

2020 South Dakota Legislature

House Bill 1167**AMENDMENT 1167E FOR THE HOUSE EDUCATION BILL**

1 **An Act to revise provisions regarding confidential communications between a**
2 **student and certain school employees.**

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

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

5 **13-10-19. Communications--Student and counselor, psychologist, or social**
6 **worker--Exceptions.**

7 A counselor or school psychologist, certificated in accordance with the certification
8 rules of the South Dakota Board of Education Standards, or social worker licensed under
9 chapter 36-26, who is regularly employed as a counselor, school psychologist, or social
10 worker for a private or public elementary or secondary school or school system in this
11 state, may ~~not~~ disclose to ~~any other person a custodial parent or legal guardian~~ any
12 information or communication exchanged between a student who is an unemancipated
13 minor and the counselor, school psychologist, or social worker in the counselor's, school
14 psychologist's, or social worker's official capacity unless ~~a the counselor, school~~
15 ~~psychologist, or social worker has reason to suspect the student may have been subjected~~
16 ~~or exposed to child abuse, neglect, or other illegal conduct by the student's custodial~~
17 ~~parent or legal guardian of the student permits the disclosure in writing~~ or the information
18 ~~or communication is prohibited from disclosure by federal law. The counselor, school~~
19 ~~psychologist, or social worker may not disclose the information or communication to any~~
20 ~~other person unless the parent or legal guardian provides written consent to the disclosure~~
21 ~~on a separate form specifically authorizing the disclosure.~~

22 ~~Notwithstanding any other provision in this section, a counselor, school~~
23 ~~psychologist, and social worker shall disclose to a custodial parent or legal guardian of a~~
24 ~~student who is an unemancipated minor any information or communication exchanged~~
25 ~~privately between the student and the counselor, school psychologist, or social worker,~~
26 ~~unless the counselor, school psychologist, or social worker has reason to suspect the~~

1 ~~student may have been subjected or exposed to child abuse, neglect, or other illegal~~
2 ~~conduct by that parent or legal guardian. A custodial parent or legal guardian to whom a~~
3 ~~counselor, school psychologist, or social worker must disclose under this section may opt-~~
4 ~~out of the disclosure in writing on a form to be provided by the school.~~

5 **Section 2.** That § 26-8A-15 be AMENDED:

6 **26-8A-15. Communications not privileged in child abuse or neglect cases.**

7 The privilege of confidentiality set forth in §§ 13-10-19, 19-2-3, 19-19-503, 19-
8 19-504, ~~19-19-508.1~~, and 36-26-30 may not be claimed in any judicial proceeding
9 involving an alleged abused or neglected child or resulting from the giving or causing the
10 giving of a report concerning abuse or neglect of a child pursuant to §§ 26-8A-3 to 26-
11 8A-8, inclusive.

12 **Section 3.** That § 19-19-508.1 be REPEALED.

13 **19-19-508.1. Student and counselor, psychologist, or social worker--**
14 **Exceptions.**