

AN ACT

ENTITLED, An Act to allow tribal agencies that provide child welfare services to obtain results from a check of the central registry for abuse and neglect.

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

Section 1. That § 26-8A-13 be amended to read as follows:

26-8A-13. All investigative case records and files relating to reports of child abuse or neglect are confidential, and no disclosure of any such records, files, or other information may be made except as authorized in chapter 26-7A or this chapter. Any person who knowingly violates the confidential nature of the records, files, or information is guilty of a Class 1 misdemeanor. The Department of Social Services may release records, files, or other information to the following parties upon the receipt by the department of a request showing that it is necessary for the parties to have such information in the performance of official functions relating to child abuse or neglect:

- (1) The attorney general, the state's attorneys, law enforcement agencies, protective services workers, and judges of the courts investigating reports of known or suspected child abuse or neglect;
- (2) The attorney or guardian ad litem of the child who is the subject of the information;
- (3) Public officials or their authorized representatives who require the information in connection with the discharge of official duties;
- (4) Institutions and agencies that have legal responsibility or authorization to care for, treat, or supervise a child who is the subject of the information or report;
- (5) An adoptive parent of the child who is the subject of the information or report;
- (6) A state, regional, or national registry of child abuse and neglect cases and courts of record of other states;
- (7) A validly appointed and registered child protection team under § 26-8A-17;

- (8) A physician who is caring for a child whom the physician reasonably suspects may be abused or neglected;
- (9) State hearing examiners and any person who is the subject of the report for purposes directly related to review under § 26-8A-11; and
- (10) A person eligible to submit an adoptive home study report under § 25-6-9.1 or 26-4-15.

However, the information may only be released for the purpose of screening applicants.

Information received by an authorized receiving party shall be held confidential by the receiving party. However, the court may order the release of the information or any portion of it necessary for determination of an issue before the court.

However, the Department of Social Services may release information and findings to the media regarding the abuse or neglect of a child that resulted in a fatality or near fatality of the child if the release of the information has been approved by the prosecutor who has commenced or who has authority to commence legal action, and, if such disclosure has been authorized by the court and is not contrary to the best interests of the child, the child's siblings, or other children in the household. The information to be released shall relate to the acts of child abuse or neglect that caused the fatality or near fatality of the child. However, the identity of the child may never be released. For the purpose of this chapter, near fatality means an act that, as certified by a physician, places the child in serious or critical condition.

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

Upon the receipt of a written request from a licensed child welfare agency or a private child welfare agency whose licensure has been waived pursuant to § 26-6-9, the Department of Social Services shall conduct a check of the central registry for child abuse and neglect for foster care, adoption, or employment applicants and shall provide the results to the requesting agency. Further,

upon written request from an agency that provides child welfare services for a federally recognized tribe, the department shall conduct a check of the central registry for child abuse and neglect for foster care or adoption applicants and shall provide the results to the requesting tribal agency. Prior to the department conducting any check of the central registry for child abuse and neglect pursuant to this section, the requesting agency shall provide to the department a consent signed by the applicant for foster care, adoption, or employment.

An Act to allow tribal agencies that provide child welfare services to obtain results from a check of the central registry for abuse and neglect.

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I certify that the attached Act
originated in the

HOUSE as Bill No. 1078

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. 1078
File No. _____
Chapter No. _____

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Received at this Executive Office
this _____ day of _____ ,

20____ at _____ M.

By _____
for the Governor
=====

The attached Act is hereby
approved this _____ day of
_____, A.D., 20____

Governor

=====
STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed _____, 20____
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State