



## 2021 South Dakota Legislature

# Senate Bill 5

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

1 **An Act to include a child's legal parents and custodians in the list of parties who**  
 2 **may receive information related to reports of the child's abuse or neglect.**

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

4 **Section 1.** That § 26-8A-13 be AMENDED.

5 **26-8A-13. Confidentiality of abuse or neglect information--Violation as**  
 6 **misdemeanor--Release to certain parties.**

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

- 15 (1) The attorney general, the state's attorneys, law enforcement agencies, protective  
 16 services workers, and judges of the courts investigating reports of known or  
 17 suspected child abuse or neglect;
- 18 (2) The attorney or guardian ad litem of the child who is the subject of the information;
- 19 (3) Public officials or their authorized representatives who require the information in  
 20 connection with the discharge of official duties;
- 21 (4) Institutions and agencies that have legal responsibility or authorization to care for,  
 22 treat, or supervise a child who is the subject of the information or report;
- 23 (5) ~~An adoptive~~ A parent, guardian, or custodian of the child who is the subject of the  
 24 information or report;

- 1 (6) A foster parent, kinship provider, or prospective adoptive parent who is or may be  
2 caring for a child in the custody of the Department of Social Services who is the  
3 subject of the information or report;
- 4 (7) A state, regional, or national registry of child abuse and neglect cases and courts of  
5 record of other states;
- 6 (8) A validly appointed and registered child protection team under § 26-8A-17;
- 7 (9) A physician caring for a child who is suspected or found to be abused or neglected;
- 8 (10) State hearing examiners and any person, or the legal representative of any person,  
9 who is the subject of the report for purposes directly related to review under § 26-  
10 8A-11; and
- 11 (11) A person eligible to submit an adoptive home study report under § 25-6-9.1 or 26-  
12 4-15. However, the information may only be released for the purpose of screening  
13 applicants.

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

17 Upon written request, the Department of Social Services shall release findings or  
18 information regarding the abuse or neglect of a child that resulted in a fatality or near  
19 fatality of the child unless the release of the findings or information would jeopardize a  
20 pending criminal investigation or proceeding. The findings or information to be released  
21 shall relate to the acts of child abuse or neglect that caused the fatality or near fatality of  
22 the child. However, the identity of the child may never be released. For the purpose of  
23 this chapter, near fatality means an act that, as certified by a physician, placed the child  
24 in serious or critical condition.