

# State of South Dakota

EIGHTY-SECOND SESSION  
LEGISLATIVE ASSEMBLY, 2007

538N0644

## SENATE JUDICIARY COMMITTEE ENGROSSED NO. **SB 106** - 01/31/2007

Introduced by: Senators Napoli and Abdallah and Representatives Van Etten and Howie

1 FOR AN ACT ENTITLED, An Act to require certain family members to report sexual abuse  
2 to law enforcement authorities, to grant civil immunity for any good faith report, and to  
3 provide a penalty for failure to report.

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

5 Section 1. That chapter 26-8A be amended by adding thereto a NEW SECTION to read as  
6 follows:

7 Whenever any person, who is a relative of a child under the age of eighteen, has reasonable  
8 cause to suspect that the child is subject to sexual abuse, sexual molestation, or sexual  
9 exploitation by the child's parent, guardian, custodian, or any other person responsible for the  
10 child's care, as provided in subdivision 26-8A-2(8), that person shall report that information in  
11 accordance with § 26-8A-8. Any person who intentionally fails to make the required report is  
12 guilty of a Class 1 misdemeanor.

13 As used in this section, the term, relative, means an adult who is related to the child by  
14 blood, adoption, or marriage, and who is the child's grandparent, aunt, uncle, sibling, brother-in-  
15 law, sister-in-law, niece, nephew, great grandparent, stepparent, or stepsibling.



1 Section 2. That § 26-8A-14 be amended to read as follows:

2 26-8A-14. Any person or party participating in good faith in the making of a report or the  
3 submitting of copies of medical examination, treatment, or hospitalization records pursuant to  
4 §§ 26-8A-3 to 26-8A-8, inclusive, pursuant to section 1 of this Act, or pursuant to any other  
5 provisions of this chapter, is immune from any liability, civil or criminal, that might otherwise  
6 be incurred or imposed, and has the same immunity for participation in any judicial proceeding  
7 resulting from the report. Immunity also extends in the same manner to persons requesting the  
8 taking of photographs and X rays pursuant to § 26-8A-16, to persons taking the photographs and  
9 X rays, to child protection teams established by the secretary of social services, to public  
10 officials or employees involved in the investigation and treatment of child abuse or neglect or  
11 making a temporary placement of the child pursuant to this chapter, or to any person who in  
12 good faith cooperates with a child protection team or the Department of Social Services in  
13 investigation, placement, or a treatment plan. The provisions of this section or any other section  
14 granting or allowing the grant of immunity do not extend to any person alleged to have  
15 committed an act or acts of child abuse or neglect.

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

17 26-8A-8. The reports required by §§ 26-8A-3, 26-8A-6, ~~and~~ 26-8A-7, and section 1 of this  
18 Act and by other sections of this chapter shall be made orally and immediately by telephone or  
19 otherwise to the state's attorney of the county in which the child resides or is present, to the  
20 Department of Social Services or to law enforcement officers. The state's attorney or law  
21 enforcement officers, upon receiving a report, shall immediately notify the Department of Social  
22 Services. Any person receiving a report of suspected child abuse or child neglect shall keep the  
23 report confidential as provided in § 26-8A-13, except as otherwise provided in chapter 26-7A  
24 or this chapter.

1       The person receiving a report alleging child abuse or neglect shall ask whether or not the  
2 reporting party desires a response report. If requested by the reporting person, the Department  
3 of Social Services or the concerned law enforcement officer shall issue within thirty days, a  
4 written acknowledgment of receipt of the report and a response stating whether or not the report  
5 will be investigated.