

**STATE’S PROPOSED ADOPTION AND SAFE FAMILIES ACT FINDINGS OF FACT
AND CONCLUSIONS OF LAW
(NON ICWA)**

STATE OF SOUTH DAKOTA:
SS:

IN CIRCUIT COURT

COUNTY OF _____

JUDICIAL CIRCUIT

THE PEOPLE OF THE STATE OF SOUTH
DAKOTA IN THE INTEREST OF,

File No: _____

(DOB: _____)
Child(ren), and concerning

**STATE’S PROPOSED ADOPTION AND
SAFE FAMILIES ACT FINDINGS OF
FACT AND CONCLUSIONS OF LAW**

(DOB: _____)

(NON ICWA)

(DOB: _____)
Respondent(s),

The above-entitled matter having come before the Court for a “No Reasonable Efforts” Hearing pursuant to the Adoption and Safe Families Act on the (DAY) day of (MONTH), (YEAR); the Honorable (ENTER NAME) presiding; the State of South Dakota represented by (STATE’S / DEPUTY STATE’S) Attorney, (ENTER NAME); the South Dakota Department of Social Services appearing through Family Services Specialist, (ENTER NAME); (ENTER NAME), the Respondent mother (APPEARING IN PERSON / NOT APPEARING IN PERSON) (AND / BUT) (REPRESENTED BY COUNSEL / NOT REPRESENTED BY COUNSEL), (ENTER NAME); (ENTER NAME), the Respondent father (APPEARING IN PERSON / NOT APPEARING IN PERSON) (AND / BUT) (REPRESENTED BY COUNSEL / NOT REPRESENTED BY COUNSEL), (ENTER NAME); the minor child (NOT APPEARING / APPEARING) in person (AND / BUT) represented by counsel, (ENTER NAME); CASA (APPEARING THROUGH REPRESENTATIVE / NOT APPEARING); and the Court, having reviewed the records and files herein and being fully informed in the premises does now hereby make and enter its Findings of Fact and Conclusions of Law by clear and convincing evidence as follows:

FINDINGS OF FACT

1.

Proper notice has been given and the parties have been provided an opportunity to participate.

2.

This Court has jurisdiction and this is the proper venue.

3.

(ENTER NAME) is a minor child who is in the legal and physical custody of the Department of Social Services, and who was a resident of (COUNTY NAME) County at the commencement of these proceedings.

4.

(ENTER NAME) is the biological mother of the minor child. She received notice of these proceedings and has been fully apprised of her rights and obligations in these proceedings, including the possibility of termination of her parental rights. (ENTER NAME) (APPEARED / DID NOT APPEAR) at these proceedings (AND / BUT) (WAS REPRESENTED / WAS NOT REPRESENTED) by counsel, (ENTER NAME).

5.

(ENTER NAME) is the biological father of the minor child. He received notice of these proceedings and has been fully apprised of his rights and obligations in these proceedings, including the possibility of termination of his parental rights. (ENTER NAME) (APPEARED / DID NOT APPEAR) at these proceedings (AND / BUT) (WAS REPRESENTED / WAS NOT REPRESENTED) by counsel, (ENTER NAME).

6.

The minor child is not an Indian Child as defined by the Indian Child Welfare Act and thus the Indian Child Welfare Act does not apply to these proceedings.

7.

The Court, having received the State's Exhibits of certified copies of the Adjudicatory Findings of Fact and Conclusions of Law, and the Adjudicatory Order from (COUNTY NAME) County file (ENTER TEXT), and having taken judicial notice of both Court Files, finds that the Respondent parents previously had a child removed from their custody because the removed child was adjudicated abused and neglected by a court on at least one previous occasion. As such, the Adoptions and Safe Families Act, specifically as codified at SDCL 26-8A-21.1(8) is applicable to this case as to the Respondent parents.

8.

A number of concerning risk factors exist despite the fact that the Respondent parents have been offered numerous services by the Department of Social Services as part of a prior Abuse and Neglect proceeding.

9.

The Respondent parents were provided services by the Department of Social Services from (ENTER DATE) until (ENTER DATE). The child, (ENTER NAME) was removed from the home on (ENTER DATE) when (HE / SHE) was (ENTER TEXT) because (ENTER TEXT). The Department worked with the Respondent parents to address the issues. Services provided in (ENTER TEXT) included (A / THE FOLLOWING): (ENTER TEXT – EXAMPLES - PROTECTIVE CAPACITIES ASSESSMENT AND EVALUATIONS; MEDICAL SERVICES; KINSHIP SERVICES; UAS; PSYCHOLOGICAL EVALUATION; CHEMICAL DEPENDENCY EVALUATION; TRANSPORTATION; THERAPY AND CONCURRENT PLANNING AS WELL AS ATTEMPTS TO ENGAGE THE RESPONDENT WHO REFUSED TO PARTICIPATE FOR MOST OF THE CASE). The minor child was adjudicated to be abused or neglected through the actions and/or omissions of the Respondent (ENTER NAME).

10.

The minor child came into care again on (ENTER DATE) due to concerns of (ENTER TEXT). The minor child was (ENTER TEXT) when he came back into care.

11.

The conditions continue to exist and that the very same issues that existed in (ENTER TEXT) regarding both parents continue to exist.

12.

The Adoption and Safe Families Act applies to these proceedings and thus further services are not required under the Adoption and Safe Families Act.

13.

The Department of Social Services has made reasonable efforts to prevent the removal of the minor child from the home and to reunite the minor child with the parents, and to achieve the permanent plan of reunification; and those efforts are no longer required.

14.

Return of custody of the minor child to the Respondent parents would be injurious to the minor child's welfare.

15.

The least restrictive alternative available commensurate with the best interest of the minor child is for legal and physical custody of the minor child to remain with the Department of Social Services, it being contrary to the welfare of the minor child to return legal and/or physical custody to the Respondent parents.

Based upon the foregoing Findings of Fact, the Court now makes and enters its Conclusions of Law pursuant to the Adoption and Safe Families Act as follows:

CONCLUSIONS OF LAW

1.

Any Conclusion of Law deemed to be a Finding of Fact or vice versa shall be appropriately incorporated into the Findings of Fact or Conclusions of Law as applicable.

2.

This Court has jurisdiction over the parties and subject matter of this action.

3.

The Court has considered and applied the legal holdings found in (ENTER TEXT).

4.

The Court finds that it is the best interests of the minor child to apply the Adoption and Safe Families Act, it being the least restrictive alternative available in the minor child's best interests that no further reasonable efforts be required to reunite the minor child with the Respondent parents and to set a Final Dispositional Hearing within thirty days.

Dated this (DAY) day of (MONTH, YEAR), effective, however, the (DAY) day of (MONTH), (YEAR), being the date of the hearing affording judicial basis for this order.

BY THE COURT:

ATTEST:

Clerk of Court

BY: _____

Deputy (ENTER NAME)

(SEAL)

The Honorable (ENTER NAME)
Judge of the Circuit Court