

**STATE'S PROPOSED FINAL DISPOSITIONAL FINDINGS  
OF FACT AND CONCLUSIONS OF LAW  
(ASFA)**

STATE OF SOUTH DAKOTA:

IN CIRCUIT COURT

SS:

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  
FINAL DISPOSITIONAL FINDINGS  
OF FACT AND CONCLUSIONS  
OF LAW**

**(ASFA)**

The above-entitled matter having come on for a Final Dispositional Hearing on the (DAY) day of (MONTH), (YEAR); the Honorable (ENTER NAME), presiding; the State of South Dakota represented by (DEPUTY STATE'S ATTORNEY / STATE'S ATTORNEY), (ENTER NAME); the South Dakota Department of Social Services appearing through Family Services Specialist, (ENTER NAME); (ENTER NAME), the Respondent (MOTHER / FATHER), (APPEARING / NOT APPEARING) in person (AND / BUT) (REPRESENTED BY COUNSEL / NOT REPRESENTED BY COUNSEL), (ENTER NAME); (ENTER NAME), the Respondent (MOTHER / FATHER), (APPEARING / NOT APPEARING) in person (AND / BUT) (REPRESENTED BY COUNSEL / NOT REPRESENTED BY COUNSEL), (ENTER NAME); the minor child(ren) (APPEARING / NOT APPEARING) in person (AND / BUT) represented by counsel, (ENTER NAME); CASA (APPEARING THROUGH ITS DESIGNATED AGENT / 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 Disposition, as follows:

THE COURT MAKES THE FOLLOWING FINDINGS OF FACT  
AND CONCLUSIONS OF LAW BY CLEAR AND CONVINCING EVIDENCE

1.

Proper notice has been given and that all parties have been given 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 / FATHER) of the minor child. (SHE / HE) (HAS RECEIVED NOTICE OF THESE PROCEEDINGS / HAS NOT RECEIVED NOTICE OF THESE PROCEEDINGS / HAS RECEIVED NOTICE THROUGH PUBLICATION REGARDING 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 at these proceedings and (WAS REPRESENTED / WAS NOT REPRESENTED) by counsel.

5.

(ENTER NAME) is the biological (MOTHER / FATHER) of the minor child. (PATERNITY WAS ESTABLISHED THROUGH DNA TESTING ON [ENTER DATE]. / DELETE PARAGRAPH) (HE / SHE) has 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) failed to appear at these proceedings.

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 Department of Social Services has provided reasonable efforts to prevent or eliminate the need for the removal of the minor child from the home.

8.

That removal of the minor child from the home was necessary because continued presence of the child in the home would be contrary to the welfare of the child.

9.

The minor child has been in the legal and physical custody of the Department of Social Services since (ENTER TEXT).

10.

The Court determined that the Adoption and Safe Families Act applies to this case on (ENTER TEXT) in that the Respondent parents previously had children removed from their custody because the removed children were adjudicated abused and neglected by a court on at least one previous occasion. Furthermore, the Respondent parents have had parental rights to another child or to other children involuntarily terminated by a prior legal proceeding. As such, the Adoptions and Safe Families Act, specifically as codified at SDCL 26-8A-26.1(6) and (8) is applicable to this case as to the Respondent parents. Taking judicial notice of (ENTER TEXT) County Files (ENTER TEXT).

11.

The Department of Social Services has made reasonable efforts to return the child to the home and those efforts have been appropriate for the child's parents and have been available pursuant to a comprehensive plan of preventive services of the Department; or those services could have been available without undue financial burden on the Department; or those services would have a significant likelihood of protecting the child from substantial danger to the child's physical health or from severe emotional damage while enabling the child to be returned to the home. The Court has considered the assistance, services, and efforts of the Department as well as the good faith efforts or lack of good faith efforts made by the child's parents to cooperate with the Department and to effectively utilize the assistance or services for the benefit and welfare of the child.

12.

The child has been adjudicated to be an abused or neglected child as defined by SDCL 26-8A-2 through the actions and/or omissions of the Respondent parents.

13.

The Department of Social Services has made reasonable efforts to achieve the permanent plan of reunification of the child with his parents and these efforts have been unsuccessful and it would be contrary to the welfare of the minor child to be returned to the legal or physical custody of the parents; those efforts include but are not limited to the following: (EXAMPLE)

- Initial Family Assessment
  - Specialist assigned
  - Completed IFA
  - UAs
  - Collateral contacts with family
  - Collateral contacts with law enforcement
  - Attempted contact with the father
- Ongoing Services
  - Specialist assigned
  - Protective Capacity Assessment and Evaluation
  - Attempts to locate father
    - Certified letters with postage paid envelopes
    - Requests for contact
    - Relative contacts

- Searches through various agencies
  - Social media
  - Phone calls
- Child Services
  - Basic foster care
  - Kinship care
  - Medicaid
  - Birth to Three Evaluation
  - Child Assessment Case Plan and Evaluation
- Family Group Coordinator Services
- Kinship Locator Services

14.

The Department of Social Services provided reasonable efforts toward reunification regarding services for the Respondent (FATHER / MOTHER) in (ENTER TEXT) regarding the Respondent mother in (ENTER TEXT). Reunification was not successful during those cases. Those services are documented in State's Exhibit 1 and were noted during the Hearing regarding the Adoption and Safe Families Act on (ENTER DATE)

15.

All reasonable efforts have been made to rehabilitate the family.

16.

The conditions which led to the child's removal still exist and there is little likelihood that those conditions will be remedied so that the child can be returned to the custody of the parents.

17.

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

18.

There is good cause to terminate the parental rights of the Respondent parents.

19.

Termination of parental rights in this case is the least restrictive alternative commensurate with the best interests of the child with due regard for the rights of the parents, the public and the state.

20.

The Respondent (FATHER / MOTHER) has failed to appear for any proceeding involving the minor child. (HE / SHE) has not maintained contact with the Department of Social Services and has not participated in any services that have been offered. The Respondent (MOTHER / FATHER) did not cooperate with efforts to establish paternity and paternity testing had to be completed with a half sibling. The Respondent (MOTHER / FATHER) failed to appear here today.

21.

(ENTER NAME) has abandoned the minor child for at least six months and during the period of time this case has been opened he has not manifested to the child a firm intention to resume physical custody of the child and to make suitable arrangements for the care of the child.

22.

The Respondent (MOTHER / FATHER) is incarcerated and has been incarcerated for a majority of the case. (SHE / HE) is not contesting the involuntary termination of her parental rights and understands that (SHE / HE) is not in a place where she can provide care for the minor child.

23.

The Department of Social Services is vested with custody and guardianship of child for the purpose of placing the child for adoption and authorizing appropriate personnel of the Department to consent to adoption of the child.

24.

Termination of parental rights is final and unconditional.

Based upon the foregoing Findings of Fact, the Court now makes and enters its Conclusions of Law for Final Disposition 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 child has been adjudicated to be an abused or neglected child through the actions and/or omissions of the Respondent parents.

4.

The fundamental rights of the Respondent parents to raise their child has been appropriately balanced with the best interests of the minor child and the public, and the Court finds and concludes that it is the least restrictive alternative commensurate with the best interests of the minor child that parental rights of the Respondent parents be terminated and for the child to be placed in the adoptive custody of the Department of Social Services.

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

BY THE COURT:

ATTEST:

\_\_\_\_\_  
The Honorable (ENTER NAME)  
Judge of the Circuit Court

Clerk of Court

BY: \_\_\_\_\_  
Deputy (ENTER NAME)  
(SEAL)