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FOR AN ACT ENTITLED, An Act to

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

Section 1. That chapter 26-8A be amended by adding thereto a NEW SECTION to read as follows:

Notwithstanding the provisions of SDCL 26-8A-13, or any other statute to the contrary, in any case that a child is under the jurisdiction of the court pursuant to chapter 26-8B or 26-8C, upon a request for information, the Department of Social Services shall, with due regard to any federal laws or regulations, including, but not limited to, the Health Information Portability and Accountability Act of 1996, as amended to January 1, 2007, the Family Educational Rights and Privacy Act, as amended to January 1, 2007, and the federal rules governing the confidentiality of alcohol and drug abuse patient records pursuant to 42 C.F.R. Part 2, as amended to January 1, 2007, in the following instances:

(1) Conduct a child abuse and neglect central registry check and provide the results to the Court, Court Services, or the States Attorney to determine the appropriateness of returning a child to the parents or placing the child with another caretaker at any time during the pendency of the proceedings;

(2) For a child committed to the Department of Corrections, conduct a child abuse and neglect central registry check and provide the results to the Department of Corrections for purposes of determining the appropriateness of returning a child to the parents or placing the child with another caretaker; and

(3) For a child committed to the Department of Corrections, release copies of, or the equivalent to, the subject Child's: Request for Services History Summary, Initial Family Assessments, court reports, and Family Service Agreements to the Department of Corrections for treatment planning purposes.

1        Upon receipt of an order of the Court, the Department of Social Services shall make its  
2 child protection services file related to the child or the child's parents and siblings available to  
3 the Court, Court Services, or the States Attorney with the exception of information protected  
4 by the Health Information Portability and Accountability Act of 1996, as amended to January  
5 1, 2007, the Family Educational Rights and Privacy Act, as amended to January 1, 2007, and  
6 the federal rules governing the confidentiality of alcohol and drug abuse patient records  
7 pursuant to 42 C.F.R. Part 2, as amended to January 1, 2007. Under no circumstances may  
8 the Court order the release of information pertaining to pending abuse or neglect  
9 investigations.

10        The information released under this Act is discoverable to the parties under the  
11 provisions of chapter 26-7A, but is otherwise confidential. However, the Court, Court  
12 Services, or the Department of Corrections may release the information in their possession or  
13 any portion necessary to institutions and agencies that have legal responsibility or  
14 authorization to care for, treat, or supervise a child. The attorneys for the child and  
15 respondents may review the records with the child and the respondents but may not copy or  
16 release copies of the records. A pro se litigant is entitled to review the records but may not  
17 copy or release copies of the records.

18        The Department of Social Services shall impose reasonable fees for reproduction of its  
19 records released under this section. Any fee imposed for records reproduction shall be  
20 promulgated pursuant to Chapter 1-26.

21        Section 2. That chapter 26-8A be amended by adding thereto a NEW SECTION to read  
22 as follows:

23        For Central registry screenings allowed under the provisions of Section 1 of this Act, the  
24 Department of Social Services may not complete the requested screening until the Court,  
25 Court Services, the Department of Corrections, or the States Attorney provides to the

1 Department a consent signed by the individual being considered as a possible caretaker for  
2 the child.

3 Section 3. That chapter 26-11A be amended by adding thereto a NEW SECTION to  
4 read as follows:

5 File material concerning a child under the jurisdiction of the Department of Corrections  
6 shall be provided, upon request, to the Department of Social Services for the purposes of  
7 developing Family Service Agreements and dispositional recommendations and to the Court  
8 for use at the disposition.

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