

# VolunteerApplication



## Personal Information

Full Name (please print) \_\_\_\_\_  
FIRST MIDDLE LAST

Address \_\_\_\_\_ Apt. No. \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Phone Number(s):

Home/Cell \_\_\_\_\_ Work \_\_\_\_\_

Email \_\_\_\_\_

Gender (check one):  Female  Male

Age (check one):  16–20  21–30  31–40  41–50  51–60  61–70  71–80  80 +

Birth date\* \_\_\_\_\_

*\*Must be at least 21 years of age to work directly with CHS children.*

Emergency Contact \_\_\_\_\_ Phone \_\_\_\_\_

Relationship to You \_\_\_\_\_ Work Phone \_\_\_\_\_

Current or Former Occupation \_\_\_\_\_ Position \_\_\_\_\_

Employer Name \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

## Please answer the following questions.

Does/has your employment involve(d) the education and/or care of children?  YES  NO

If yes, please describe \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Other work experience, volunteer service, and experience with children \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Hobbies/Skills/Interests I would like to share \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

# VolunteerApplication



Education (circle last year completed):

Elementary: 5 6 7 8

High School: 9 10 11 12

College: 1 2 3 4

Graduate Work \_\_\_\_\_

Field of study or interest \_\_\_\_\_

List the states you have lived in since turning the age of 18? \_\_\_\_\_

## Availability For Volunteering

	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY	SUNDAY
MORNING							
AFTERNOON							
EVENING							

How much time do you want to volunteer (monthly/weekly)? \_\_\_\_\_

How did you hear about Children's Home Society volunteer program?

\_\_\_\_\_  
\_\_\_\_\_

Why do you wish to volunteer at Children's Home Society?

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## Thank You For Your Willingness to Serve Others.

Volunteers enhance our work in providing excellent service to our children. To ensure the safety and well being of the children in our care, all volunteers who spend direct time with a child must be at least 21 years old and complete an application process which includes fingerprinting and background checks.

### **PLEASE NOTE:**

After your application is submitted, you will receive an email request from Intellicorp confirming that Children's Home Society has requested an electronic background check.

***Please complete the Intellicorp request upon receipt because the link will expire within a designated time frame.***

Children's Home Society serves children with moderate to severe emotional and behavioral needs. Any volunteers who have mentoring relationships with children must also complete various levels of training.

APPLICATION  
**Volunteer**References



Please indicate your willingness to serve by completing the references section. **List four persons not related to you whom you have known for at least one year.** Your list should include **both** professional and personal references.

**Examples of professional references:** current or former employers

**Examples of personal references:** instructors, clergy, volunteer supervisors, or associated character references from school organizations, volunteer groups, and professional or charitable board affiliations and agencies, etc.

1. Name \_\_\_\_\_ Relationship \_\_\_\_\_  
Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
Phone Number(s):  
Home/Cell \_\_\_\_\_ Work \_\_\_\_\_

2. Name \_\_\_\_\_ Relationship \_\_\_\_\_  
Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
Phone Number(s):  
Home/Cell \_\_\_\_\_ Work \_\_\_\_\_

3. Name \_\_\_\_\_ Relationship \_\_\_\_\_  
Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
Phone Number(s):  
Home/Cell \_\_\_\_\_ Work \_\_\_\_\_

4. Name \_\_\_\_\_ Relationship \_\_\_\_\_  
Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
Phone Number(s):  
Home/Cell \_\_\_\_\_ Work \_\_\_\_\_

Full Name (please print) \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

**Upon completion, please contact the Volunteer Coordinator in your area listed below:**

**In the Sioux Falls area, contact:**

Mari DeBerg  
Volunteer Program Coordinator  
phone: (605) 965.3120  
email: mari.deberg@chssd.org

Children's Home Society  
PO Box 1749  
Sioux Falls, SD 57101-1749

**In the Rapid City area, contact:**

Katie Wagaman  
Volunteer Program & Development Coordinator  
phone: 605) 343.2811 • ext. 19  
email: katie.wagaman@chssd.org

Children's Home Society  
1330 Jolly Lane  
Rapid City, SD 57703-4763

All employees and volunteers are responsible for protecting the confidentiality of clients and must adhere to the following:

1. The collection of information regarding a child/family, whether by interview, observation or review of documents, will be conducted in a setting which provides maximum privacy and protects the information from unauthorized individuals.
2. Names of children/families may not be divulged or implied.
3. You must be on guard not to indirectly or inadvertently imply or reveal information about a child/family
4. Discussion of children and their cases must always be conducted in a secure environment to eliminate unauthorized persons over-hearing information. General conversation about children/families, without specific or necessary clinical purpose, shall not be engaged in.
5. Records must remain in a confidential environment when being reviewed to safeguard against release of information to unauthorized individuals.
6. Whenever a record is removed from the file cabinet, it must remain in the immediate possession, control, or supervision of the individual removing the record. Records are never to be left unattended or unsecured.
7. At no time may a record be in the possession of a child, their family, or any other unauthorized party.
8. Schedules, bulletins, papers etc., that can be viewed by the public may not reflect a child's last name.
9. Tours of and visitations of the agency should be conducted in such a manner which respects the child's confidentiality and privacy. Children may only be introduced using their first name. The child may introduce themselves using their last name, if they choose.
10. When destroying written material, rip or shred thoroughly so the item cannot be easily reassembled and read.
11. Providing names to the media or allowing pictures or video footage of children to be taken is prohibited.
12. When releasing information, Children's Home Society's "Release/Request of Information" policy must be followed.
13. A child's record is the responsibility of Children's Home Society and all staff to safeguard client information against loss, defacement, tampering, unauthorized disclosure or use by unauthorized individuals.

***I understand that I will be held legally liable, as well as being subject to possible dismissal from the agency, for giving out of confidential information: confidential information being defined as any information regarding any person who has, is, or will be receiving treatment from Children's Home Society.***

Full Name (please print) \_\_\_\_\_

Volunteer Signature \_\_\_\_\_ Date \_\_\_\_\_

**INSTRUCTIONS FOR COMPLETING PERMISSION FORM**

1. Each applicant and all other required person age 10 years or older must complete and sign a Permission to Screen for Reports of Abuse or Neglect form. **Please complete in blue or black ink only on white paper.**
2. From choices listed, mark correct  box to indicate the appropriate facility/provider type.
3. List on the first blank line of this form, the type of license or registration or employment position for which you have applied (this will vary for each person). Examples are, but are not limited to:

Family Day Care applicant	Adoption Applicant	Child to Applicant	Teacher	Facility Director
Facility/Program Administrator	Foster Care Applicant	Site Assistant	Volunteer	Facility Driver
Secondary Child Care Worker	Spouse of Applicant	Site Coordinator	Facility Cook	GFDC Operator
Other household member	Youth Care worker			

4. PRINT your full name on the appropriate line. This would be your current legal first, middle, and last name. The listing of your date of birth must include the month, day and year you were born.
5. List your maiden name on the appropriate line. If this section does not apply to you, write N/A (meaning not applicable) in this area.
6. List any other names you have used on the appropriate line. Examples of such name would be nicknames; any abbreviated versions of your full name (i.e., William/Bob or Edward/Ed); previously married names; a birth name; or any other names that have been used.
7. List your social security number, sex and your race and resource# if applicable.
8. List all cities, states, and the years you lived there from age 10 to present on the appropriate lines. If you need additional space, please use another blank sheet of paper and be sure to include your first and last name.
9. List the full name (first, middle, last name at birth) and date of birth for **all of your own children** (even if the children are adults, deceased or do not live with you). Do **not** list the names of other people's children for whom you provide care (i.e., daycare children, children in foster care, children not yet born).
10. **SIGN your name** at the bottom of the form. If the screening is for a person under 18 years of age, this person's parent or legal guardian must sign the form. **Include** your current full mailing address at the bottom of the form.
11. Complete the Agency Information by listing the agency's name as it appears on their license, agency complete mailing address and telephone number, and the agency's license number as it appears on their license. If the agency has applied for a licensed but has not yet received its beginning license, mark where indicated.
12. Return your completed permission form to the appropriate agency.

If any information is found that would prohibit the issuance of a child welfare license or registration or prohibit employment with a licensed or registered child welfare agency, the individual will be notified of the screening results and be informed of their right to request a hearing on the matter if they have not received previous notice. Once proper notification has been accomplished, the Department will notify the licensed or registered agency of the screening results.

**FAILURE TO LIST ALL INFORMATION OR COMPLETE ALL QUESTIONS WILL DELAY THE SCREENING PROCESS.**

Check **ONE** box that corresponds with the facility type or Reason for this request.

- Adoption
- Before & After School Center
- Child Placement Agency
- Foster Home
- Group/Residential Facility
- Head Start Program
- Independent Living Prep Program
- In-Process Regulated Child Care
- Child Advocacy Centers
- Regulated Child Care Program
- Relative/Other Caretaker (DOC)
- Relative Placement (CPS)
- Tribal Child Welfare
- CASA
- Other: \_\_\_\_\_

(Please read instruction on back of this form before completing)

### SOUTH DAKOTA PERMISSION TO SCREEN FOR REPORTS OF ABUSE OR NEGLECT

In connection with my application/approval, as a(n) \_\_\_\_\_ I understand that my name must be screened for substantiated reports of abuse or neglect in South Dakota and any other states in which I have resided since age 10. My signature authorizes that South Dakota Department of Social Services, and any other state, to search any information systems and any central registry for child abuse and neglect they may have, and review records, identified in the search which may provide information related to reports and investigations of abuse or neglect. My signature authorizes the release of any information found in these searches, including but not limited to substantiated incidents not on the central registry of child abuse and neglect, to the South Dakota Department of Social Services.

**FULL Legal Name:** \_\_\_\_\_ **Date of Birth:** \_\_\_\_/\_\_\_\_/\_\_\_\_

**Maiden Name:** \_\_\_\_\_ **Other Names Used:** \_\_\_\_\_

**Social Security #:** \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_ **Sex:** \_\_\_\_\_ **Race:** \_\_\_\_\_ **Resource #:** \_\_\_\_\_

**List All Prior City, State and Years lived since age 10** (ie., 1989-2010):

**Use additional blank sheet of paper if necessary**

City	State	Date

City	State	Date

**List Full Name** (First, Middle, Last Name at birth) **and Date of Birth of ALL of your children:**

(Do not list other people's children for whom you might provide daycare)

First	Middle	Last	DOB(MM/DD/YY)

First	Middle	Last	DOB(MM/DD/YY)

The Department of Social Services, it's staff and agents are released from any and all liability based upon information transmitted through this authorization, as long as such information is given in good faith.

My Signature further authorizes the release of any information found in these searches, including but not limited to substantiated incidents not on the central registry of child abuse and neglect, to the agency listed below.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

Your Current Address: \_\_\_\_\_

**Agency Contact Person Phone Number & E-mail**

**Agency Name & Address**

**Provider/Agency License Number**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- N/A – DSS field office/Head Start
- N/A – License not yet issued

**PROTECTION OF CHILDREN FROM ABUSE OR NEGLECT**  
**Laws pertaining to child abuse and neglect as taken from the South Dakota code Chapter 26-8A**

**26-8A-1. Purpose of chapter.** It is the purpose of this chapter, in conjunction with chapter 26-7A, to establish an effective state and local system for protection of children from abuse or neglect. Adjudication of a child as an abused or neglected child is an adjudication of the status or condition of the child who is the subject of the proceedings and is not necessarily an adjudication against or in favor of any particular parent, guardian, or custodian of the child.

**26-8A-2. Abused or neglected child defined.** In this chapter and chapter 26-7A, the term, abused or neglected child, means a child:

- (1) Whose parent, guardian, or custodian has abandoned the child or has subjected the child to mistreatment or abuse;
- (2) Who lacks proper parental care through the actions or omissions of the child's parent, guardian, or custodian;
- (3) Whose environment is injurious to the child's welfare;
- (4) Whose parent, guardian, or custodian fails or refuses to provide proper or necessary subsistence, supervision, education, medical care, or any other care necessary for the child's health, guidance, or well-being;
- (5) Who is homeless, without proper care, or not domiciled with the child's parent, guardian, or custodian through no fault of the child's parent, guardian, or custodian;
- (6) Who is threatened with substantial harm;
- (7) Who has sustained emotional harm or mental injury as indicated by an injury to the child's intellectual or psychological capacity evidenced by an observable and substantial impairment in the child's ability to function within the child's normal range of performance and behavior, with due regard to the child's culture;
- (8) Who is subject to sexual abuse, sexual molestation, or sexual exploitation by the child's parent, guardian, custodian, or any other person responsible for the child's care;
- (9) Who was subject to prenatal exposure to abusive use of alcohol, marijuana, or any controlled drug or substance not lawfully prescribed by a practitioner as authorized by chapters 22-42 and 34-20B; or
- (10) Whose parent, guardian, or custodian knowingly exposes the child to an environment that is being used for the manufacture, use, or distribution of methamphetamines or any other unlawfully manufactured controlled drug or substance.

**26-8A-3. Persons required to report child abuse or neglected child--Intentional failure as misdemeanor.** Any physician, dentist, doctor of osteopathy, chiropractor, optometrist, emergency medical technician, paramedic, mental health professional or counselor, podiatrist, psychologist, religious healing practitioner, social worker, hospital intern or resident, parole or court services officer, law enforcement officer, teacher, school counselor, school official, nurse, licensed or registered child welfare provider, employee or volunteer of a domestic abuse shelter, employee or volunteer of a child advocacy organization or child welfare service provider, chemical dependency counselor, coroner, or any safety-sensitive position as defined in § 3-6C-1, who has reasonable cause to suspect that a child under the age of eighteen has been abused or neglected as defined in § 26-8A-2 shall report that information in accordance with §§ 26-8A-6, 26-8A-7, and 26-8A-8. Any person who intentionally fails to make the required report is guilty of a Class 1 misdemeanor. Any person who knows or has reason to suspect that a child has been abused or neglected as defined in § 26-8A-2 may report that information as provided in § 26-8A-8.

**26-8A-4. Additional persons to report death resulting from abuse or neglect--Intentional failure as misdemeanor.** In addition to the report required under § 26-8A-3, any person who has reasonable cause to suspect that a child has died as a result of child abuse or neglect as defined in § 26-8A-2 shall report that information to the medical examiner or coroner. Upon receipt of the report, the medical examiner or coroner shall cause an investigation to be made and submit written findings to the state's attorney and the Department of Social Services. Any person required to report under this section who knowingly and intentionally fails to make a report is guilty of a Class 1 misdemeanor.

**26-8A-5. Application of terms.** As used in §§ 26-8A-3 and 26-8A-7, the terms "teacher," "school counselor," "school official," "school administrator," "school principal," and "school superintendent" apply to any person substantially performing the respective duties of any such position in a public or private school, whether accredited or unaccredited, and to any person providing instruction pursuant to § 13-27-3.

**26-8A-6. Report of abuse or neglect by hospital personnel--Failure as misdemeanor--Written policy required.** Any person who has contact with a child through the performance of services as a member of a staff of a hospital or similar institution shall immediately notify the person in charge of the institution or his designee of suspected abuse or neglect. The person in charge shall report the information in accordance with the provisions of § 26-8A-8. Any person required by this section to report shall also promptly submit to the state's attorney complete copies of all medical examination, treatment, and hospital records regarding the child. Any person who knowingly and intentionally fails to make a required report and to submit copies of records is guilty of a Class 1 misdemeanor. Each hospital or similar institution shall have a written policy on reporting of child abuse and neglect and submission of copies of medical examination, treatment, and hospital records to the state's attorney.

**26-8A-7. Child abuse or neglect reports by school personnel--Failure as misdemeanor--Written policy required.** Any person who has contact with a child through the performance of services in any public or private school, whether accredited or unaccredited, as a teacher, school nurse, school counselor, school official or administrator, or any person providing services pursuant to § 13-27-3 shall notify the school principal or school superintendent or designee of suspected abuse or neglect. The school principal or superintendent shall report the information in accordance with the provisions of § 26-8A-8. Any person who knowingly and intentionally fails to make a required report is guilty of a Class 1 misdemeanor. Each school district shall have a written policy on reporting of child abuse and neglect.

**26-8A-8. Oral report of abuse or neglect--To whom made--Response report.** The reports required by §§ 26-8A-3, 26-8A-6, and 26-8A-7 and by other sections of this chapter shall be made orally and immediately by telephone or otherwise to the state's attorney of the county in which the child resides or is present, to the Department of Social Services or to law enforcement officers. The mandatory reporter who witnessed the disclosure or evidence of the abuse or neglect must be available to answer questions when the initial report is made pursuant to this section. The state's attorney or law enforcement officers, upon receiving a report, shall immediately notify the Department of Social Services. Any person receiving a report of suspected child abuse or child neglect shall keep the report confidential as provided in § 26-8A-13, except as otherwise provided in chapter 26-7A or this chapter.

The person receiving a report alleging child abuse or neglect shall ask whether or not the reporting party desires a response report. If requested by the reporting person, the Department of Social Services or the concerned law enforcement officer shall issue within thirty days, a written acknowledgment of receipt of the report and a response stating whether or not the report will be investigated.

**26-8A-9. Investigation of oral report--Other action permitted--Appointment of attorney--Compensation.** Upon receipt of a report pursuant to § 26-8A-8, the Department of Social Services or law enforcement officers shall investigate. Investigating personnel may personally interview a child out of the presence of the child's parents, guardian, or custodian without advance notice or consent. The investigation does not prohibit any other lawful action. If the investigation and report indicate that child abuse or neglect has occurred, the state's attorney shall take appropriate action immediately. The court may appoint an attorney, guardian ad litem, or special advocate to assist in representing the best interests of the child. Any such appointment shall occur in the manner the county in which the action is being conducted has chosen to provide indigent counsel under § 23A-40-7. Compensation and expense allowances for the child's attorney, guardian ad litem, or special advocate shall be determined and paid according to § 26-7A-31.

**26-8A-10. Report to social services--Content.** A report made pursuant to § 26-8A-8 to the Department of Social Services shall include the name, address, date and place of birth of the child, the name and address of the child's parents, guardian, custodian, or responsible persons, the date of the report, and the suspected or proven instances of child abuse or neglect as defined in § 26-8A-2. The Department of Social Services shall be the central registry for such information.

**26-8A-10.1. Notice to child's parents of determination of abuse or neglect--Contents--Confidentiality.** If an investigation by the Department of Social Services determines that abuse or neglect has occurred, the department shall make reasonable efforts to inform each of the child's parents of the determination with due regard given to the rights of the subject of the report pursuant to § 26-8A-11. The information shall only include identification of the provisions of § 26-8A-2 which constituted the basis for the determination that abuse or neglect occurred. This provision does not limit the department in providing services to a parent who is the subject of the report. A notice of the report shall be sent, by certified mail, to any parent who is not the subject of the report at the parent's last known address. The information shall be maintained confidential by the parent pursuant to § 26-8A-13.

**26-8A-10.2. Exception to notice requirement.** The provisions of § 26-8A-10.1 do not apply if the department has good cause to believe that the provisions of the information will be seriously detrimental to the best interests of the child.

**26-8A-11. Request to amend or remove record--Administrative hearing--Decision.** Within thirty days after the Department of Social Services notifies any person that he or she will be placed on the central registry for child abuse and neglect based upon a substantiated investigation, the person may request an administrative hearing. The

administrative hearing is limited to determining whether the record should be amended or removed on the grounds that it is inaccurate. The request shall be made in writing and directed to the person designated by the department in the notice. However, if there has been a court finding of child abuse or neglect, the record's accuracy is conclusively presumed and the person has no right to an administrative hearing. In the hearing, the burden of proving the accuracy of the record is on the department. The hearing examiner may order the amendment or removal of the record. The decision of the hearing examiner shall be made in writing within ninety days after the date of receipt of the request for a hearing and shall state the reasons upon which it is based. Decisions of the department under this section are administrative decisions subject to judicial review under chapter 1-26. In any case where there has been no substantiated report of child abuse and neglect, the department may not maintain a record or other information of unsubstantiated child abuse and neglect for longer than three years if there has been no further report within that three-year period.

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**26-8A-11.1. Request for a hearing to release name of complainant in unsubstantiated investigation.** Within thirty days after the notice of the determination of an unsubstantiated investigation by the Department of Social Services, the person who is the subject of the investigation may request an administrative hearing to determine whether the report was made with malice and without reasonable foundation and whether the name of the complainant should be released to the subject of the investigation. Within twenty days of receiving the request, an administrative hearing officer shall notify the complainant by mail that a request to release the complainant's name has been made and set a time and date for a hearing. The complainant shall be afforded the opportunity to be heard prior to any determination by the hearing officer to release the name. The complainant may appear at the hearing in person or through counsel or may submit written objections to the request in lieu of appearance. Any written objections or other information that may reveal the name of the complainant shall be sealed and available only to the administrative hearing officer. The administrative hearing officer shall determine within ninety days of the final date of the hearing whether the report was made maliciously and without reasonable foundation and whether release of the complainant's name would be likely to endanger the complainant's life or safety. The administrative hearing officer shall issue such a finding in a written report. The report may not disclose the name of the complainant or other identifying information. If the administrative hearing officer determines that the report was made with malice and without reasonable foundation and that release of the complainant's name is not likely to endanger the complainant's life or safety, the officer shall order the department to release the name of the complainant thirty days after issuing such finding. If the administrative hearing officer determines that the report was not made with malice or that the report was made with reasonable foundation or that release of the complainant's name is likely to endanger the life or safety of the complainant, the name of the complainant may not be disclosed. Decisions of the department under this section are administrative decisions subject to review under chapter 1-26. If a decision of the department under this section is appealed under chapter 1-26, the identity of the complainant shall remain confidential until a final court order requiring the release of the complainant's name.

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**26-8A-12. Operation of central registry for abuse and neglect--Adoption of rules.** The secretary of social services may adopt reasonable and necessary rules for the operation of the central registry for abuse and neglect, including the following:

- (1) Filing of reports;
- (2) Procedures for provision of notice to the subject of a report;
- (3) Amendment and expunction;
- (4) Release of information from the registry;
- (5) Statistical information; and
- (6) Provisions for the keeping and maintenance of records and the type of information placed into the central registry.

However, the secretary may not adopt any rule which would permit the removal from the central registry for abuse and neglect of any person who has been convicted of any violation of chapter 22-22, chapter 22-24A, § 22-22A-3, or § 26-10-1, if the victim of such crime was a child.

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**26-8A-12.1. Abuse and neglect screening of head start employees and adoptive or foster parents.** Upon receipt of a list of names of current or potential employees from a head start program director or the name of any person being considered as an adoptive or foster parent from a certified social worker eligible to engage in private independent practice as defined in § 36-26-17, the secretary of the Department of Social Services shall compare the list to the central registry for abuse and neglect and report any findings to the requesting program director or social worker.

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**26-8A-12.2. Abuse and neglect screening required of certain current and potential employees and volunteers--Written consent required.** Upon receipt of names of current or potential employees or volunteers from the Juvenile Division of the Department of Corrections, any adolescent treatment program operated by the Department of Human Services or the Department of Social Services, any entity recognized as administering a CASA program as provided in § 16-2-51, any nationally accredited child advocacy center recognized by the Department of Social Services, or a court considering appointment of a guardian ad litem for a child in a proceeding pursuant to chapter 26-8A, the Department of Social Services shall compare the names to the central registry for abuse and neglect and report any findings to the requesting program director, to the Bureau of Human Resources human resource manager, child advocacy center, or to the court. Any potential employee or volunteer under this section shall give written consent before completion of the abuse and neglect screening. Failure to submit to abuse and neglect screening disqualifies an applicant from employment or appointment.

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**26-8A-12.3. Central registry check of kinship, foster care, adoption, and child welfare agency employment applicants.** Upon the receipt of a written request from a licensed child welfare agency or a private child welfare agency whose licensure has been waived pursuant to § 26-6-9, the Department of Social Services shall conduct a check of the central registry for child abuse and neglect for kinship, foster care, adoption, or employment applicants and shall provide the results to the requesting agency. Further, upon written request from an agency that provides child welfare services or child placement services for a federally recognized tribe, the department shall conduct a check of the central registry for child abuse and neglect for kinship, foster care, or adoption applicants and shall provide the results to the requesting tribal agency. Before the department conducts any check of the central registry for child abuse and neglect pursuant to this section, the requesting agency shall provide to the department a consent signed by the applicant for kinship, foster care, adoption, or employment.

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**26-8A-12.4. Central registry check of prospective foster or adoptive parents at request of governmental social service agency for another state.** Upon receipt of a written request from a governmental social service agency with child protection responsibilities for another state and a consent signed by the applicant, the Department of Social Services shall conduct a check of the central registry for child abuse and neglect regarding a prospective foster or adoptive parent in the requesting state or any adult living in the parent's home and shall provide the results to the requesting agency.

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**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) An adoptive parent 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.

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**26-8A-13.1. Certain child protection records to be provided to the court, court services, state's attorney, or agencies--Discovery--Fees.** Notwithstanding the provisions of § 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 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 state's 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 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.

Upon receipt of an order of the court, the Department of Social Services shall make its child protection services file related to the child or the child's parents and siblings available to the court, court services, or the state's attorney with the exception of information protected by 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. Under no circumstances may the court order the release of information pertaining to pending abuse or neglect investigations.

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

The Department of Social Services shall impose reasonable fees for reproduction of its records released under this section. The Department of Social Services shall promulgate rules pursuant to chapter 1-26 for any fee imposed for records reproduction.

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**26-8A-13.2. Consent of possible caretaker required for central registry screenings.** For central registry screenings allowed under the provisions of § 26-8A-13.1, the Department of Social Services may not complete the requested screening until the court, court services, the Department of Corrections, or the state's attorney provides to the department a consent signed by the person being considered as a possible caretaker for the child.

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**26-8A-14. Immunity from liability.** Any person or party participating in good faith in the making of a report or the submitting of copies of medical examination, treatment, or hospitalization records pursuant to §§ 26-8A-3 to 26-8A-8, inclusive, or pursuant to any other provisions of this chapter, is immune from any liability, civil or criminal, that might otherwise be incurred or imposed, and has the same immunity for participation in any judicial proceeding resulting from the report. Immunity also extends in the same manner to persons requesting the taking of photographs and X rays pursuant to § 26-8A-16, to persons taking the photographs and X rays, to child protection teams established by the secretary of social services, to public officials or employees involved in the investigation and treatment of child abuse or neglect or making a temporary placement of the child pursuant to this chapter, or to any person who in good faith cooperates with a child protection team or the Department of Social Services in investigation, placement, or a treatment plan. The provisions of this section or any other section granting or allowing the grant of immunity do not extend to any person alleged to have committed an act or acts of child abuse or neglect.

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**26-8A-15. Communications not privileged in child abuse or neglect cases.** The privilege of confidentiality set forth in §§ 19-2-3, 19-19-503, 19-19-504, 19-19-508.1, and 36-26-30 may not be claimed in any judicial proceeding involving an alleged abused or neglected child or resulting from the giving or causing the giving of a report concerning abuse or neglect of a child pursuant to §§ 26-8A-3 to 26-8A-8, inclusive.

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**26-8A-16. Photographs, videotapes, or other images, and medical examinations taken without consent--Disposition.** Any person who receives a report under § 26-8A-3 may take or cause to be taken color photographs, videotapes, or other images of the areas of trauma visible on a child who is the subject of the report and may require a radiological or other medical examination or testing of the child without the consent of the child's parents, guardian, or custodian. All photographs, videotapes, or other images taken pursuant to this section shall be taken by a law enforcement official, the Department of Social Services, or a person authorized by a law enforcement official or the department. All photographs, videotapes, other images, X rays, and test results, or copies of them, shall be sent to the appropriate law enforcement agency or state's attorney or to the Department of Social Services. These photographs, videotapes, and other images need not be made a part of the child's medical or hospital records. Any photograph, videotapes, or other image in the possession of the Department of Social Services shall be destroyed by the Department of Social Services if no criminal prosecution or civil action is initiated within three years of the date that such material was received by the Department of Social Services.

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**26-8A-17. Child protection teams.** The secretary of social services may appoint child protection teams to assist in the prevention and treatment of child abuse and neglect. A child protection team may include licensed or certified medical and health professionals, the court services officer recommended by the presiding judge of a judicial circuit in which the team is to operate, the secretaries of social services and health or their designees, a representative of a mental health center, a representative of a public school district in which the team is to operate, an attorney, a foster parent, and one or more representatives of the public. The Department of Social Services shall maintain a record of the membership of each child protection team.

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**26-8A-18. Appointment of counsel--Compensation--Assistance.** Notwithstanding the provisions of §§ 26-7A-31 and 26-8A-9, the court shall appoint an attorney for any child alleged to be abused or neglected in any judicial proceeding. The court shall appoint an attorney in the manner the county in which the action is being conducted has chosen to provide indigent counsel under § 23A-40-7. The attorney for the child shall represent the child's best interests and may not be the attorney for any other party involved in the judicial proceedings. The court may designate other persons, including a guardian ad litem or special advocate, who may or may not be attorneys licensed to practice law, to assist the attorney of the child in the performance of the attorney's duties. Compensation and expense allowances for the child's attorney shall be determined and paid according to § 26-7A-31.

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**26-8A-19. Abused and neglected child defense fund--Distribution to counties--Pro rata.** There is hereby created in the office of the state treasurer an abused and neglected child defense fund. All moneys in the abused and neglected child defense fund shall be annually distributed by the state treasurer to the counties on a pro rata basis. The state treasurer shall, within sixty days of the end of the fiscal year, determine and verify from receipts and expenditure records the total expenditures by all counties in the state for the representation of abused and neglected children. He shall then establish a percentage ratio between moneys collected in the fund for the past fiscal year and the total expenditures by counties for the representation of abused and neglected children. That percentage ratio shall then be applied to each county's expenditure for the representation of abused and neglected children to determine its respective payment from the fund.

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**26-8A-20. Appointment of representative of child's best interest--Duties.** If a child is an apparent or alleged abused or neglected child, the court may appoint a special advocate to represent the best interests of the child and to assist the child's attorney. If a child has been adjudicated an abused or neglected child and is removed from the child's home with the child's parents, guardian or custodian, the court shall appoint a guardian ad litem or a special advocate to represent the best interests of the child and to assist the child's attorney. The guardian ad litem or special advocate is an officer of the court for the purpose of representing the child's best interests. The guardian ad litem or special advocate shall receive all reports concerning the child and may cause the case to be reviewed by the court pursuant to § 26-8A-24.

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**26-8A-21. Reasonable efforts to eliminate need for removal--Reasonable efforts to return child to home--Determining adequacy of efforts.** The Department of Social Services shall make reasonable efforts prior to the removal of an alleged or adjudicated abused or neglected child from the home of the child's parents, guardian, or custodian to prevent or eliminate the need for removal of the child. If the child has been removed from the home and has been placed in temporary custody of the department, the department shall make reasonable efforts to make it possible for the child to return to the home of the child's parents, guardian, or custodian. If the child is to be or has been removed from the home, the court shall first make a judicial determination that removal of the child from the home is or was necessary because continued presence of the child in the home would be contrary to the welfare of the child and that reasonable efforts by the department to avoid removal of the child from the home have been made. If the child has been removed from the home and has not been returned to the home, the court shall first make a judicial determination that reasonable efforts have been

made by the department to return the child to the home and that the child cannot be returned to the home because it would be contrary to the welfare of the child.

Reasonable efforts to prevent the necessity for removal of a child from the home of the child's parents, guardian, or custodian and reasonable efforts to return the child to the home mean provision by the department of any assistance or services that:

- (1) Are appropriate for the child's parents, guardian, custodian, or any other caretaker family of the child existing at the time of removal or possible return of the child, including instruction on parenting;
- (2) Are available pursuant to the comprehensive plan of preventive services of the department;
- (3) Could be made available without undue financial burden on the department; or
- (4) Would have a significant likelihood of protecting the child from substantial danger to the child's physical health or from severe emotional damage while enabling the child to remain in the home or to be returned to the home.

In determining the adequacy of reasonable efforts, the court shall consider the assistance, services, and efforts of the department. The court shall also consider the good faith efforts or the lack of good faith efforts made by the child's parents, guardian, custodian, or other caretaker family to cooperate with the department and to effectively utilize the assistance or services for the benefit and welfare of the child.

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**26-8A-21.1. Exceptions to § 26-8A-21.** Nothing in § 26-8A-21 requires reunification of a child with a parent who:

- (1) Committed a crime defined in § 22-16-4, 22-16-7, 22-16-15, 22-16-20, 22-22-1, 22-22-24.3, 22-22A-2, 22-22A-3, 26-10-1, or subdivision 22-19-1(5), or committed conduct described by any of those statutes that violated the law or ordinance of another jurisdiction having elements similar to an offense described by any of those statutes;
- (2) Aided or abetted, attempted, conspired, or solicited to commit a crime defined in § 22-16-4, 22-16-7, 22-16-15, or 22-16-20 or the law or ordinance of another jurisdiction having elements similar to an offense described by any of those statutes;
- (3) Committed a crime defined in § 22-18-1.1, 22-22-7, or subdivision 22-23-2(2) against the child or another child of such parent, or committed conduct described by those sections that violated the law or ordinance of another jurisdiction having elements similar to the offense described by those sections;
- (4) Has been determined by a court by clear and convincing evidence to have subjected the child or another child to torture, sexual abuse, abandonment for at least six months, chronic physical, mental, or emotional injury, or chronic neglect if the neglect was a serious threat to the safety of the child or another child;
- (5) Is incarcerated and is unavailable to care for the child during a significant period of the child's minority, considering the child's age and the child's need for care by an adult;
- (6) Has had parental rights to another child involuntarily terminated by a prior legal proceeding;
- (7) Has a documented history of abuse and neglect associated with chronic alcohol or drug abuse;
- (8) Has exposed the child to or demonstrated an inability to protect the child from substantial harm or the risk of substantial harm, and the child or another child has been removed from the parent's custody because the removed child was adjudicated abused and neglected by a court on at least one previous occasion;
- (9) Has exposed the child to or demonstrated an inability to protect the child from substantial harm or the risk of substantial harm, the child has been removed from the parent's custody on two separate occasions, and the Department of Social Services offered or provided family services on each of the two separate occasions the child was removed;
- (10) Has exposed the child to or demonstrated an inability to protect the child from substantial harm or risk of harm resulting from a crime, act, or omission as specified in subdivision (1), (2), or (3) of this section; or
- (11) Is required to register as a sex offender pursuant to chapter 22-24B.

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**26-8A-21.2. Permanency hearing required if child is not to be returned to parents--Court to determine placement--Final dispositional hearing.** If the court has determined that reasonable efforts to return an adjudicated abused or neglected child to the home of the parent, guardian, or custodian are not appropriate, a permanency hearing shall be held within thirty days after the determination. At the permanency hearing, the court shall determine if:

- (1) The child should be placed for adoption. If the court determines that the child should be placed for adoption, the state shall notify the parties of its intent to seek the termination of parental rights if notice has not already been provided;
- (2) The child should be referred for legal guardianship;
- (3) The child should be placed permanently with a fit and willing relative; or
- (4) Only in the case of a child who is sixteen years of age or older, a compelling reason is documented with the court that none of the permanent plans listed in this section would be in the best interest of the child, and the child should be placed in another planned permanent living arrangement. At each permanency hearing for a child placed in another planned permanent living arrangement, the court shall ask the child about the desired permanency outcome for the child and make a judicial determination stating the reasons that another planned permanent living arrangement is the best permanency plan for the child.

The court may immediately proceed with a final dispositional hearing if proper notice of the hearing has been given.

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**26-8A-22. Final decree of disposition--Permitted disposition when parental rights not terminated--Annual permanency hearing for child in foster care.** On completion of the dispositional phase of the proceeding, the court shall enter a final decree of disposition. If the final decree of disposition does not terminate parental rights, the decree shall include one or more of the following provisions which the court finds appropriate as the least restrictive alternative available:

- (1) The court may place the child in the custody of one or both of the child's parents, a guardian, a relative of the child or another suitable person, or a party or agency, with or without protective supervision, or the Department of Social Services, subject to the conditions and the length of time that the court deems necessary or appropriate. If the court returns custody to the child's parent, guardian, or custodian, such return of custody may be with supervision during which the court may require the parent, guardian, custodian, and any other adult residing in the home, to cooperate with home visits by the department and may require the parent, guardian, custodian, and any other adult residing in the home, to submit, at the request of the department, to tests for alcohol, marijuana, or any controlled drug or substance. If the adjudication of abuse or neglect was related to the use of alcohol, marijuana, or any controlled drug or substance, the parent, guardian, or custodian, and any other adult residing in the home, may be required, in those areas where such testing is available, to submit to regular tests for alcohol, marijuana, or any controlled drug or substance. If a positive test for alcohol, marijuana, or any controlled drug or substance is obtained, or the person fails to submit to the test as required, the department may immediately remove the child from the physical custody of the parent, guardian, custodian, or any other adult residing in the home whose test was positive or who failed to submit to the test, without prior court order subject to a review hearing, which may be telephonic, within forty-eight hours excluding Saturdays, Sundays, and court holidays. As used in this section, any controlled drug or substance means a controlled drug or substance which was not lawfully prescribed by a practitioner as authorized by chapters 22-42 and 34-20B;
- (2) The court after determining that a compelling reason exists to place the child who is sixteen years of age or older in another planned permanent living arrangement rather than with a relative or with a legal guardian other than the department may place the child in the custody of the department or a child placement agency, with or without guardianship of the child, until the child attains the age of majority or until an earlier date or event as determined by the court;
- (3) The court may order that the child be examined or treated by a physician or by a qualified mental health professional or that the child receive other special care and may place the child in a suitable facility for such purposes under conditions that the court deems necessary or appropriate. On completion of the examination, treatment, or hospitalization and on a full report to the court, the court shall conduct a supplemental dispositional hearing or hearings and shall make disposition of the child as otherwise provided in this section or, if the evidence shows need, the court may consider termination of parental rights as an appropriate possible alternative in keeping with the best interests and welfare of the child.

If disposition of the child under this section involves the removal from or nonreturn of the child to the home of the child's parents, guardian, or custodian and placement of the child in the custody of the department for placement in foster care, the court shall include in the decree a written judicial determination that continuation of the child's placement in the home of the child's parents, guardian, or custodian would be contrary to the welfare of the child and that reasonable efforts were made by the department to prevent or eliminate the need for removal of the child from the home. In no case may a child remain in foster care for a period in excess of twelve months from the time the child entered foster care without the court holding a permanency hearing and making a dispositional decree. The court shall review the child's permanency status and make a dispositional decree every twelve months thereafter as long as the child continues in the custody of the department. The court shall determine whether the state has made reasonable efforts to finalize the permanency plan that is in effect. That determination shall be included in the dispositional decree.

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**26-8A-22.1. Court to require instruction in parenting as part of sentence in certain convictions.** If any person convicted of contributory abuse or contributory neglect is the child's parent, guardian, or custodian, the court shall include as part of the sentence, or conditions required as part of the suspended execution or imposition of such sentence, that the person receive instruction on parenting approved or provided by the Department of Social Services.

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**26-8A-23. Court-ordered medical, psychological or psychiatric treatment of spiritually-treated child.** If a child has been or is under treatment for physical, mental, or emotional illness solely by a spiritual means, the court may, as provided under § 26-8A-22, order that medical, psychological, or psychiatric treatment and hospitalization be provided for the child.

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**26-8A-24. Periodic review hearings of foster care status--Petition for judicial action.** If a child has been adjudicated to be an abused or neglected child, parental rights have not been terminated and the court places custody of the child in the Department of Social Services, the court shall conduct a review hearing of the foster care status every six months. The hearing shall be conducted in the same manner as a dispositional hearing. If the department at any time finds that further court action is necessary to clarify the child's legal status or, for any other reason, to protect the interests of the child, the Department of Social Services may require the state's attorney to petition the court for a review hearing.

**26-8A-25. Criteria for determining continued placement of child separate from home.** In conducting the review hearing required by § 26-8A-24 the court may continue placement of the child separate from the home of the child's parents, guardian, or custodian upon a written judicial determination that return of the child to the home would be contrary to the welfare of the child and that reasonable efforts have been made by the Department of Social Services to make it possible for the child to return to the home. In making this determination, the court shall consider the following criteria:

- (1) The goals of the foster care placement and the appropriateness of foster care;
- (2) The assistance and services which have been offered to reunite the child with the child's parents, guardian, or custodian and the good faith efforts, or their lack, and ability of the child's parents, guardian, or custodian to cooperate with the department and to effectively utilize the assistance and services for the benefit and welfare of the child; and
- (3) If the return of the child to the home of the child's parents, guardian, or custodian is not likely, the reasonable efforts of the department that have been made or should be made to provide for other methods of care in keeping with the best interests of the child.

**26-8A-26. Termination of parental rights--Return of child to parents or continued placement--Annual permanency hearing for child in foster care.** If an adjudicated, abused, or neglected child whose parental rights have not been terminated has been in the custody of the Department of Social Services and it appears at a dispositional or review hearing that all reasonable efforts have been made to rehabilitate the family, that the conditions which led to the removal of the child still exist, and there is little likelihood that those conditions will be remedied so the child can be returned to the custody of the child's parents, the court shall affirmatively find that good cause exists for termination of the parental rights of the child's parents and the court shall enter an order terminating parental rights. If the court does not find at the hearing, which shall be conducted in the same manner as a dispositional hearing, that good cause exists for termination of parental rights, the court may make further disposition of the child as follows:

- (1) Return custody of the child to the child's parents, guardian, or custodian, with or without supervision during which the court may require the parent, guardian, custodian, and any other adult residing in the home, to cooperate with home visits by the department and may require the parent, guardian, custodian, and any other adult residing in the home, to submit, at the request of the department, to tests for alcohol, marijuana, or any controlled drug or substance. If the adjudication of abuse or neglect was related to the use of alcohol, marijuana, or any controlled drug or substance, the parent, guardian, or custodian, and any other adult residing in the home, may be required, in those areas where such testing is available, to submit to regular tests for alcohol, marijuana, or any controlled drug or substance. If a positive test for alcohol, marijuana, or any controlled drug or substance is obtained, or if the person fails to submit to the test as required, the department may immediately remove the child from the physical custody of the parent, guardian, custodian, or any other adult residing in the home whose test was positive or who failed to submit to the test, without prior court order subject to a review hearing, which may be telephonic, within forty-eight hours excluding Saturdays, Sundays, and court holidays. As used herein, any controlled drug or substance means a controlled drug or substance which was not lawfully prescribed by a practitioner as authorized by chapters 22-42 and 34-20B;
- (2) Continue foster care placement of the child for a specified period of time, and, if the child is sixteen years of age or older, direct the department to determine the services needed to assist the child to make the transition from foster care to independent living and, if appropriate, provide a plan for independent living for the child;
- (3) Place the child who is sixteen years of age or older in the custody of the department or a child placement agency, with or without guardianship of the child, in another planned permanent living arrangement following a determination that a compelling reason exists that the placement is more appropriate than adoption or with a relative or with a legal guardian other than the department and under a court-approved plan that determines visitation rights of the child's parents, guardian, or custodian. Under this subdivision, the court may retain jurisdiction of the action and proceedings for future consideration of termination of parental rights if termination of parental rights is the least restrictive alternative available in keeping with the best interests of the child.

In no case may a child remain in foster care for a period in excess of twelve months from the time the child entered foster care without the court holding a permanency hearing and making a dispositional decree setting forth one of the above options. The court shall review the child's permanency status and make a dispositional decree every twelve months thereafter as long as the child continues in the custody of the department. The court shall determine whether the state has made reasonable efforts to finalize the permanency plan that is in effect. That determination shall be included in the dispositional decree.

**26-8A-26.1. Additional reasons for termination of parental rights.** In addition to the provisions of § 26-8A-26, the court may find that good cause exists for termination of parental rights of a parent who:

- (1) Committed a crime defined in § 22-16-4, 22-16-7, 22-16-15, 22-16-20, 22-22-1, 22-22-24.3, 22-22A-2, 22-22A-3, 26-10-1, or subdivision 22-19-1(5), or committed conduct described by any of those statutes that violated the law or ordinance of another jurisdiction having elements similar to an offense described by any of those statutes;
- (2) Aided or abetted, attempted, conspired, or solicited to commit a crime defined in § 22-16-4, 22-16-7, 22-16-15, or 22-16-20 or the law or ordinance of another jurisdiction having elements similar to an offense described by any of those statutes;
- (3) Committed a crime defined in § 22-18-1.1, 22-22-7, or subdivision 22-23-2(2) against the child or another child of such parent, or committed conduct described by those sections that violated the law or ordinance of another jurisdiction having elements similar to the offense described by those sections;
- (4) Has been determined by a court by clear and convincing evidence to have subjected the child or another child to torture, sexual abuse, abandonment for at least six months, chronic physical, mental, or emotional injury, or chronic neglect if the neglect was a serious threat to the safety of the child or another child;
- (5) Is incarcerated and is unavailable to care for the child during a significant period of the child's minority, considering the child's age and the child's need for care by an adult;
- (6) Has had parental rights to another child involuntarily terminated by a prior legal proceeding;
- (7) Has a documented history of abuse and neglect associated with chronic alcohol or drug abuse;
- (8) Has exposed the child to or demonstrated an inability to protect the child from substantial harm or the risk of substantial harm, and the child or another child has been removed from the parent's custody because the removed child was adjudicated abused and neglected by a court on at least one previous occasion;
- (9) Has exposed the child to or demonstrated an inability to protect the child from substantial harm or the risk of substantial harm, the child has been removed from the parent's custody on two separate occasions, and the Department of Social Services offered or provided family services on each of the two separate occasions the child was removed;
- (10) Has exposed the child to or demonstrated an inability to protect the child from substantial harm or risk of harm resulting from a crime, act, or omission as specified in subdivision (1), (2), or (3) of this section; or
- (11) Is required to register as a sex offender pursuant to chapter 22-24B.

**26-8A-27. Final decree terminating parental rights of one or both parents--Child support arrearages--Custody of child.** On completion of a final dispositional hearing regarding a child adjudicated to be abused or neglected, the court may enter a final decree of disposition terminating all parental rights of one or both parents of the child if the court finds, by clear and convincing evidence, that the least restrictive alternative available commensurate with the best interests of the child with due regard for the rights of the parents, the public and the state so requires. The court may enter a decree terminating parental rights if the court finds, by clear and convincing evidence, that the parents have abandoned the child for at least six months and during this period the parents have not manifested to the child or to the physical custodian or caretaker of the child a firm intention to resume physical custody of the child and to make suitable arrangements for the care of the child. If the court decides to terminate parental rights, any existing child support arrearages shall be addressed by the court in the order terminating those parental rights.

Upon the entry of the final decree of disposition terminating the parental rights of both parents or of the surviving parent, the court shall vest the Department of Social Services with the custody and guardianship of the person of the child for the purpose of placing the child for adoption and authorizing appropriate personnel of the department to consent to adoption of the child without need for any notice or consent of any parent of the child. The final decree terminating parental rights is final and unconditional. The natural parents retain no post-termination rights or privileges including post-termination visitation except for any final visitation allowed by the department.

Upon the entry of a final decree of disposition terminating the parental rights of one parent, the court may leave the child in the custody of the remaining parent and end the proceedings.

**26-8A-28. Notice of order or final decree--Service--Appeal.** Notice of entry of order of adjudication or final decree of disposition issued by the court in any action involving an abused or neglected child shall be served on the child's attorney and the child's guardian ad litem or special advocate, if any, and on all respondent parents and other respondent parties in any manner authorized by the rules of civil procedure. The notice of entry may be served by publication in the same manner as service of the summons in the action as provided in § 26-7A-48. If the notice of entry is served by publication, the service is completed five days after the date of publication. The time for appeal commences on the day following the date of completed service of the notice of entry regardless of the manner in which the notice of entry is served.

**26-8A-29. Continuing jurisdiction over abused or neglected child.** In any action involving the termination of parental rights of both parents or any surviving parent, the court has continuing jurisdiction of the action and of the abused or neglected child for purposes of review of status of the child until the adoption of the child is fully completed. The Department of Social Services or any other party having custody and guardianship of the child pending adoption may petition the court to review the status of the child at any time before the adoption of the child is completed. The court may issue any orders or decrees necessary to protect the child, to preserve the child's welfare and to facilitate adoption of the child by the court or another court of competent jurisdiction without delay. The continuing jurisdiction of the court according to this section does not prevent the acquisition of jurisdiction of the child by another court for adoption proceedings according to law.

**26-8A-29.1. Request for hearing by relative denied adoptive placement--Time limits--Intervention.** Except under circumstances where placement was with another relative of the child, any relative who has been denied adoptive placement by the Department of Social Services may request a hearing to determine if the placement was an abuse of discretion. The request shall be filed with the circuit court having jurisdiction pursuant to § 26-8A-29 and shall be filed within thirty days of written notification from the department by regular mail to the relative's last known address. The hearing shall be held within thirty days of the filing of the request for hearing and may be continued for not more than thirty days upon good cause shown. The relative shall be granted limited intervention only for the purpose of the placement review hearing.

No intervention may be allowed in a proceeding involving an apparent, alleged, or adjudicated abused or neglected child, including an adoption or guardianship proceeding for a child placed in the custody of the Department of Social Services pursuant to § 26-8A-27, except as provided by this chapter and under the Indian Child Welfare Act, (25 U.S.C. §§ 1901 to 1963, inclusive), as amended to January 1, 2005.

**26-8A-30. Testimony of child by closed circuit television--Hearing to determine necessity.** In any proceeding in which a child under the age of twelve, or a child twelve years of age or older who is developmentally disabled as defined in § 27B-1-18, is describing any act of sexual contact or rape performed with or on the child by another, or describing any act of physical abuse or neglect of the child by another, or any act of physical abuse or neglect of another child, or any act constituting a crime of violence as defined in § 22-1-2 committed against the child or another child, the court or any party may move to allow that the testimony of the child be taken in a room other than the courtroom and televised at the same time to the courtroom by closed circuit television equipment. Prior to allowing the child to testify under this section, the court shall hold a hearing outside the presence of the jury and make a finding on the record that testimony by the child in the courtroom will cause the child to suffer more than de minimis emotional distress and that testifying under the provisions of this section is necessary to protect the welfare of the child.

**26-8A-31. Persons allowed to be present during closed circuit television testimony--Display of defendant's image in room where witness testifies.** At the taking of testimony pursuant to § 26-8A-30, the public shall be excluded from the room in which the witness is testifying. The persons permitted to be physically present shall be determined by the court. The court, in its discretion, may permit in the room a person whose presence would contribute to the well-being of the witness or the reduction of apprehension of the witness during the testimony. Attorneys for the parties may not be excluded.

If the court makes a specific finding, outside the presence of the jury, that the presence of the defendant, or in a civil case, the presence of the respondent, in the same room as the witness, will cause substantial emotional distress to the child and that such distress would impair the ability of the witness to communicate, upon such finding the court may exclude the defendant from the room in which the witness is testifying. However, if the defendant is excluded, the testimony of the witness shall be by two-way closed circuit television such that the testimony of the witness is televised in the courtroom and simultaneously thereto, a monitor in the room in which the witness is testifying displays a view of the courtroom which view shall include the defendant. The right to have the defendant's image televised in the room in which the witness is testifying is a right of the defendant which the defendant may waive. If the defendant is excluded from the room in which the witness is testifying, the court shall provide for instantaneous communication between the defendant and defense counsel.

**26-8A-32. Due regard to be afforded Indian Child Welfare Act.** Due regard shall be afforded to the Indian Child Welfare Act (25 U.S.C. §§ 1901-1963), as amended to January 1, 2004, if that Act is applicable.

**26-8A-33. Proceeding involving child covered by Indian Child Welfare Act.** In any abuse or neglect proceeding involving a child covered by the Indian Child Welfare Act (25 U.S.C. §§ 1901-1963), as amended to January 1, 2005, the tribe may appear by counsel or by a representative of the tribe designated by the tribe to intervene on behalf of the tribe. When the tribe appears as a party by a representative of the tribe, the name of the representative and a statement of authorization for that individual or agency to appear as the tribe must be submitted to the court in the form of a tribal resolution or other document evidencing an official act of the tribe.

**26-8A-34. Alcohol or drug testing as condition of child placement or return.** If the court finds the apparent, alleged, or adjudicated abuse or neglect of a child was related to the use of alcohol, marijuana, or any controlled drug or substance, the placement or return of the child may be subject to the condition, if the court so orders, that a parent, guardian, custodian, or any other adult residing in the home submit to tests for alcohol, marijuana, or any controlled drug or substance prior to or during the placement or return of the child. If a parent, guardian, custodian, or any other adult, who resides in the home and has been ordered by the court to submit to testing for alcohol, marijuana, or any controlled drug or substance, tests positive for alcohol, marijuana, or any controlled drug or substance, or fails to submit to the test as required, the Department of Social Services may immediately remove the child from the physical custody of the parent, guardian, or custodian, without prior court order, subject to a review hearing, which may be telephonic, within forty-eight hours excluding Saturdays, Sundays, and court holidays. As used in this section, any controlled drug or substance means a controlled drug or substance which was not lawfully prescribed by a practitioner as authorized by chapters 22-42 and 34-20B.

**26-8A-35. Toxicology test of newborn infant for exposure to controlled substance--Report of positive result.** If a health care practitioner has reason to believe based on a medical assessment of a mother or a newborn infant that the mother used a controlled substance for a nonmedical purpose during the pregnancy, the health care practitioner may administer, with or without the consent of the newborn infant's parent or guardian, a toxicology test to the newborn infant under the health care practitioner's care to determine whether there is evidence of prenatal exposure to a controlled substance. If the test results are positive, the health care practitioner shall report the results pursuant to § 26-8A-8.

**26-8A-36. Immunity from liability for administering or not administering toxicology test.** A health care practitioner or any other medical personnel administering a toxicology test to determine the presence of a controlled substance in a newborn infant at birth or during the first twenty-eight days after birth and the employer of the person administering the test are immune from civil or criminal liability arising from administration of the test if the health care practitioner ordering the test believes in good faith that the test is permitted under this section and if the test is administered in accordance with an established protocol and reasonable medical practice.

If a health care practitioner or any other medical personnel determines in good faith not to administer a toxicology test under this section, the person making the determination and the person's employer are immune from civil or criminal liability arising from not administering the test.

**26-8A-37. Health care practitioner defined.** For purposes of §§ 26-8A-35 and 26-8A-36, a health care practitioner is a person licensed, accredited, or certified to perform specified health services consistent with state law.

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Signature

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Date