26-8B-2;
- 9 (8) "Commit," to transfer custody of a person;
- 10 (9) "Conservator," a conservator of a child as defined in § 29A-1-201;
- 11 (10) "Court" or "juvenile court," the circuit court;
- 12 (11) "Custodian," any foster parent, employee of a public or private residential home or
13 facility, other person legally responsible for a child's welfare in a residential setting,
14 or person providing in-home or out-of-home care; for purposes of this definition,
15 "out-of-home care" means any day care as defined in §§ 26-6-14 ~~and~~, 26-6-14.1, and
16 26-6-14.8;
- 17 (12) "Delinquent child," a child as defined in § 26-8C-2;
- 18 (13) "Department of Social Services" or "department," the South Dakota Department of
19 Social Services;
- 20 (14) "Deprivation of custody," transfer of custody of a child by the court from the child's
21 parents, guardian, or other custodian to another person, agency, department, or
22 institution;
- 23 (15) "Detention," the temporary custody of a child in secured physically restricting
24 facilities;

- 1 (16) "Detention facility," a secured, physically-restricting facility where children are
2 physically separated from adult prisoners;
- 3 (17) "Dispositional hearing," a hearing after adjudication at which the court makes an
4 interim or final decision in the case;
- 5 (18) "Guardian," a guardian of a child as defined in § 29A-1-201;
- 6 (19) "Guardian ad litem," a representative of a child as defined in subdivision 15-6-17(c),
7 including a court-appointed special advocate for a child;
- 8 (20) "Intake officer," a judge of a circuit court or the court's designee who may not be a
9 court services officer, law enforcement officer, or prosecuting attorney. For purposes
10 of chapters 26-7A, 26-8A, 26-8B, and 26-8C, intake officers may administer oaths
11 or affirmations as provided by chapter 18-3;
- 12 (21) "Minor," a person who has not reached his or her eighteenth birthday;
- 13 (22) "Parents," biological or adoptive parents of a child, including either parent, any single
14 or surviving parent, and any custodial or noncustodial parent, jointly or severally;
- 15 (23) "Protective supervision," a legal status created by court order under which an alleged
16 or adjudicated abused or neglected child is permitted to remain in the home of the
17 child's parents, guardian, or custodian or is placed with a relative or other suitable
18 person and supervision and assistance is provided by the court, Department of Social
19 Services, or another agency designated by the court;
- 20 (24) "Qualified mental health professional," a person as defined in § 27A-1-3;
- 21 (25) "Shelter," a physically-unrestricting home or facility for temporary care of a child;
- 22 (26) "Temporary care," the care given to a child in temporary custody;
- 23 (27) "Temporary custody," the physical and legal control of a child prior to final
24 disposition.