

State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

400N0364

HOUSE BILL NO. 1078

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

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

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

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

5 26-8A-13. All investigative case records and files relating to reports of child abuse or
6 neglect are confidential, and no disclosure of any such records, files, or other information may
7 be made except as authorized in chapter 26-7A or this chapter. Any person who knowingly
8 violates the confidential nature of the records, files, or information is guilty of a Class 1
9 misdemeanor. The Department of Social Services may release records, files, or other
10 information to the following parties upon the receipt by the department of a request showing that
11 it is necessary for the parties to have such information in the performance of official functions
12 relating to child abuse or neglect:

13 (1) The attorney general, the state's attorneys, law enforcement agencies, protective
14 services workers, and judges of the courts investigating reports of known or
15 suspected child abuse or neglect;



- 1 (2) The attorney or guardian ad litem of the child who is the subject of the information;
- 2 (3) Public officials or their authorized representatives who require the information in
3 connection with the discharge of official duties;
- 4 (4) Institutions and agencies that have legal responsibility or authorization to care for,
5 treat, or supervise a child who is the subject of the information or report;
- 6 (5) An adoptive parent of the child who is the subject of the information or report ~~and~~
7 ~~a licensed child welfare agency, a tribal agency which the Department of Social~~
8 ~~Services has an agreement with to provide child welfare agency services which~~
9 ~~would otherwise require licensure by the department or any private child welfare~~
10 ~~agency whose licensure has been waived pursuant to § 26-6-9, for screening of~~
11 ~~applicants;~~
- 12 (6) A state, regional, or national registry of child abuse and neglect cases and courts of
13 record of other states;
- 14 (7) A validly appointed and registered child protection team under § 26-8A-17;
- 15 (8) A physician who is caring for a child whom the physician reasonably suspects may
16 be abused or neglected;
- 17 (9) State hearing examiners and any person who is the subject of the report for purposes
18 directly related to review under § 26-8A-11; and
- 19 (10) A person eligible to submit an adoptive home study report under § 25-6-9.1 or 26-4-
20 15. However, the information may only be released for the purpose of screening
21 applicants.

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

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

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

12 Upon the receipt of a written request from a licensed child welfare agency or a private child
13 welfare agency whose licensure has been waived pursuant to § 26-6-9, the Department of Social
14 Services shall conduct a check of the central registry for child abuse and neglect for foster care,
15 adoption, or employment applicants and shall provide the results to the requesting agency.
16 Further, upon written request from an agency that provides child welfare services for a federally
17 recognized tribe, the department shall conduct a check of the central registry for child abuse and
18 neglect for foster care or adoption applicants and shall provide the results to the requesting tribal
19 agency. Prior to the department conducting any check of the central registry for child abuse and
20 neglect pursuant to this section, the requesting agency shall provide to the department a consent
21 signed by the applicant for foster care, adoption, or employment.