

AN ACT

ENTITLED, An Act to revise certain evidentiary rules relating to the statements of children.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 19-16-39 be amended to read as follows:

19-16-39. An out-of-court statement not otherwise admissible by statute or rule of evidence is admissible in evidence in any civil proceeding alleging child abuse or neglect or any proceeding for termination of parental rights if:

- (1) The statement was made by a child under the age of thirteen years or by a child thirteen years of age or older who is developmentally disabled, as defined in § 27B-1-18;
- (2) The statement alleges, explains, denies, or describes:
  - (a) Any act of sexual penetration or contact performed with or on the child;
  - (b) Any act of sexual penetration or contact with or on another child observed by the child making the statement;
  - (c) Any act of physical abuse or neglect of the child by another; or
  - (d) Any act of physical abuse or neglect of another child observed by the child making the statement;
- (3) The court finds that the time, content, and circumstances of the statement and the reliability of the person to whom the statement is made provide sufficient indicia of reliability; and
- (4) The proponent of the statement notifies other parties of an intent to offer the statement and the particulars of the statement sufficiently in advance of the proceeding at which the proponent intends to offer the statement into evidence, to provide the parties with a fair opportunity to meet the statement.

For purposes of this section, an out-of-court statement includes a video, audio, or other recorded

statement.

An Act to revise certain evidentiary rules relating to the statements of children.

I certify that the attached Act  
originated in the

SENATE as Bill No. 13

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_  
President of the Senate

Attest:

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_  
Speaker of the House

Attest:

\_\_\_\_\_  
Chief Clerk

Senate Bill No. 13

File No. \_\_\_\_\_

Chapter No. \_\_\_\_\_

Received at this Executive Office  
this \_\_\_\_ day of \_\_\_\_\_ ,

20\_\_ at \_\_\_\_\_ M.

By \_\_\_\_\_  
for the Governor

The attached Act is hereby  
approved this \_\_\_\_\_ day of  
\_\_\_\_\_, A.D., 20\_\_

\_\_\_\_\_  
Governor

STATE OF SOUTH DAKOTA,  
SS.  
Office of the Secretary of State

Filed \_\_\_\_\_, 20\_\_  
at \_\_\_\_\_ o'clock \_\_ M.

\_\_\_\_\_  
Secretary of State

By \_\_\_\_\_  
Asst. Secretary of State