

CHAPTER 67:14:32

SERVICES TO ADOPTIVE FAMILIES

Section

67:14:32:01	Definition of adoption <u>Definitions.</u>
67:14:32:02 to 67:14:32:05.02	Repealed.
67:14:32:05.03	Screening for substantiated reports or convictions of abuse and neglect.
67:14:32:05.04	Repealed.
67:14:32:05.05	Application denied if criminal record check detects certain crimes.
67:14:32:06	Transferred.
67:14:32:07	Repealed.
67:14:32:08	General qualifications for adoptive applicants.
67:14:32:09	Physical health standards required of applicant and applicant's family.
67:14:32:09.01	Repealed.
67:14:32:10	Approval or denial of adoption application— for children in department custody -- Notice.
67:14:32:11	Closing of application.
67:14:32:11.01	Adoptive study.
67:14:32:11.02 to 67:14:32:12	Repealed.
67:14:32:13	Termination of adoptive study.

67:14:32:14	Children shall be placed in approved adoptive homes.
67:14:32:15	Department shall supervise placement.
67:14:32:16	Children eligible for placement.
67:14:32:17	Filing of petition.
67:14:32:18 and 67:14:32:19	Repealed.
67:14:32:20	Confidential information.
67:14:32:21 and 67:14:32:22	Repealed.
67:14:32:23 and 67:14:32:24	Transferred.
67:14:32:24.01 to 67:14:32:29	Repealed.
67:14:32:30	Training and development.
67:14:32:31	Fair hearing.
67:14:32:32	Reimbursement of home study.

67:14:32:01. ~~Definition of adoption~~ Definitions. Terms used in this chapter

mean:

_____ (1) "Adoption," ~~is~~ the legal process whereby a person qualified under this chapter adopts a child;

_____ (2) "Department," the Department of Social Services; and

_____ (3) "Kinship child," an abused or neglected child, as defined by SDCL 26-8A-2, who is considered for placement or has been placed with an individual who is a relative or custodian of the child, or another individual not related by birth, adoption, or marriage to the child, who has an emotionally significant relationship with the child and provides any of the services described in Article 67:42 to the child.

Source: 2 SDR 62, effective April 5, 1976; 7 SDR 23, effective September 18, 1980; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 17 SDR 157, effective April 23, 1991; 37 SDR 222, effective June 7, 2011.

General Authority: SDCL 26-4-9.1.

Law Implemented: SDCL 26-4-9.1.

Cross-Reference:

_____ Subsidized adoption regulations, ~~ch~~ chapter 67:14:14.

67:14:32:05.05. Application denied if criminal record check detects certain crimes. The department ~~shall~~ must deny an application and ~~shall~~ notify the applicant of the denial if the criminal record check required under § 67:14:32:11.01 detects ~~a conviction for any of the following:~~

(1) A conviction for a crime that would indicate harmful behavior towards children;

(2) A conviction for a crime of violence as defined by SDCL 22-1-2 or a similar statute from another state;

(3) A ~~sex~~ conviction for a crime pursuant to SDCL chapters 22-22 or 22-24A ~~or~~, SDCL 22-22A-3, or a similar ~~statutes~~ statute from another state; or

(4) ~~Within the preceding five years, a~~ Any felony conviction for any other felony occurring within the past five years.

Source: 17 SDR 157, effective April 23, 1991; 35 SDR 187, effective February 11, 2009.

General Authority: SDCL 26-4-9.1.

Law Implemented: SDCL 26-4-9.1.

Cross-References:

Required criminal records checks, 42 U.S.C. § 671(a)(20).

~~Home study report by licensed child placement agency, Department of Social Services, or certified independent social worker required — Exception — Criminal record~~

~~check and central registry screening to be included --- Violation as misdemeanor--~~
Requirement--Cost, SDCL 25-6-9.1.

Confidentiality of abuse or neglect information---Violation as misdemeanor---
Release to certain parties, SDCL 26-8A-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~~, SDCL 26-
6-14.13.

67:14:32:08. General qualifications for adoptive applicants. To qualify as an adoptive applicant:

(1) The applicant ~~shall~~ must be at least ~~21~~ nineteen years of age and ~~resides~~ reside in South Dakota. ~~Verification of age is required;~~

(2) No member of the applicant's household ~~18~~ who is eighteen years of age or older, other than a child placed in the home for foster care, may have on record a substantiated report of child abuse or neglect;

(3) No member of the applicant's household may have a conviction for any ~~of the~~ crimes crime specified in § 67:14:32:05.05;

~~(4) The applicant shall be capable of providing good care for children;~~

~~_____~~ (5) The applicant ~~shall~~ must have income to meet the needs of the applicant's existing family and to support, care for, and educate an adopted child;

~~(6)~~ (5) The applicant's children, if any, ~~shall~~ must be willing to accept an adopted child as a member of the family;

~~(7)~~ (6) The applicant's family composition, needs, and relationships may not adversely affect an adopted child; ~~and~~

~~(8)~~ (7) The applicant ~~shall~~ must have the ability to parent ~~a~~ an adopted child, which includes a basic understanding of the child's physical and mental or emotional development and the ability to fulfill the child's needs. ~~At;~~

~~_____~~ (8) The applicant ~~shall~~ must have the ability to offer continuing care and guidance to ~~a~~ an adopted child throughout the stages of the child's development in a manner consistent with the social and cultural heritage norms of the child.

(9) The applicant ~~shall~~ must be able to continue meeting the needs of the applicant's own children, if any; and

 (10) The applicant ~~shall~~ must display the capacity to provide good care for ~~children~~ a child.

The department may require a psychological evaluation and the submission of medical records if questions arise during the application process regarding the applicant's emotional stability or the emotional stability of another household member.

Source: 2 SDR 62, effective April 5, 1976; 7 SDR 23, effective September 18, 1980; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 9 SDR 72, effective December 14, 1982; 17 SDR 157, effective April 23, 1991; 21 SDR 206, effective June 4, 1995; 35 SDR 187, effective February 11, 2009; 47 SDR 24, effective September 10, 2020.

General Authority: SDCL 26-4-9.1(1)(3)(4).

Law Implemented: SDCL 26-4-9.1(1)(3)(4).

Cross-References:

Required criminal records checks, 42 U.S.C. § 671(a)(20).

~~Home study report by licensed child placement agency, Department of Social Services, or certified independent social worker required -- Exception -- Criminal record check and central registry screening to be included -- Violation as misdemeanor -- Requirement -- Cost, SDCL 25-6-9.1.~~

~~Confidentiality of abuse or neglect information --- Violation as misdemeanor --- Release to certain parties, SDCL 26-8A-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~~, SDCL 26-6-14.13.

67:14:32:09. Physical health standards required of applicant and applicant's family. A physical examination must be completed for each applicant. A physical examination completed within the ~~12~~ twelve months preceding the application is acceptable. ~~The applicant may obtain~~ department shall provide the ~~physical examination forms from the department~~ that the applicant shall use in obtaining the physical examination. The forms must be completed by the attending physician, physician's assistant, or certified nurse practitioner and returned to the department. Each ~~household member of the applicant's household~~ must provide a health history, including any history of drug or alcohol abuse or treatment, and must disclose any current mental health or drug or alcohol abuse issues. If the applicant has applied to become a kinship foster parent, no physical health examination is required.

The applicant shall ~~also~~ present evidence to the department that each household member under the age of ~~18~~ eighteen meets the immunization requirements of the Department of Health, unless ~~the~~ an immunization is contrary to the ~~individual's household member's~~ health, as documented by a licensed health care professional, or the application provides a signed written statement that the ~~applicant~~ household member adheres to a religious doctrine whose teachings are opposed to ~~such~~ the immunization. The minimum Department of Health immunization requirements for a child ~~age~~ aged four months ~~through to~~ through six years ~~include~~ are: diphtheria, tetanus, and acellular pertussis (DTaP); poliovirus; measles, mumps, and rubella (MMR); and varicella. The minimum Department of Health immunization requirements for a child ~~age 7 through 18~~ aged seven to eighteen ~~include~~ are: tetanus, diphtheria, and acellular pertussis (Tdap) and meningococcal ACYW (MCV4). Each household member who will have contact with an

infant or child with health issues that make ~~them~~ the infant or child vulnerable to a serious or life-threatening condition if ~~they are~~ the infant or child is exposed to the influenza virus must receive an annual ~~Influenza~~ influenza vaccine and have an up-to-date pertussis (~~whooping cough~~) vaccine.

~~Additional recommended immunizations include: Rotavirus, Haemophilus Influenzae Type b (Hib), Hepatitis A (Hep A), Hepatitis B (Hep B), Pneumococcal, and Influenza.~~

If questions arise during the adoptive home study, required by SDCL 25-6-9.1, concerning the applicant's medical condition or the medical condition of another household member, the department may require additional medical evaluations ~~may be~~ required.

Source: 2 SDR 62, effective April 5, 1976; 7 SDR 23, effective September 18, 1980; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 17 SDR 157, effective April 23, 1991; 35 SDR 187, effective February 11, 2009; 44 SDR 94, effective December 4, 2017; 47 SDR 24, effective September 10, 2020.

General Authority: SDCL 26-4-9.1(1)(2)(4).

Law Implemented: SDCL 26-4-9.1(1)(2)(4).

Cross-References:

Communicable disease control, article 44:20.

Health and safety requirements, 45 C.F.R. § 98.41.

Note: Additional recommended Department of Health immunizations include: rotavirus, haemophilus influenzae Type b, hepatitis A, hepatitis B, pneumococcal, and influenza.

67:14:32:10. Approval or denial of adoption application—~~for children in department custody~~ -- **Notice.** Within ~~120~~ one hundred twenty days after the department receives an application, the department shall notify the applicant in writing of the approval or denial of the application. If the application is denied, the department ~~shall~~ must inform the applicant of the reasons for the denial. If the applicant disagrees with the department's determination, the applicant may appeal the department's determination by requesting a fair hearing under the provisions of chapter 67:17:02.

_____An adoption application approval does not guarantee adoptive placement of a child with the applicant.

Source: 2 SDR 62, effective April 5, 1976; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 17 SDR 157, effective April 23, 1991; 37 SDR 222, effective June 7, 2011; 44 SDR 94, effective December 4, 2017.

General Authority: SDCL 26-4-9.1~~(1)~~(2).

Law Implemented: SDCL 26-4-9.1~~(1)~~(2).

67:14:32:11.01. Adoptive study. An adoptive study, required by SDCL 25-6-9.1, includes an evaluation of the applicant based on references, personal interviews, screenings against the central registry for substantiated reports of abuse or neglect, a criminal record check, information obtained from at least three character references, and home consultations.

~~An~~ The department or a child-placement agency licensed by the state must update an adoptive study ~~must be updated~~ on an annual basis.

If an adoptive study was approved for a kinship child in the custody of the department, the adoption approval terminates after one year if the kinship child is no longer in the custody of the department.

Source: 2 SDR 62, effective April 5, 1976; transferred from § 67:14:32:06, 7 SDR 23, effective September 18, 1980; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 15 SDR 68, effective November 7, 1988; 17 SDR 157, effective April 23, 1991; 37 SDR 222, effective June 7, 2011.

General Authority: SDCL 26-4-9.1.

Law Implemented: SDCL 26-4-9.1.

67:14:32:30. Training and development. ~~Adoptive applicants must~~ Except as provided below, each applicant shall complete a ~~30-hour~~ thirty-hour training course provided by the department. The course includes training in the following areas:

- (1) The impact of separation on child development;
- (2) How attachments are formed;
- (3) The importance of the birth family;
- (4) Techniques of managing behavior;
- (5) Permanency planning for children; and
- (6) Child development.

The training requirements do not apply to an adoptive applicant for a kinship child adoption. The department or a child-placement agency licensed by the state shall instead assess the adoptive applicant's training needs and assist them in locating training resources.

Source: 17 SDR 157, effective April 23, 1991.

General Authority: SDCL 26-4-9.1.

Law Implemented: SDCL 26-4-9.1.

ARTICLE 67:42

REGULATORY ADMINISTRATION

Chapter

67:42:01	Provisions and scope of services.
67:42:02	Adult foster care, Repealed.
67:42:03	Family day care homes, Repealed.
67:42:04	Group family day care homes, Repealed.
67:42:05	Family foster homes.
67:42:06	Basic group living centers for minors.
67:42:07	Group care centers for minors.
67:42:08	Residential treatment centers.
67:42:09	Child placement agencies.
67:42:10	Licensed day care programs, Repealed.
67:42:11	Environmental health standards.
67:42:12	Maternity homes, Repealed.
67:42:13	Independent living preparation.
67:42:14	Before and after school care, Repealed.
67:42:15	Intensive residential treatment centers.
67:42:16	Scope of services for child care programs, Repealed.
67:42:17	Child care licensing.
<u>67:42:18</u>	<u>Licensed kinship foster home.</u>

CHAPTER 67:42:18

LICENSED KINSHIP FOSTER HOME

Section

<u>67:42:18:01</u>	<u>Definitions.</u>
<u>67:42:18:02</u>	<u>Initial evaluation and approval -- Renewal of license.</u>
<u>67:42:18:03</u>	<u>Supervision.</u>
<u>67:42:18:04</u>	<u>Licensing record.</u>
<u>67:42:18:05</u>	<u>Closing an application or license.</u>
<u>67:42:18:06</u>	<u>Denial of license.</u>
<u>67:42:18:07</u>	<u>Revocation of license.</u>
<u>67:42:18:08</u>	<u>Fair hearing.</u>
<u>67:42:18:09</u>	<u>General qualifications.</u>
<u>67:42:18:10</u>	<u>Ability to provide care.</u>
<u>67:42:18:11</u>	<u>Program requirements.</u>
<u>67:42:18:12</u>	<u>Screening for substantiated reports of abuse and neglect.</u>
<u>67:42:18:13</u>	<u>Criminal record check.</u>
<u>67:42:18:14</u>	<u>Training and development.</u>
<u>67:42:18:15</u>	<u>Health standards required of applicant and applicant's family.</u>
<u>67:42:18:16</u>	<u>Maintenance of records.</u>
<u>67:42:18:17</u>	<u>Reporting requirements.</u>
<u>67:42:18:18</u>	<u>Confidentiality.</u>
<u>67:42:18:19</u>	<u>Transportation.</u>
<u>67:42:18:20</u>	<u>Vehicle insurance.</u>

- 67:42:18:21 Living space requirements.
- 67:42:18:22 Fire safety requirements.
- 67:42:18:23 Water source and temperature.
- 67:42:18:24 Safety caps.
- 67:42:18:25 Railing.
- 67:42:18:26 Exits.
- 67:42:18:27 Sleeping space.
- 67:42:18:28 Sanitation requirements.
- 67:42:18:29 Nutrition requirements.
- 67:42:18:30 Food quality.
- 67:42:18:31 Discipline.
- 67:42:18:32 Hazardous conditions.
- 67:42:18:33 Water safety.
- 67:42:18:34 Safety equipment and training.
- 67:42:18:35 Emergency preparedness.

67:42:18:01. Definitions. Terms used in this chapter mean:

(1) "Household member" a person who uses the home of the kinship foster parent applicant or a licensed kinship foster home as a permanent or part-time residence and who may have contact with any child placed in the home;

(2) "Kinship child," an abused or neglected child, as defined by SDCL 26-8A-2, who is considered for placement or has been placed with a kinship foster parent;

(3) "Kinship foster home," the permanent or part-time home of the applicant or licensed kinship foster parent;

(4) "Kinship foster parent," an individual who is a relative or custodian of a kinship child, or another individual not related by birth, adoption, or marriage to the kinship child who has an emotionally significant relationship with the kinship child and provides any of the services described in this article to the kinship child; and

(5) "Licensing agency," the department or a child-placement agency licensed by the state.

Source:

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

67:42:18:02. Initial evaluation and approval -- Renewal of license. The licensing agency shall conduct an initial evaluation of an applicant that includes:

(1) A minimum of three reference checks with at least one reference being a family member and at least one reference being a non-relative;

(2) Personal interviews including at least one scheduled, in-home interview for each household member. The department may elect to observe, rather than interview, a household member, based on the member's age or development;

(3) A screening for records of abuse or neglect;

(4) A criminal record check; and

(5) An in-home visit.

The licensing agency shall issue a license to a kinship foster parent upon review of the initial evaluation, the written home study of the applicant, and a finding the kinship foster parent meets the standards for care found in this chapter.

The licensing agency must complete an annual renewal study of the kinship foster parent if the relative kinship child continues to live in the home twelve months after the initial kinship foster home license was issued. Renewal of a license is based on the licensing agency's annual evaluation of the family and the care provided, and the written home study.

Source:

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-11, 26-6-16, 26-6-23.2.

67:42:18:03. Supervision. The licensing agency that issues a license to a kinship foster parent shall supervise the kinship foster parent.

The kinship foster parent must inform the licensing agency if the kinship foster parent accepts a child from another placement agency or from a parent or guardian. The licensing agency must complete an updated home study if additional children are placed with the kinship foster parent pursuant to SDCL 26-7A-19.

Source:

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-13, 26-6-16.

67:42:18:04. Licensing record. With the exception of reference documents, the licensing agency shall make the contents of a kinship foster parent's licensing record available for review and comment upon request of the kinship foster parent. When a kinship foster parent renews a license, the licensing agency shall offer the kinship foster parent an opportunity to review the licensing record and make written comments in the narrative section. The kinship foster parent shall date and sign the written comments. The kinship foster parent shall acknowledge in writing that the opportunity to read the licensing record was offered. The kinship foster parent may not remove material from the licensing record.

Source:

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16, 26-6-20.

67:42:18:05. Closing an application or license. The licensing agency must close an application for a kinship foster parent if:

(1) The applicant voluntarily withdraws the application; or

(2) The applicant fails or refuses to provide the requested information needed for the evaluation and home study.

The licensing agency shall close the license for a kinship foster parent when twelve months have passed from the date of licensure and the kinship child for whom the kinship foster parent was licensed is no longer placed in the home.

Source:

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

67:42:18:06. Denial of license. The licensing agency must deny a kinship foster parent applicant a license if the applicant does not meet the standards for care found in this chapter.

Within ninety days after the application is received, the department shall send the applicant a written notice of approval or denial of the license. If the application is denied, the notice must include the reason for the denial. An applicant may reapply after taking corrective action to remediate the reasons for the original denial of the license.

Source:

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

67:42:18:07. Revocation of license. The licensing agency may revoke a license due to noncompliance with a licensing standard found in this chapter by providing a thirty-day written notice to the kinship foster parent. The thirty-day written notice is not required if the licensing agency determines that immediate revocation is necessary to protect the health and safety, or welfare of a child.

The kinship foster parent may not reapply for a license for one year after the date of the revocation.

Source:

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16, 26-6-23, 26-6-24.

67:42:18:08. Fair hearing. Providers and applicants shall be entitled to fair hearings in accordance with the provisions of SDCL 28-6-6 and chapter 67:17:02.

Source:

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16, 26-6-24.

67:42:18:09. General qualifications. To be licensed or relicensed as a kinship foster parent, the following criteria must be met:

(1) The applicant is at least nineteen years of age and resides in a stand-alone dwelling or a unit in a multiple-unit dwelling, which provides personal living space for one family, in this state;

(2) The applicant has the resources necessary to meet the needs of the family and to support, care for, and educate a kinship child;

(3) The applicant's or applicant's children, if any, are willing to accept the kinship child as a member of the family;

(4) The applicant's or applicant's family composition, needs, and relationships do not adversely affect the kinship child placed in the home;

(5) The applicant has an approved child care plan for the kinship child from the licensing agency if the applicant or licensed kinship foster parent is employed outside the home;

(6) The applicant has the ability to offer continuing care and guidance to the kinship child throughout the stages of development in a manner consistent with the social and cultural heritage norms of the child;

(7) The applicant is able to continue meeting the needs of the applicant's own children, if any; and

(8) The applicant does not have any prohibited reports or records pursuant to §§ 67:42:18:12 and 67:42:18:13.

Source:

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

Cross-References:

Required criminal records checks, 42 U.S.C. § 671(a)(20).

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

Initial evaluation and approval--Renewal of license, § 67:42:01:05.

Screening for substantiated reports of abuse and neglect, § 67:42:01:05.02.

Ability to provide care, § 67:42:01:06.

67:42:18:10. Ability to provide care. A kinship foster parent applicant shall demonstrate the ability to provide care to the kinship child that meets the child's intellectual, physical, social, and emotional needs. The applicant's ability is determined by the applicant's capacity to:

(1) Provide an understanding of, and encouragement and emotional support to, the kinship child;

(2) Provide assistance to the kinship child in coping with daily living experiences;

(3) Provide supervision of the kinship child;

(4) Understand child development and the appropriate use of discipline;

(5) Apply the reasonable and prudent parent standard for the participation in age or developmentally-appropriate activities; and

(6) Participate with the licensing agency or a responsible party in devising and executing a case plan for the kinship child living in the home.

Source:

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-11, 26-6-16.

Cross Reference: Reasonable and prudent parent standard, subdivision 67:42:01:01(12).

67:42:18:11. Program requirements. A kinship foster parent shall:

(1) Provide daily activities designed to promote the physical, social, intellectual, and emotional development of the children in the home in accordance with the reasonable and prudent parent standard;

(2) Make decisions for a kinship child in the parent's care which allow the child to participate in age-appropriate activities to ensure the child has opportunities to experience a normal childhood and adolescence, similar to the child's peers not in care;

(3) Use careful judgment regarding activities, considering the child's maturity level, emotional and developmental needs, and any potential risks;

(4) Take part in case planning for the child and participate in the preparation, pre-placement, and visitation plans for the child; and

(5) Demonstrate respect for the child's birth family and agree to maintain a working relationship with the kinship child's family members as indicated in the child's case plan.

A kinship foster parent is not liable for harm caused to a child in or out of home placement if the child is participating in an activity approved by the kinship foster home, provided that the kinship foster parent has acted in accordance with the reasonable and prudent parent standard.

Source:

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

Cross Reference: Reasonable and prudent parent standard, subdivision
67:42:01:01(12).

67:42:18:12. Screening for substantiated reports of abuse and neglect. The department shall screen a kinship foster parent applicant and the applicant's family members and household members, who are at least eighteen years old, for substantiated incidents of child abuse or neglect. Neither the kinship foster parent applicant nor any household member eighteen years of age or older, other than a kinship child placed in the home, may have a substantiated report of child abuse or neglect on record. A substantiated report of child abuse or neglect includes a report placed into the department's central registry under § 67:14:39:03, a report placed on the central registry of another state in the last ten years, and a report that was investigated and substantiated by a tribal program.

If the screening locates an individual's name on the department's central registry and the individual has not already been given due process on the substantiation, the department must notify the individual in writing that the individual may request a hearing to refute the accuracy of the information found. The hearing must follow the provisions of SDCL 26-8A-11 and chapter 67:14:39.

If the screening locates an individual's name on the central registry of another state, it is the individual's responsibility to contact the other state to access the process for removal of the individual's name from that state's central registry. If the other state has a process and removes the individual's name from its central registry, the individual must request the other state submit documentation to the department verifying the removal of the individual's name from its central registry.

If the screening locates a report that was substantiated by a tribal program, it is the individual's responsibility to contact the tribal program to access the process for removal

of the individual's name from the record of the report. If the tribal program has a process and removes the individual's name from the record of the report, the individual must request the tribal program to submit documentation to the department verifying the removal of the individual's name from the record.

Source:

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-11, 26-6-16, 26-6-23.2.

Cross-References:

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

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

Substantiated reports, § 67:14:39:04.

67:42:18:13. Criminal record check. The department shall secure a criminal record check to obtain information concerning convictions for criminal offenses by a prospective kinship foster parent and any other adult living in the prospective kinship foster home. An applicant is not eligible to receive a kinship foster parent license if the individual or any other adult living in the prospective kinship foster home has:

(1) A conviction for a crime that would indicate harmful behavior towards children;

(2) A conviction for a crime of violence as defined by SDCL 22-1-2 or a similar statute from another state;

(3) A conviction for a crime pursuant to SDCL chapters 22-22 or 22-24A, SDCL 22-22A-3, or a similar statute from another state; or

(4) Any felony conviction occurring within the past five years.

If an individual is seeking licensure as a kinship foster parent from another child-placement agency, the department must obtain the criminal record check for the child-placement agency if the child-placement agency is unable to obtain the record check on its own. If the criminal record check reveals a conviction for any of the crimes listed in this section, the department must notify the child-placement agency of the existence of the conviction.

Source:

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-14.3, 26-6-14.11, 26-6-16.

Cross-References:

Information from another state's central registry or national crime database to be used only for background check, SDCL 26-6-14.13.

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

Required criminal records checks, 42 U.S.C. § 671(a)(20).

67:42:18:14. Training and development. The licensing agency shall assess the unique training needs of each kinship foster parent, consider the specific needs of the family and any children in the family's care, and assist in identifying appropriate training resources to support the kinship foster parent.

Source:

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

67:42:18:15. Health standards required of applicant and applicant's family.

Each household member shall provide a health history, including any history of drug or alcohol abuse or treatment, and must disclose any current mental health or drug or alcohol abuse issues.

The applicant shall present evidence to the department that each household member under the age of eighteen meets the Department of Health's requirements for immunizations, unless an immunization is contrary to the household member's health, as documented by a licensed health care professional, or the application provides a signed written statement that the household member adheres to a religious doctrine whose teachings are opposed to the immunization. The minimum immunization requirements for a child aged four months to six years are: diphtheria, tetanus, acellular pertussis, poliovirus, measles, mumps, rubella, and varicella. The minimum immunization requirements for a child aged seven to eighteen are: tetanus, diphtheria, acellular pertussis, and meningococcal ACYW. All kinship foster home applicants and household members who provide care for a child with known health vulnerabilities or a compromised immune system shall receive the influenza vaccine annually and the whooping cough vaccine as recommended by public health guidelines. The department may provide a vaccination exception for an individual with documented medical contraindications where case-specific, alternative protective measures are utilized.

The department may request additional medical statements.

The department may require a psychological evaluation and the submission of medical records if, during the application process or during the period of licensure,

questions arise regarding the applicant's or foster parent's emotional stability or the emotional stability of another household member.

Source:

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-11, 26-6-16.

Cross-References:

Communicable disease control, article 44:20.

Health and safety requirements, 45 C.F.R. § 98.41.

67:42:18:16. Maintenance of records. A kinship foster parent shall maintain a record on each kinship child living in the home. The record must include:

(1) The child's name;

(2) The date of the child's placement;

(3) The date the child is removed from the kinship foster parent;

(4) The name and telephone number of the child's social worker, doctor, dentist, legal parent or guardian, and the individual to contact in the event of an emergency; and

(5) Any other information required by the department.

Source:

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16, 26-6-20.

67:42:18:17. Reporting requirements. A kinship foster parent shall immediately report all incidents of suspected child abuse or neglect either to the department or to law enforcement.

Upon the occurrence of any unusual incident of fire, death, runaway of a child, child and provider incompatibility, or serious injury to or serious illness of the kinship child living in the home that involves the kinship child, kinship foster parent, or kinship child's home, the kinship foster parent must ensure the child is safe and then immediately report the occurrence to the department's placing worker.

A kinship foster parent shall report any of the following to the department within twenty-four hours:

(1) A change of address;

(2) A change in the household size or composition;

(3) A change in the home that impacts the care provided or the safety of the kinship child living in the home; and

(4) Any involvement with child protection services or law enforcement concerning any allegation of child abuse or neglect.

Source:

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

67:42:18:18. Confidentiality. A kinship foster parent shall maintain all information in confidence from any unauthorized individual that concerns a kinship child living in the home. The details of a child's life or that of the child's family may not be shared with an unauthorized individual.

Source:

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16, 26-6-20.

67:42:18:19. Transportation. A vehicle used for transportation of a kinship child may not carry more people than the passenger capacity stated on the label affixed to the vehicle pursuant to 49 C.F.R. §§ 567 and 568 (March 9, 2022) and must be equipped with safety restraints. The kinship foster parent shall identify a safe way to transport a kinship child to appointments and activities.

Source:

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

67:42:18:20 Vehicle insurance. Each vehicle used for transporting a kinship child must have liability insurance that covers the child being transported.

Source:

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

67:42:18:21. Living space requirements. A kinship foster home must have:

(1) A toilet, sink, and tub or shower in operating condition;

(2) Adequate light, heat, and ventilation; and

(3) Access to a working telephone for general and emergency use.

Source:

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

67:42:18:22. Fire safety requirements. A kinship foster home must:

(1) Be equipped with working smoke detectors, installed according to the manufacturer's instructions, that can be heard under normal living conditions in each bedroom, outside of each sleeping area, and on every level of the home;

(2) Be equipped with a working carbon monoxide detector with an audible alarm that can be heard under normal living conditions on each level of the home; and

(3) Have an evacuation plan that is taught to each child by the kinship foster parent.

Source:

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

67:42:18:23. Water source and temperature. A kinship foster home must derive the water used by any household member for consumption and bathing from a public water system or other potable water source.

Hot water from plumbing fixtures normally utilized by a kinship child may not exceed one hundred twenty degrees Fahrenheit.

Source:

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

67:42:18:24. Safety caps. In a kinship foster home where care is provided for a child aged four years or younger, any unused electrical outlet within thirty-six inches of the floor must be a tamper-resistant outlet or be covered by an Underwriters Laboratory-approved electrical safety cap. No bare or exposed electrical wires may be present within the home.

Source:

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

67:42:18:25. Railings. In a kinship foster home, all floor and wall openings, open-sided stairs, platforms, and decks, thirty inches or more above the adjacent ground level, must be guarded by a railing or barrier that conforms with the applicable building code requirements.

Source:

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

67:42:18:26. Exits. A kinship foster home must have two remote exits on each level used to care for a kinship child. Each exit must provide unobstructed access to the outside. One exit must be a door or stairway that provides unobstructed access to the outside of the building at ground level. The other exit may be a window if:

(1) The window can be easily opened from the inside without the use of tools;

(2) The window provides a clear opening with a minimum dimension of at least twenty-two inches, is at least five square feet in area, and provides a safe means of escape; and

(3) Storm windows, screens, or burglar guards, if used, are provided with quick-opening devices that can be easily opened from the inside.

A ladder, folding stairs, or a trap door may not be the only access to a bedroom.

Source:

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

67:42:18:27. Sleeping space. A kinship foster home must have sufficient sleeping space to comfortably accommodate a kinship child in care as well as the kinship foster parent's family. The kinship foster home must meet the following requirements:

(1) The kinship foster parent must provide bed linens, blankets, and pillows for a kinship child over the age of one;

(2) The licensing agency must approve the sleep space plan for the kinship child placed with a kinship foster parent; and

(3) The kinship foster parent must follow safe sleep practices for an infant under the age of one.

Source:

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

67:42:18:28. Sanitation requirements. The kinship foster parent must keep the kinship foster home clean, neat, and free of litter and rubbish. Hazardous cleaning solutions, chemicals, and poisons must be labeled and kept in an enclosed cabinet that is not accessible to a kinship child. Garbage and refuse must be kept in durable, easily cleanable containers that do not leak and do not absorb liquids. Garbage and refuse must be disposed of often enough to prevent the development of odor and the attraction of insects and rodents.

Source:

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

67:42:18:29. Nutrition requirements. A kinship foster parent shall ensure a kinship child has meals that are sufficient to meet the child's nutritional needs. The kinship foster parent shall adhere to any special diet prescribed by a physician or dietitian for the kinship child.

Source:

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

67:42:18:30. Food quality. A kinship foster parent shall ensure all food is free from spoilage and contamination, and is safe for human consumption.

Source:

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

67:42:18:31. Discipline. A kinship foster parent shall use positive guidance and redirection, and set clear-cut limits for discipline, to help a kinship child develop self-control, self-esteem, and respect for the rights of others. A kinship foster parent shall discuss methods of discipline with the child's worker. A kinship foster parent may not delegate discipline to an older child or peer. Any discipline or control used by a kinship foster parent must be appropriate to the kinship child's age and developmental level. Physical punishment is prohibited.

Source:

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

67:42:18:32. Hazardous conditions. The following must be inaccessible to a kinship child unless the child is under adult supervision:

(1) Firearms, including pellet guns, BB guns, and cap guns;

(2) Ammunition;

(3) Archery bows and arrows; and

(4) Matches and lighters.

Firearms stored in the home must be kept unloaded and locked in a room, closet, cabinet, or carrying case and separate from the ammunition.

Alcoholic beverages, medications, poisonous materials, cleaning supplies, and other hazardous materials must be inaccessible to children.

The department may require the removal or correction of other hazardous conditions or circumstances not covered in this chapter if the department considers the conditions or circumstances to have the potential to cause injury or illness to the child in care.

Source:

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

67:42:18:33. Water safety. A kinship foster home must meet the following water safety requirements:

(1) If an outdoor swimming pool is on the premises, the swimming pool must be emptied after each use by the caretaker or enclosed with a five-foot fence and a self-closing, latching gate that can be locked while not in use;

(2) If an indoor swimming pool is on the premises, the swimming pool must have an access door that restricts entry;

(3) If a hot tub is on the premises, the hot tub must be securely covered; and

(4) A child may not be permitted to play in an area where there is a body of water, unless the caretaker can see and hear the child and is close enough to intervene at all times.

Source:

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

67:42:18:34. Safety equipment and training. A kinship foster parent shall ensure the kinship child in care has the safety equipment and training necessary to safely engage in each activity the child participates in, including:

(1) Boating;

(2) Recreational vehicle use;

(3) Sports; and

(4) Hunting.

Source:

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

67:42:18:35. Emergency preparedness. An applicant or kinship foster parent shall maintain a list of emergency telephone numbers that includes poison control, police, fire department, and hospital, and post those numbers in a prominent place in the home. An applicant or kinship foster parent shall maintain first aid supplies in the kinship foster home.

Source:

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.