



2021 South Dakota Legislature
Senate Bill 5
ENROLLED

AN ACT

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

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

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

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

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

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

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

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

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

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

I certify that the attached Act originated in
the:
Senate as Bill No. 5

Received at this Executive Office
this ____ day of _____,
2021 at _____ M.

Secretary of the Senate

By _____
for the Governor

President of the Senate

The attached Act is hereby
approved this ____ day of
_____, A.D., 2021

Attest:

Secretary of the Senate

Governor

STATE OF SOUTH DAKOTA,

ss.

Office of the Secretary of State

Speaker of the House

Attest:

Filed _____, 2021
at _____ o'clock __ M.

Chief Clerk

Secretary of State

Senate Bill No. 5
File No. _____
Chapter No. _____

By _____
Asst. Secretary of State