

**STATE'S PROPOSED
ADJUDICATORY 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

(DOB: _____)

(DOB: _____)
Respondent(s),

**STATE'S PROPOSED
ADJUDICATORY FINDINGS OF FACT
AND CONCLUSIONS OF LAW
(NON ICWA)**

The above-entitled matter having come on for an Adjudicatory Hearing on the (DAY) day of (MONTH), (YEAR), the Honorable (ENTER NAME), presiding; the State of South Dakota being represented by its (DEPUTY STATE'S / 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 / IS NOT REPRESENTED BY COUNSEL), (ENTER NAME), the Respondent father, (APPEARING IN PERSON / NOT APPEARING IN PERSON) (AND / BUT) (REPRESENTED BY COUNSEL / IS NOT REPRESENTED BY COUNSEL), (ENTER NAME), the minor child, (APPEARING IN PERSON / NOT APPEARING IN PERSON) (AND IS / BUT) represented by counsel, (ENTER NAME); CASA; (APPEARING / NOT APPEARING), 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 for Adjudication by clear and convincing evidence, as follows:

FINDINGS OF FACT

1.

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

2.

This Court has jurisdiction and this is the proper venue.

3.

(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.

(NAME) is the biological mother of the minor child. She (HAS / HAS NOT) received notice of these proceedings, (AND / BUT) (HAS / HAS NOT) been apprised of her rights and obligations in these proceedings, including the possibility of termination of her parental rights. (ENTER TEXT) (APPEARED IN PERSON / NOT APPEARED IN PERSON) (AND / BUT) (WAS REPRESENTED BY COUNSEL / WAS NOT REPRESENTED BY COUNSEL).

5.

(NAME) is the (ALLEGED BIOLOGICAL FATHER / BIOLOGICAL FATHER) of the minor child. He has received notice of these proceedings and has been apprised of his rights and obligations in these proceedings, including the possibility of termination of parental rights. (ENTER TEXT) (APPEARED IN PERSON / NOT APPEARED IN PERSON) (AND / BUT) (WAS REPRESENTED BY COUNSEL / WAS NOT REPRESENTED BY COUNSEL).

6.

(NAME) is the biological father of the minor child. He (HAS / HAS NOT) received notice of these proceedings through publication and (HAS / HAS NOT) been apprised of his rights and obligations in these proceedings, including the possibility of termination of his parental rights. (ENTER TEXT) (APPEARED / FAILED TO APPEAR) at these proceedings.

7. (IF NOT APPLICABLE, DELETE PARAGRAPH BELOW)

The Respondent mother, (NAME), is in default of these proceedings pursuant to the provisions of SDCL§ 26-7A-53 and therefore, the Petition for Abuse or Neglect filed in this matter is hereby taken as admitted to by the Respondent father,(NAME). The minor child is adjudicated to be an abused or neglected child through the actions and/or omissions of the Respondent father.

8.

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

9.

The Department of Social Services has made reasonable efforts to reunite the minor child with the Respondent parents and these efforts are on-going.

10.

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

Based upon the foregoing Findings of Fact, the Court now makes and enters the following Conclusions of Law;

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.

2.

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

3.

The allegations contained in the Petition for Abuse or Neglect are supported by clear and convincing evidence that the minor child is abused or neglected within the meaning of SDCL § 26-8A-2 due to the actions and/or omissions of the Respondent father,(NAME).

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

BY THE COURT:

ATTEST:

Clerk of Court

BY: _____

Deputy (NAME)

(SEAL)

The Honorable (NAME)
Judge of the Circuit Court