

SDCL T. 26, Ch. 26-6, Refs & Annos

SDCL § 26-6-1

26-6-1. Agencies and institutions defined as child welfare agencies--Department of Social Services

Any agency or institution maintained by a municipality or county, or any agency or institution maintained by a person, firm, limited liability company, corporation, association, or organization to receive children for care and maintenance or for placement in a family home, or that provides care for mothers and their children, is considered to be a child welfare agency. The Department of Social Services is a child welfare agency.

SDCL § 26-6-1.1

26-6-1.1. Chapter not applicable to day care services provided by school board for children of enrolled students

Nothing in this chapter applies to day care services provided by any school board for the children of enrolled students.

SDCL § 26-6-2

26-6-2 to 26-6-6. Repealed by SL 1985, ch 211, §§ 2 to 6

SDCL § 26-6-3

26-6-2 to 26-6-6. Repealed by SL 1985, ch 211, §§ 2 to 6

SDCL § 26-6-4

26-6-2 to 26-6-6. Repealed by SL 1985, ch 211, §§ 2 to 6

SDCL § 26-6-5

26-6-2 to 26-6-6. Repealed by SL 1985, ch 211, §§ 2 to 6

SDCL § 26-6-6

26-6-2 to 26-6-6. Repealed by SL 1985, ch 211, §§ 2 to 6

SDCL § 26-6-6.1

26-6-6.1. Continuing foster care to age twenty-one

Notwithstanding the provisions of §§ 26-1-1 and 26-7A-101, any child welfare agency, including the Department of Social Services, may continue to provide foster care for a person over the age of majority but less than twenty-one

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years of age if the person was in foster care immediately prior to reaching the age of majority and has not yet completed the twelfth grade of school or is in a continuing course of remedial treatment and if the person consents in writing to continued foster care.

SDCL § 26-6-7

26-6-7. Repealed by SL 1971, ch 165, § 13

SDCL § 26-6-8

26-6-8. License required to place child for adoption--Relatives and guardian excepted

No person other than the parents, guardian, or relatives within the second degree, and no firm, limited liability company, corporation, association, or organization other than a licensed child welfare agency, or the Department of Social Services, may place any child in the control and care of any person or place such child for adoption.

SDCL § 26-6-9

26-6-9. License or registration required for child care or placement by public or private agency--Waiver violation as misdemeanor

No person, firm, limited liability company, corporation, association, organization, municipality, or county, other than the Department of Social Services, may establish or maintain a child welfare agency or receive children for care or for placement in a family home unless licensed pursuant to § 26-6-14 or registered pursuant to § 26-6-14.2 to do so by the Department of Social Services. The department, upon request, may waive licensure for activities set out in § 26-6-14 for any facility that would otherwise be required to be licensed by the department as a child welfare agency if the requesting agency is similarly regulated by another state agency. Before the department may consider or grant a waiver of licensure for activities set out in § 26-6-14, the agency requesting waiver of licensure shall provide the department with appropriate documentation of current and valid approval by the appropriate state regulatory agency. Submission of false or fraudulent licensure information or documentation to the department or any violation of this section is a Class 2 misdemeanor.

SDCL § 26-6-10

26-6-10. Repealed by SL 1986, ch 222

SDCL § 26-6-11

26-6-11. Application for license--Investigation--Issuance--Conditions--Records--Public inspection

Applications for the license required by this chapter shall be made in the manner prescribed and on forms provided by the Department of Social Services. Before issuing the license the department shall investigate the activities and standards of care of the agency. A license shall be issued if the department is satisfied as to the need for the agency, its financial stability, the good character and intent of the applicant, and that the equipment of the agency and its services are conducive to the welfare of the children. Such license shall be conditioned on the granting of access to the premises described on the license to the Department of Social Services for visitation and inspection, at any reasonable time. In cases of suspected child abuse or neglect, unrestricted access shall be allowed at any time. The

final reports of inspections required by this chapter shall be kept on file by the Department of Social Services and shall be open to public inspection.

SDCL § 26-6-12

26-6-12. Provisional license authorized

A provisional license may be issued to any agency whose services are needed but which is temporarily unable to conform to all the provisions of the established standards of care. No provisional license may be issued for more than three consecutive years.

SDCL § 26-6-13

26-6-13. Duration of licenses--Suspension or revocation--Assignment prohibited--Display or availability for inspection

A license for child welfare agency activities under subdivisions 26-6-14(3), (6), and (7) shall remain in effect until revoked or suspended. Any other license under this chapter is effective for one year from the date of issuance and shall be renewed annually on application of the agency. A license may be suspended or revoked pursuant to this chapter. No license issued under this chapter may be assigned or transferred, and the license applies only to the licensee and the location stated in the application. The license remains the property of the Department of Social Services. The license shall be publicly displayed, except in a family foster home, which shall have its license available for inspection.

SDCL § 26-6-14

26-6-14. Categories of child welfare agency licenses

A child welfare agency shall be licensed, as provided in this chapter, for activities which fall within one or more of the following categories:

(1) The providing of group care, maintenance, supervision, and protection of children on a regular full-time basis as a substitute for regular parental care, with or without compensation, in a nonfamily group setting, which shall be known as an intensive residential treatment center, a residential treatment center, a group care center, or as a group home as each shall be defined by standards established pursuant to § 26-6-16;

(2) The providing of care, maintenance, supervision, and protection of a child, or children, as a substitute for regular parental care, without transfer of legal custody or placement for adoption, with or without compensation, on a regular full-time basis in a family home, which shall be known as a foster home;

(3) The providing of group care and supervision of children on a regular basis for part of a day as a

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supplement to regular parental care, with or without compensation, for twenty-one or more children, including children under the age of six living in the home and children from more than one unrelated family received for day care, in any facility, including a family home, which is known as a day care center;

(4) The receiving and placement of children in foster homes or for adoption, with or without compensation, as a regular activity of any agency formed for such purpose, or the performance of such services as an adjunct to other regular activities, and any such agency shall be known as a child-placement agency;

(5) The providing of care for pregnant girls or women or the care of a mother and infant after birth, with or without compensation. Any agency performing such services shall be known as a maternity home;

(6) The providing of group care and supervision of children on a regular basis for part of a day as a supplement to regular parental care, with or without compensation, for thirteen to twenty children, including children under the age of six living in the home and children from more than one unrelated family received for day care, in any facility, including a family home, which is known as a group family day care home;

(7) The providing of care and supervision of children on a regular basis before and after regular school hours which does not exceed four hours daily per child shall be known as a before and after school day care program;

(8) The providing of supervision and training in self-sufficiency and responsible independent living for youth aged sixteen through twenty years of age who are wards of the state, which is known as an independent living preparation program.

SDCL § 26-6-14.1

26-6-14.1. Family day care defined--Number of children allowed

For the purposes of this chapter, family day care means providing care and supervision of children from more than one unrelated family, in a family home, on a regular basis for part of a day as a supplement to regular parental care, without transfer of legal custody or placement for adoption, paid for directly or indirectly out of public funds. A family day care home may not be registered for care and supervision of more than twelve children at any one time including children under the age of six living in the home.

SDCL § 26-6-14.2

26-6-14.2. Registration of family day care homes--Rules--Exemption--Investigation--Duration of registration--Assignment prohibited

Application for registration for operation of a family day care home shall be made on forms provided by the Department of Social Services and in the manner prescribed by the department. The secretary of social services shall promulgate rules regulating family day care homes providing services paid for directly or indirectly out of public

funds. The rules shall be promulgated pursuant to chapter 1-26. However, the rules and the registration required by § 26-6-14.1 do not apply to family day care homes providing services not paid for directly or indirectly out of public funds. The department may investigate any family day care home providing services paid for directly or indirectly out of public funds to verify compliance with this chapter and the rules promulgated pursuant to this chapter. All registration certificates shall be in force for two years from the date of issuance unless revoked as authorized by § 26-6-23. The certificate issued under this chapter may not be assigned or transferred and applies only to the certificate and the location stated in the application and remains the property of the Department of Social Services.

SDCL § 26-6-14.3

26-6-14.3. Issuance of child welfare license--Criminal record of applicant to be secured--Waiver by applicant--When application denied

Before issuing a child welfare license pursuant to § 26-6-14, the department shall ensure that the child welfare agency has secured from an appropriate law enforcement agency a criminal record to determine whether the applicant or any other person specified in § 26-6-14.4 has ever been convicted of a crime specified by the rules of the department. This requirement does not apply to applications for annual renewal of an existing child welfare agency license if the applicant was licensed in the preceding year. Any person who makes an application for a license pursuant to § 26-6-14 and any other person specified in § 26-6-14.4 shall sign the waiver set forth in § 23-5-12. If it is found that the applicant or any other person specified in § 26-6-14.4 has been convicted of a crime specified by the rules of the department, the application shall be denied.

SDCL § 26-6-14.4

26-6-14.4. Persons to whom criminal record requirement applies

In addition to the applicant, §§ 26-6-14.3 to 26-6-14.7, inclusive, shall be applicable to criminal convictions of the following persons:

- (1) Adults responsible for administration or direct supervision of staff;
- (2) Any adult residing in the facility;
- (3) Any adult, including a volunteer, who provides care and supervision to the children.

However, §§ 26-6-14.3 to 26-6-14.7, inclusive, do not apply to adult volunteers or adult staff employed by the applicant on an intermittent basis for less than ten days per month, if such adults are under constant supervision by adults who meet the requirements of §§ 26-6-14.3 to 26-6-14.7, inclusive.

SDCL § 26-6-14.5

26-6-14.5. Waiver, fingerprinting, and declaration as condition of employment--Time--Immediate termination of employee

Subsequent to initial licensure, any person specified in § 26-6-14.4 shall, as a condition to employment, residence, or presence in a child welfare agency sign the waiver set forth in § 23-5-12, be fingerprinted and sign a declaration under penalty of perjury regarding any prior criminal conviction and military history. The licensee shall submit these fingerprints to the South Dakota Division of Criminal Investigation and the Federal Bureau of Investigation Identification Division not later than fourteen calendar days following employment, residence, or initial presence in the child welfare agency. If it is determined that the person has been convicted of a crime specified by rules of the department, the licensee shall act immediately to terminate the person's employment and remove the person from the child welfare agency or bar the person from entering the child welfare agency.

SDCL § 26-6-14.6

26-6-14.6. Meaning of conviction--Evidence of conviction

For purposes of §§ 26-6-14.3 to 26-6-14.7, inclusive, or any other provision of this chapter, a conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere in this state or any other state. Any action which the department is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal. For purposes of §§ 26-6-14.3 to 26-6-14.7, inclusive, or any other provision of this chapter, the record of a conviction, or a copy thereof certified by the clerk of the court or by a judge of the court in which the conviction occurred, shall be conclusive evidence of the conviction.

SDCL § 26-6-14.7

26-6-14.7. Transfer of criminal record clearance when changing employment

For the purposes of compliance with §§ 26-6-14.3 to 26-6-14.7, inclusive, the department shall permit an individual to transfer a current criminal record clearance, as defined in § 26-6-14.3, from one facility to another when changing employment. The department shall supply the individual with documentation of the clearance within thirty days of a written request for the records.

SDCL § 26-6-14.8

26-6-14.8. Unregistered family day care defined--Number of children allowed

For the purposes of §§ 26-6-14.8 to 26-6-14.11, inclusive, unregistered family day care means the providing care and supervision of children from more than one unrelated family, in a family home, on a regular basis for part of a day as a supplement to regular parental care, without transfer of legal custody or placement for adoption, without payment directly or indirectly of any public funds. An unregistered family day care home may not provide care for more than twelve children at any one time including children under six living in the home.

SDCL § 26-6-14.9

**26-6-14.9. Submission of employees' names to department--Central registry background checks--
Notification to provider--Issuance of certificate**

Any provider of unregistered family day care may submit his name and the names of any employees or residents at the home, to the Department of Social Services, on forms supplied by the department. The department shall conduct central registry and substantiated abuse or neglect report background checks on all names submitted pursuant to §§ 26-6-14.8 to 26-6-14.11, inclusive. If the department determines that any person whose name has been submitted has been convicted of child abuse pursuant to chapter 26-10 or a sex offense pursuant to chapter 22-22, or has a substantiated report of child abuse or neglect on file with the department, the department shall so notify the provider. If the central registry and substantiated abuse or neglect report background check yields no substantiated reports of child abuse or neglect, as defined by the department by rules promulgated pursuant to chapter 1-26, or no convictions of either the provider or the names submitted by the provider of child abuse pursuant to chapter 26-10 or sex offenses pursuant to chapter 22-22, then the department shall issue a certificate, at no cost to the provider, verifying that fact.

SDCL § 26-6-14.10

26-6-14.10. Prohibition of licensure, registration, or operation by person convicted of child abuse or other felony, or whose name appears on registry--Failure to report as misdemeanor

No person who has been convicted of child abuse pursuant to chapter 26-10; a sex offense pursuant to chapter 22-22; or, within the preceding five years, any other felony; and no person whose name appears on the sex offender registry or on the central registry for child abuse and neglect may:

- (1) Be licensed to operate a child welfare agency pursuant to § 26-6-14;
- (2) Be registered to operate a family day care home pursuant to § 26-6-14. 2; or
- (3) Operate an unregistered family day care home as defined in § 26-6-14.8.

Any person who has actual knowledge that some other person is violating this section and who subsequently fails to report such violation to the state's attorney or local law enforcement is guilty of a Class 1 misdemeanor.

SDCL § 26-6-14.11

26-6-14.11. Prohibition of child care by person convicted of child abuse, sex offense, or other felony, or whose name appears on registry--Violation as misdemeanor

Any person who has been convicted of child abuse pursuant to chapter 26-10; a sex offense pursuant to chapter 22-22; or, within the preceding five years, any other felony; or whose name appears on the sex offender registry or on the central registry for child abuse and neglect is guilty of a Class 1 misdemeanor if such person resides or works or provides care and supervision of children in any child welfare agency or any registered or unregistered family day care home. Any person who permits another person to reside or work or provide care and supervision of children in any child welfare agency or any registered or unregistered family day care home knowing that the person has been convicted of child abuse pursuant to chapter 26-10; a sex offense pursuant to chapter 22-22; or, within the preceding five years, any other felony; or knowing that the person's name appears on the sex offender registry or on the central

registry for child abuse and neglect, is guilty of a Class 1 misdemeanor.

SDCL § 26-6-14.12

26-6-14.12. Before and after school day care exempt from zoning, uniform building, and safety provisions

A county or municipality may exempt a before and after school day care program from its zoning, uniform building, and fire and life safety code provisions if the day care program is accessory to a church, nonprofit youth organization, hospital, public or private school, or office building.

SDCL § 26-6-14.13

26-6-14.13. Information from another state's central registry or national crime database to be used only for background check for approval of foster or adoptive placement

Information obtained from another state's child abuse and neglect central registry or from the national crime information databases for the purpose of conducting a background check for approval of a foster or adoptive placement may be used for purposes related to conducting the background check only and cannot be released except as authorized by law.

SDCL § 26-6-14.13

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SDCL § 26-6-15.1

26-6-15.1. Additional number of children in day care--Staff-to-child ratios

In addition to the number of children for which a family day care home, group family day care home, or day care center is registered or licensed to provide care pursuant to § 26-6-15, the facility may care for the following numbers of children, if the children are of school age, beyond the grade of kindergarten, receive services only before or after school hours, or if the additional children are at the facility because of family emergency or special circumstance:

- (1) Family day care homes--no more than two additional children;

(2) Group family day care homes--no more than three additional children; and

(3) Day care centers--no more than twenty percent of the number of children for which the day care center is licensed.

Any additional children in care pursuant to §§ 26-6-14, 26-6-15.1, and 26-6-15.2 shall be counted in maintaining staff-to-child ratios as prescribed by the Department of Social Services.

SDCL § 26-6-15.2

26-6-15.2. Additional number of children in day care center operating preschool program

Any day care center operating a preschool program may provide care for an additional number of children, not to exceed ten percent of the number of children for which the center is licensed pursuant to § 26-6-15, if the additional children are in attendance at the center only for the preschool program and the center meets staff-to-child ratios set by the Department of Social Services.

SDCL § 26-6-16

26-6-16. Rules for child care by licensed or registered agencies promulgated by department--Matters included in rules

The Department of Social Services shall promulgate rules pursuant to chapter 1-26 to establish standards of care of children outside their own homes by licensed or registered child welfare agencies. The rules may not include requirements as to incorporation as nonprofit entities, but may include:

(1) Qualifications and training of personnel engaged in child care services;

(2) Requirements relating to safety, sanitation, condition, maintenance, and approval of physical plant and equipment utilized in child care;

(3) Recordkeeping requirements to ensure compliance with this chapter;

(4) The keeping of health records for children in care, those persons providing care, and other persons present in the care setting;

(5) The numbers, ages, and sex of children cared for;

(6) Program policies and standards of operation regarding the health and safety of children;

(7) Requirements to have policies on fees, payments, and refunds for services paid for directly or indirectly out of public funds;

(9) Health and nutrition standards and medication control;

(10) Conditions which must be met for the issuance of a provisional license;

(11) Criminal offenses, including felonies and misdemeanors under federal and state law, the commission of which renders an applicant ineligible for the grant or retention of a license under §§ 26-6-14.3 to 26-6-14.7, inclusive, or the commission of which is grounds for preventing other persons specified in § 26-6-14.4 from having contact or employment with a child welfare agency; and

(12) Such other provisions as may be required for federal financial participation.

SDCL § 26-6-17

26-6-17. Repealed by SL 1985, ch 211, § 11

SDCL § 26-6-18

26-6-18. Repealed by SL 2012, ch 151, § 7

SDCL § 26-6-18.1

26-6-18.1. Establishment and support of day care centers by counties and municipalities

The boards of county commissioners of the several counties and the governing boards of municipalities may establish and maintain day care centers as defined in subdivision 26-6-14(3), and may contribute sums of money annually to establish, promote, and support nonprofit organizations engaged in such programs.

SDCL § 26-6-18.2

26-6-18.2. Repealed by SL 1985, ch 77, § 42

SDCL § 26-6-18.3

26-6-18.3. Appropriation for day care centers

For the purpose of carrying out the provisions of §§ 26-6-18.1 to 26-6-18.4, inclusive, the boards of county commissioners and the governing bodies of municipalities shall appropriate the necessary money from their general fund.

SDCL § 26-6-18.4

26-6-18.4. Approved programs required for payments to nonprofit organizations--Records and periodic audit

Payments to nonprofit organizations engaged in these programs shall be based on programs previously approved by the governing boards. Complete records on all their activities and a certified audit of these records shall be submitted to the governing boards upon demand and at the close of each fiscal period.

SDCL § 26-6-18.5

26-6-18.5. Exemption of program from zoning, building and fire and life safety codes

A county or municipality may exempt a day care program from its zoning, uniform building, and fire and life safety code provisions if the day care program is accessory to a church, nonprofit youth organization, hospital, public or private school, commercial building, or office building.

SDCL § 26-6-19

26-6-19. Department of Health visitations and inspections

The State Department of Health and its duly authorized agent may visit any child welfare agency to advise the agency on matters affecting the health of children and to inspect the sanitation of the buildings used for their care.

SDCL § 26-6-20

26-6-20. Records and reports on children in care of agencies--Information confidential

Each child welfare agency shall keep such records regarding each child in its control and care as the Department of Social Services may prescribe and shall report to said department, whenever called for, such facts as it may require with reference to such children upon blanks furnished by the department. All records regarding children and all facts learned about children and their parents or relatives shall be deemed confidential. Disclosure of this information shall be properly safeguarded by the agency and the Department of Social Services.

SDCL § 26-6-20.1

26-6-20.1. Definition of terms

Terms used in §§ 26-6-20.1 to 26-6-20.10, inclusive, unless the context otherwise requires mean:

(1) "Group homes or care centers," facilities licensed pursuant to the provisions of subdivision 26-6-14(1).

(2) "Residents," persons committed or cared for in any home, center, or other facility which is subject to the provisions of §§ 26-6-20.1 to 26-6-20.10, inclusive.

SDCL § 26-6-20.2

26-6-20.2. Separation of residents' moneys required of homes and centers

Every group home or care center, which holds moneys and funds of residents of such home, or center, shall keep such moneys and funds separate, intact, and free from any liability which the facility incurs.

SDCL § 26-6-20.3

26-6-20.3. Demand trust account deposit of moneys not kept in center--Deposit with state treasurer by public agency

Residents' moneys not kept in the center, home, or facility, shall be deposited in a demand trust account in a local bank authorized to do business in South Dakota, except, however, that a public agency which is subject to §§ 26-6-20.1 to 26-6-20.10, inclusive, shall deposit such funds with the state treasurer in the appropriate trust and agency account for the facility.

SDCL § 26-6-20.4

26-6-20.4. Deposit of all moneys over specified amount for any resident

If the amount of money entrusted to a home, center, or facility covered by §§ 26-6-20.1 to 26-6-20.10, inclusive, exceeds the amount of fifty dollars for any resident, all such moneys in excess of this figure shall be deposited in a demand trust account as provided in § 26-6-20.3.

SDCL § 26-6-20.5

26-6-20.5. Surety bond required of facility handling more than specified monthly amount--Bond amount

Each group home or care center, covered by §§ 26-6-20.1 to 26-6-20.10, inclusive, which is handling or will handle

money on a monthly basis of over fifty dollars per resident per month, or over five hundred dollars for all residents per month, shall file with the agency licensing the facility, a surety bond in the following amounts; if the amount to be handled is seven hundred fifty dollars per month or less the bond required shall be one thousand dollars, if the amount to be handled is seven hundred fifty one dollars to one thousand five hundred dollars the bond required shall be two thousand dollars and if the amount to be handled is one thousand five hundred one dollars to two thousand five hundred dollars the bond required shall be three thousand dollars. Every further increment of one thousand dollars or fraction thereof shall require an additional one thousand dollars on the bond.

SDCL § 26-6-20.6

26-6-20.6. Safeguards and records required of facilities

Every group home or care center, or other facility covered by the provisions of §§ 26-6-20.1 to 26-6-20.10, inclusive, shall, in addition to the requirements of § 26-6-20.2, maintain adequate safeguards and accurate records of residents' moneys and funds which are entrusted to their care. These safeguards and records shall include, but not be limited to, the following:

(1) Records of residents' moneys which are maintained as a trust account shall include a control account for all the receipts and expenditures, an account for each resident and supporting vouchers filed in chronological order. Each account shall be kept current with columns for debits, credits and balance.

(2) Records of residents' moneys and funds entrusted to the home, or facility for safekeeping, shall include a copy of the receipt furnished to the resident or to the person or agency responsible for the resident.

SDCL § 26-6-20.7

26-6-20.7. Public audit of records

Records which are maintained pursuant to §§ 26-6-20.1 to 26-6-20.10, inclusive, to account for residents' funds and valuables, shall be made available to a public audit of the home, center, or other facility, which is required to keep and maintain the same.

SDCL § 26-6-20.8

26-6-20.8. Violation of moneys provisions as cause for revocation of facility's license

Failure of any group home or care center to keep complete records or to comply with any other provision of §§ 26-6-20.1 to 26-6-20.10, inclusive, shall constitute cause for revocation of the licenses held by the administrator or operator of such homes, centers, or facilities, under chapter 34-12A.

SDCL § 26-6-20.9

26-6-20.9. Surrender of moneys and funds upon discharge of resident--Receipt--Deposited funds

Upon discharge of a resident, all moneys and funds of that resident which have been entrusted to the home, center, or other facility covered by §§ 26-6-20.1 to 26-6-20.10, inclusive, shall be surrendered to the resident, his guardian, conservator, or to his parents if a minor, in exchange for a signed receipt. Moneys and valuables kept within the facility shall be surrendered upon demand, and those kept in a demand trust account shall be made available within ten business days.

SDCL § 26-6-20.10

26-6-20.10. Escheat of unclaimed property under specified value after death of resident--Notice to relatives--Time--Disposition of property or money

If, upon the death of a resident and after notification to a known guardian or conservator or relatives of property belonging to the resident, not exceeding two hundred dollars in value, the property remains unclaimed for sixty days, the property shall escheat directly to the state notwithstanding chapter 21-36. The home, center, or other facility shall notify the office of surplus property of the unclaimed property. However, all money, stocks, bonds, contracts, and claims on banks which can readily be converted to money shall be sent to the secretary of revenue for deposit in the general fund.

SDCL § 26-6-21

26-6-21. Placement of children for adoption--Consent by agency to adoption

Any licensed child welfare agency may place children in family homes for care or for adoption if authorized to do so in the license issued by the Department of Social Services. Whenever a child welfare agency licensed to place children for adoption shall have been given the permanent care, custody, and guardianship of any child and the rights of the parent or parents of such child shall have been terminated by order of a court of competent jurisdiction, the child welfare agency may consent to the adoption of such child pursuant to the statutes regulating adoption proceedings.

SDCL § 26-6-21.1

26-6-21.1. Repealed by SL 2002, ch 130, § 1

SDCL § 26-6-22

26-6-22. Notice to remove child from child welfare agency

If at any time the Department of Social Services finds that a child in a child welfare agency is subject to undesirable influences or lacks proper and wise care and management, it shall notify the child welfare agency who has placed the child in the agency to remove him from the agency.

SDCL § 26-6-23

26-6-23. Grounds for revocation or refusal to issue or renew child welfare agency license or registration

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The Department of Social Services may revoke or refuse to issue or renew any license or registration certificate of a child welfare agency if the applicant, licensee, or registrant willfully and substantially:

- (1) Fails to meet the department's standards for licensure or registration;
- (2) Fails to maintain standards as promulgated by the department;
- (3) Violates any of the provisions of this chapter;
- (4) Furnishes or makes any misleading or false statement or report to the department;
- (5) Refuses to submit to the department any reports or records required by the department in making investigation of the facility for licensing purposes;
- (6) Fails or refuses to submit to an investigation by the department;
- (7) Fails or refuses to admit authorized representatives of the department at any reasonable time for the purpose of investigation;
- (8) Fails to provide, maintain, equip, and keep in safe and sanitary condition premises established or used for child care as required under standards prescribed by the department, or as otherwise required by any law, regulation or ordinance available to the location of the facility;
- (9) Refuses to display its license or certificate;
- (10) Fails to exercise reasonable care in the hiring, training, and supervision of facility personnel;
- (11) Fails to report suspected child abuse or neglect pursuant to chapter 26-10; or
- (12) Refuses to submit to the department any records or information relative to the background and experience of the personnel of the facility or persons residing at the address of the facility.

SDCL § 26-6-23.1

26-6-23.1. Revocation or refusal to issue or renew license or registration for child abuse or violence

The department may revoke or refuse to issue or renew the license or registration certificate of any child welfare agency if the owner or operator of the agency, a staff member, a member of the facility owner's family residing at the facility, or any other resident of the facility has been found guilty of an offense involving abuse or neglect of a child or violence against a person or who has a substantiated report of abuse or neglect as defined by the department by rule or whose name appears on a report from any other state's central registry of abuse or neglect.

SDCL § 26-6-23.2

26-6-23.2. Central registry background checks on employees

The department shall conduct central registry background checks on all known employees of any child welfare agency.

SDCL § 26-6-24

26-6-24. Notice of intended revocation or refusal of renewal of license or registration--Hearing on protest--Temporary suspension

No license or registration certificate of a child welfare agency may be revoked or renewal refused, unless the holder of the license or registration certificate is given notice by registered mail of the facts or conduct which warrant the intended action. If the intended action is protested, a hearing shall be held pursuant to chapter 1-26. The Department of Social Services may temporarily suspend a registration certificate or license if the health, safety, or welfare of the persons served by the child welfare agency are in imminent danger or if the agency is substantially out of compliance with the requirements for licensing. Upon request of an aggrieved party, a hearing shall be held pursuant to chapter 1-26.

SDCL § 26-6-25

26-6-25. Investigation by department of unlicensed and unregistered operations--Further action by department

Whenever the Department of Social Services is advised or has reason to believe that any person is conducting or maintaining a child welfare agency without a license or registration certificate as required by this chapter, it shall have an investigation made. If the person is conducting a child welfare agency, it shall either issue a license or registration certificate or take action to prevent continued operation of the agency.

SDCL § 26-6-26

26-6-26. Repealed by SL 1985, ch 211, § 14

SDCL § 26-6-27

26-6-27. Educational and incidental activities exempt from chapter--State institutions

Nothing contained in this chapter applies to educational services performed by an institution, school, or nursery school if the care and maintenance of children is only incidental to the operation of the school, to services performed by summer or recreational camps designed primarily for character building or recreation, to the care of children by a relative, to the casual care of children by a baby sitter, or to the exchange of care of children by parents under informal mutual arrangements, to care furnished by a guardian or by institutions operated by other departments of state government.

For the purposes of this chapter, "casual care of children" is employment which is irregular or intermittent and which is not performed by an individual whose vocation is babysitting and which does not exceed twenty sitter hours rendered to not more than six children per week.

SDCL § 26-6-28

26-6-28. Reduction of number of children in foster care

Each year, the Department of Social Services shall reduce the number of children who have been in foster care more than twenty-four months and who have received or are receiving assistance under Title IV-E of the Social Security Act. The amount of the reduction shall be one-half of one percent of the number of foster children in care during the preceding federal fiscal year.

SDCL § 26-6-29

26-6-29. Shelters for battered spouses exempt

This chapter does not apply to agencies which provide shelter, food, or counseling to a battered spouse and his children if the parent remains responsible for the care of his child.

SDCL § 26-6-30

26-6-30 to 26-6-34. Repealed by SL 2004, ch 167, §§ 6 to 10

SDCL § 26-6-31

26-6-30 to 26-6-34. Repealed by SL 2004, ch 167, §§ 6 to 10

SDCL § 26-6-32

26-6-30 to 26-6-34. Repealed by SL 2004, ch 167, §§ 6 to 10

SDCL § 26-6-33

26-6-30 to 26-6-34. Repealed by SL 2004, ch 167, §§ 6 to 10

SDCL § 26-6-34

26-6-30 to 26-6-34. Repealed by SL 2004, ch 167, §§ 6 to 10

SDCL § 26-6-35

26-6-35. Foster care for person under continuing juvenile jurisdiction who is over the age of majority

Notwithstanding the provisions of §§ 26-1-1, 26-6-6.1, and 26-7A-101, a child welfare agency and the Department of Corrections may provide foster care for a person over the age of majority but less than twenty-one years of age if the person is under the continuing juvenile jurisdiction of the Department of Corrections.