

SOUTH DAKOTA LAW

CHAPTER 25-5A - VOLUNTARY TERMINATION OF PARENTAL RELATIONS

25-5A-27. Voluntary delivery of child 60 days of age or younger--Actions to protect child authorized. An emergency medical services provider or licensed child placement agency shall take possession of a child who appears to be sixty days of age or younger if the child is voluntarily delivered to the provider or agency by the child's parent and the parent does not express an intent to return for the child. Any provider or agency who takes possession of a child pursuant to this section shall perform any act necessary to protect the physical health and safety of the child.

25-5A-28. Delivery of unharmed child not a crime. It is not a crime for a parent to deliver a child to an emergency medical services provider or a licensed child placement agency if the child has not been harmed prior to being left with the emergency medical services provider or a licensed child placement agency.

25-5A-29. Termination of parental rights to delivered child. If a parent of a child relinquishes custody of the child to an emergency medical services provider or a licensed child placement agency as provided in § 25-5A-27, then, after fourteen days, by operation of law:

- (1) All of that parent's rights with respect to the child are terminated; and
- (2) The child becomes a ward of the state or licensed child placement agency.

25-5A-30. Questions concerning child's medical history--No parental obligation to provide information. Any emergency medical services provider or licensed child placement agency that accepts custody of a child pursuant to § 25-5A-27 may ask the child's parent for pertinent medical information relating to the child's medical history. However, the parent leaving the child is not required to provide any information, including the name of the parents.

25-5A-31. No liability for entity accepting custody of delivered child. Any emergency medical services provider or licensed child placement agency that accepts physical custody of a child pursuant to § 25-5A-27 is immune from civil, criminal, and administrative liability for any act of commission or omission in connection with the acceptance of that custody or the provision of care for the child while the child is in the provider's or agency's custody.

25-5A-32. Notification to Department of Social Services upon possession of child--Assumption of care, custody and control of child--Investigation of parent restricted. The emergency medical services provider or a licensed child placement agency shall immediately notify the Department of Social Services that the provider or agency has taken possession of the child. The department or licensed child placement agency shall assume the care, custody, and control of the child immediately upon receipt of the notice. However, a licensed child placement agency that has taken possession of a child may assume the care, custody, and control of the child. The department or licensed child placement agency may not attempt to identify, contact, or investigate the parent who voluntarily delivered the child to an emergency medical services provider or a licensed child placement agency unless it appears the child has been harmed.

25-5A-33. Provisions for custody action by nonrelinquishing parent. If one parent of a child relinquishes custody of the child to an emergency medical services provider or a licensed child placement agency as provided in § 25-5A-27, the other parent may file an action for custody of the child. The nonrelinquishing parent shall file such an action within thirty days after the provider or agency accepts

custody of the child from the relinquishing parent. In such an action, the nonrelinquishing parent shall prove the following by a preponderance of the evidence:

- (1) He or she is the parent of the child; and
- (2) He or she did not consent to relinquishment of the child's custody to the provider or agency.

25-5A-34. Emergency medical services provider defined. For the purposes of §§ 25-5A-27 to 25-5A-35, inclusive, an emergency medical services provider is a licensed health care facility or a clinic, any agent of a licensed health care facility or a clinic, a law enforcement officer, an emergency medical technician, or a firefighter.

25-5A-35. Parental rights termination hearing for voluntarily delivered child. Sixty days after the emergency medical services provider or licensed child placement agency takes possession of the child a hearing shall be held in circuit court to terminate parental rights.

25-5A-36. Due regard to be afforded Indian Child Welfare Act. Due regard shall be afforded to the Indian Child Welfare Act (25 U.S.C. §§ 1901-1963), as amended to January 1, 2004, if that Act is applicable.