



2020 South Dakota Legislature

Senate Bill 20

SENATE ENGROSSED

Introduced by: The Committee on Health and Human Services at the request of the Department of Social Services

1 **An Act to create a monitor to review and respond to complaints related to the care**
 2 **provided to youth in the custody or care of certain care facilities, treatment**
 3 **centers, and programs.**

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

5 **Section 1.** That a NEW SECTION be added:

6 **26-6-1.2. Definitions.**

7 Terms used in this chapter mean:

- 8 (1) "Shelter care facility," a group care center that provides short-term, full-time care
 9 for children often placed under emergency conditions;
 10 (2) "Records," reports prepared or received by any staff of a licensed shelter care
 11 facility, group care center, residential treatment center, intensive residential
 12 treatment center, or independent living preparation program.

13 **Section 2.** That a NEW SECTION be added:

14 **26-6-51. Monitor--Designation--Primary duty.**

15 The secretary of the Department of Social Services shall designate a person or
 16 entity outside the Department of Social Services to serve as the monitor and whose
 17 primary responsibility is to receive and resolve complaints related to the quality of care
 18 provided to youth placed in the custody or care of any of the following:

- 19 (1) An intensive residential treatment center, a residential treatment center, or a group
 20 care center, as defined in § 26-6-14;
 21 (2) An independent living preparation program as defined in § 26-6-14; or
 22 (3) A shelter care facility as defined in this section; or
 23 (4) The monitor shall be a mandatory reporter pursuant to § 26-8A-3.

24 **Section 3.** That a NEW SECTION be added:

1 **26-6-52. Monitor--Powers and duties.**

2 The monitor designated as provided in § 26-6-51 shall:

- 3 (1) Investigate and resolve complaints related to the quality of care provided to youth
4 placed in the custody or care of a facility, center, or program as provided in § 26-
5 6-51;
- 6 (2) Access any youth in the custody or care of a facility, center, or program as provided
7 in § 26-6-51 and any person in the employ of a facility, center, or program as
8 provided in § 26-6-51;
- 9 (3) Access any records of or relating to any youth in the custody or care of a facility,
10 center, or program as provided in § 26-6-51;
- 11 (4) Provide an annual report to the secretary of the Department of Social Services that
12 reflects the number of referrals to the monitor, the number of investigations
13 completed, and a summary of other activities performed by the monitor;
- 14 (5) Provide an annual report to the Government Operations and Audit Committee
15 created in § 2-6-2 that, in addition to the information stipulated in subdivision (4),
16 includes a confidential addendum. Notwithstanding the provisions of §§ 26-6-54
17 and 26-6-57, the confidential addendum shall contain a description of each
18 investigation, the specific findings and recommendations of the monitor, and the
19 response of the Department of Social Services to the recommendations;
- 20 (6) Provide reasonable notification of the existence and role of the monitor to any
21 youth in the custody or care of a facility, center, or program as provided in § 26-
22 6-51, and to the youth's custodial parent or guardian; and
- 23 (7) Provide recommendations for corrective action to address any complaint received
24 related to the quality of care provided to the youth.

25 **Section 4.** That a NEW SECTION be added:

26 **26-6-53. Findings of abuse or neglect--Report.**

27 If the monitor has reasonable cause to suspect that a youth under the age of
28 eighteen has been abused or neglected as defined in § 26-8A-2, the monitor shall
29 immediately report that information to the Division of Child Protection of the Department
30 of Social Services. Any investigation conducted by the monitor shall be independent and
31 separate from any investigation required in § 26-8A-9.

32 **Section 5.** That a NEW SECTION be added:

1 **26-6-54. Persons requesting assistance--Identity--Confidentiality.**

2 For purposes of any audit, report, evaluation, or public testimony that may be
3 permitted or required under §§ 26-6-52 to 26-6-57, inclusive, no disclosure of the identity
4 of, or any other personally identifiable information related to, any youth or any person
5 requesting assistance under §§ 26-6-52 to 26-6-57, inclusive, may be required. The
6 identity of any person making a report to the monitor is confidential.

7 **Section 6.** That a NEW SECTION be added:

8 **26-6-55. Hinderance of monitor--Violation as misdemeanor.**

9 A person who knowingly hinders the lawful actions of the monitor is guilty of a
10 Class 1 misdemeanor.

11 **Section 7.** That a NEW SECTION be added:

12 **26-6-56. Retaliatory acts--Prohibition--Violation as misdemeanor.**

13 No state agency, facility, center, or program as provided in § 26-6-51, and no
14 individual acting for a state agency or a facility, center, or program as provided in § 26-
15 6-51 may take any adverse action against an individual in retaliation because the
16 individual cooperated with or provided information to the monitor. A violation of this
17 section is a Class 1 misdemeanor.

18 **Section 8.** That a NEW SECTION be added:

19 **26-6-57. Persons making report--Identity--Confidentiality.**

20 The identity of the youth and of any person or agency making a report to the
21 monitor is confidential.