

2021 South Dakota Legislature

House Bill 1068**AMENDMENT 1068A FOR THE INTRODUCED BILL**

1 **An Act to revise the requirement for written findings of fact and conclusions in**
2 **certain judicial proceedings involving a child.**

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

4 **Section 1.** That § 26-7A-87 be AMENDED.

5 **26-7A-87. Adjudication subject to intermediate appeal--Dispositional**
6 **proceedings--Interim dispositional decree.**

7 If the court finds the allegations of the petition are supported by clear and
8 convincing evidence in cases concerning an alleged abused or neglected child or are
9 supported by evidence beyond a reasonable doubt in cases concerning an alleged child in
10 need of supervision or an alleged delinquent child, the court shall adjudicate the child
11 accordingly and shall issue findings of fact, conclusions of law and an order of adjudication
12 stating the child to be an abused or neglected child as defined in chapter 26-8A, a child in
13 need of supervision as defined in chapter 26-8B, or a delinquent child as defined in chapter
14 26-8C. The Written findings of fact and conclusions of law are ~~not only required to be in~~
15 ~~writing except in cases concerning an alleged child in need of supervision or an alleged~~
16 ~~delinquent child when either a contested evidentiary hearing occurs or the order of~~
17 ~~adjudication in delinquency or child in need of supervision adjudicatory proceedings if~~
18 ~~there is a contested evidentiary hearing or if the disposition is a commitment to the~~
19 ~~Department of Corrections.~~ The order of adjudication is an intermediate order and is
20 subject to intermediate appeal with the permission of the court according to the rules of
21 procedure governing civil appeals.

22 The court shall proceed with the dispositional phase of the proceedings and shall issue
23 an order setting the time, date, and place of the initial dispositional hearing and
24 prescribing notice of the hearing. However, the court may proceed immediately with the
25 initial dispositional hearing with the consent of the state, the child and the child's parents,
26 guardian, or custodian or other parties who are respondents in the action.

1 On completion of the adjudicatory hearing resulting in adjudication of the child, the
2 court may issue an interim dispositional decree governing custody, placement, care,
3 shelter, or detention of the child as determined by the court pending the initial
4 dispositional hearing and any continuance of it.

5 **Section 2.** That § 26-7A-90 be AMENDED.

6 **26-7A-90. Evidence heard at dispositional hearing--Interim decree--Final**
7 **decree.**

8 After adjudication, the court shall conduct dispositional hearings and consider
9 evidence regarding proper disposition of the child best serving the interests of the child
10 with due regard to the rights and interests of the child's parents, guardian, custodian,
11 other parties respondent, the public, and the state. Dispositional evidence may include
12 social study reports, mental and medical examination and evaluation reports, homestudy
13 investigation reports, and any other evidence related to appropriate disposition of the
14 child.

15 Following the dispositional hearing, the court shall issue an interim decree of
16 disposition. During the dispositional phase, the court shall balance the rights and interests
17 of the child and the respective parties, including the public and the state.

18 On completion of the final dispositional hearing, the court shall issue findings of fact,
19 conclusions of law, and a final decree of disposition. The Written findings of fact and
20 conclusions of law are not only required to be in writing except in cases concerning an
21 alleged child in need of supervision or an alleged delinquent child when either a contested
22 evidentiary hearing occurs or the final decree of in delinquency or child in need of
23 supervision dispositional proceedings if there is a contested evidentiary hearing or if the
24 disposition is a commitment to the Department of Corrections. The decree ~~shall be~~ is the
25 final order of the court for the purpose of an appeal by any party according to the rules of
26 procedure governing civil appeals.