



2020 South Dakota Legislature

House Bill 1167

HOUSE EDUCATION ENGROSSED

Introduced by: **Representative** Chris Johnson

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 any information or communication exchanged
 12 between a student who is an unemancipated minor and the counselor, school psychologist,
 13 or social worker in the counselor's, school psychologist's, or social worker's official capacity
 14 unless a custodial parent or legal guardian of the student permits the disclosure in writing.

15 Notwithstanding any other provision in this section, a counselor, school
 16 psychologist, and social worker shall disclose to a custodial parent or legal guardian of a
 17 student who is an unemancipated minor any information or communication exchanged
 18 privately between the student and the counselor, school psychologist, or social worker,
 19 unless the counselor, school psychologist, or social worker has reason to suspect the
 20 student may have been subjected or exposed to child abuse, neglect, or other illegal
 21 conduct by that parent or legal guardian. A custodial parent or legal guardian to whom a
 22 counselor, school psychologist, or social worker must disclose under this section may opt-
 23 out of the disclosure in writing on a form to be provided by the school.

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

1 **26-8A-15. Communications not privileged in child abuse or neglect cases.**

2 The privilege of confidentiality set forth in §§ 13-10-19, 19-2-3, 19-19-503, 19-
3 19-504, ~~19-19-508.1~~, and 36-26-30 may not be claimed in any judicial proceeding
4 involving an alleged abused or neglected child or resulting from the giving or causing the
5 giving of a report concerning abuse or neglect of a child pursuant to §§ 26-8A-3 to 26-
6 8A-8, inclusive.

7 **Section 3.** That § 19-19-508.1 be REPEALED.

8 **19-19-508.1. Student and counselor, psychologist, or social worker--**
9 **Exceptions.**