

■ South Dakota

GAL Volunteer Handbook

2026 Edition

Guardian Ad Litem Program Reference Guide

SDCL Ch. 26-7A · Circuit Court · ICWA · Nine Sioux Tribal Nations

Sioux Falls Metro (Minnehaha County)

GAL National Database · galdb.org

1. Program Overview

South Dakota's GAL system operates through regional **CASA programs** and court-appointed attorney GALs. The primary child welfare agency is the **SD Department of Social Services (DSS) — Child Protection Services**. Dependency proceedings are governed by **SDCL Chapter 26-7A** (Abuse and Neglect of Children), with cases heard in Circuit Court. SD has nine federally recognized Sioux tribal nations, making ICWA compliance a central concern in every dependency case.

State Child Welfare Agency	SD Dept. of Social Services — Child Protection Services
GAL Programs	SD CASA Programs / Court-Appointed Attorney GAL
Governing Code	SDCL Chapter 26-7A (Abuse and Neglect of Children)
Court	Circuit Court (7 circuits statewide)
GAL Appointment Statute	SDCL § 26-7A-5
Tribal Nations in SD	Nine Federally Recognized Sioux Tribal Nations

2. Legal Foundation

SDCL § 26-7A-5 — Guardian Ad Litem — Appointment & Duties

Requires Circuit Court to appoint a GAL in all abuse and neglect proceedings. The GAL shall represent best interests, conduct an independent investigation, file written reports, and attend all hearings. The GAL has the right to access all records related to the child's welfare.

SDCL § 26-7A-1 — Definitions — Abuse and Neglect

Defines child abuse and neglect under SD law, establishing the threshold for DSS intervention and Circuit Court jurisdiction. Encompasses physical abuse, sexual abuse, emotional abuse, and neglect.

SDCL § 26-7A-13 — Emergency Removal — Temporary Custody

Authorizes DSS or law enforcement to take a child into emergency protective custody when there is imminent danger. A preliminary protective hearing must be held within 48 hours.

SDCL § 26-7A-115 — Permanency Planning & Placement Review

Requires a permanency planning hearing within 12 months of initial disposition and every 12 months thereafter. Court must identify and document a specific permanency goal.

SDCL § 26-8A-26 et seq. — Termination of Parental Rights

Sets out grounds and procedures for TPR. In ICWA cases, the burden of proof is 'beyond a reasonable doubt' — the highest evidentiary standard in child welfare law.

3. Your Role as GAL

A South Dakota GAL is the court's independent advocate for the child's best interests — distinct from DSS, tribal representatives, and parents' attorneys. In ICWA cases, your independent voice includes advocacy for culturally appropriate placements and services, while remaining distinct from the tribe's institutional interest.

- **Investigate:** Review DSS records, school records, medical files, court history, and — in ICWA cases — tribal social services records. Interview the child, foster parents, caseworkers, teachers, therapists, and tribal representatives. Visit the placement in person.
- **Advocate:** Present best interests in court through written reports. Request services not being received. Ensure ICWA active efforts obligations are being met. Challenge DSS if efforts are inadequate.
- **Connect:** Identify and connect the child to services including culturally appropriate tribal programs. Coordinate with DSS, foster families, tribal social services, schools, and providers.
- **Report:** Prepare written reports before each hearing. File with the court and serve on all parties in advance. In ICWA cases, address active efforts and placement compliance explicitly.

***SD-Specific Note:** South Dakota's overrepresentation of Native American children in foster care makes ICWA compliance a core GAL obligation in every case — not an occasional consideration. Failure to address ICWA requirements is grounds for reversal of court orders on appeal.*

4. The Multidisciplinary Team

- **DSS Child Protection Specialist:** Manages case plan, placement, and service referrals. Represents DSS's institutional position. In ICWA cases, must document active efforts independently assessed by the GAL.
- **DSS / State's Attorney:** Represents the agency or state in Circuit Court. In ICWA cases, must meet heightened burden of proof. Represents the agency — not the child.
- **Parent's Attorney:** Appointed counsel for biological parents. Advocates for reunification and parental rights — including ICWA heightened protections when applicable.
- **Tribal Representative (ICWA Cases):** When ICWA applies, the tribe may intervene as a full party. A tribal social worker or ICWA specialist participates in hearings and advocates for tribal placement preferences.
- **CASA Volunteer / GAL (You):** Independent investigator and best-interest advocate. Your independence from DSS, parents, and the tribe is the core of your value to the court.
- **CASA Supervisor:** Reviews court reports, provides training and support. In SD's rural geography, supervisors often support volunteers across large geographic distances.
- **Foster / Kinship Caregiver:** Day-to-day care provider and primary information source. In ICWA cases, tribal placement preferences affect who serves as the foster caregiver.
- **Circuit Court Judge:** Presides over all dependency hearings. SD has 7 judicial circuits; rural circuits cover enormous geographic areas.

5. The Dependency Court Process

- 1. Removal & Emergency Protective Custody:** DSS or law enforcement takes child into custody when there is imminent danger. DSS must file a petition within 5 days. If ICWA may apply, the tribe must be notified at the earliest opportunity.
 - 2. Preliminary Protective Hearing:** Within 48 hours of custody. Court determines probable cause and whether child may safely return home. ICWA inquiry is raised at this hearing.
 - 3. GAL Appointment:** Court appoints GAL at or near the preliminary protective hearing under SDCL § 26-7A-5. Begin reviewing records immediately.
 - 4. Adjudicatory Hearing:** Circuit Court determines whether the child was abused or neglected. In ICWA cases, the burden of proof for removal is 'clear and convincing evidence.'
 - 5. Dispositional Hearing:** Court establishes case plan, placement, and services. In ICWA cases, DSS must document active efforts. GAL advocates for appropriate services and placement.
 - 6. Review Hearings (Every 6 Months):** GAL files report before each review assessing reasonable/active efforts, child's well-being, and progress toward permanency. Tribal representatives participate in ICWA cases.
 - 7. Permanency Hearing (Within 12 Months):** Court identifies permanent plan: reunification, adoption, tribal customary adoption, guardianship, or APPLA.
 - 8. TPR & Post-Permanency:** TPR under SDCL § 26-8A-26 et seq. In ICWA cases, the burden is 'beyond a reasonable doubt.' GAL continues advocacy through post-permanency placement stability.
-

6. ICWA & Tribal Inquiry — South Dakota

***SD ICWA Priority:** Native American children are approximately 14% of SD's child population but historically over 50% of children in foster care. Federal and tribal oversight of ICWA compliance in SD is active and intensive. GALs must be proactive and technically accurate — this is not an area for shortcuts.*

The Indian Child Welfare Act (25 U.S.C. §§ 1901–1963) applies when a child is a member or eligible for membership in a federally recognized tribe. South Dakota has NINE federally recognized tribal nations.

- ✓ Ask both biological parents about any Native American or Alaska Native ancestry at the very first hearing.
- ✓ Document the ICWA inquiry explicitly in your case notes and in the court record.
- ✓ If any SD tribal affiliation is indicated, notify DSS immediately for formal tribal notification.
- ✓ The tribe — not DSS, the family, or the GAL — determines ICWA eligibility.
- ✓ Placement preferences under § 1915: Indian extended family first, then other tribal members, then other Indian families.
- ✓ Active efforts (not reasonable efforts) must be made to prevent breakup of the Indian family — a significantly higher standard.
- ✓ TPR of an Indian child requires 'beyond a reasonable doubt' — the highest burden in child welfare law.

SD's Nine Tribal Nations:

- Cheyenne River Sioux Tribe (Eagle Butte)
- Crow Creek Sioux Tribe (Fort Thompson)
- Flandreau Santee Sioux Tribe (Flandreau)

- Lower Brule Sioux Tribe (Lower Brule)
 - Oglala Sioux Tribe (Pine Ridge)
 - Rosebud Sioux Tribe (Rosebud)
 - Sisseton Wahpeton Oyate (Agency Village)
 - Standing Rock Sioux Tribe (Fort Yates, ND / Sioux County, SD)
 - Yankton Sioux Tribe (Marty)
-

7. Education Rights of Foster Youth

SD's ESSA implementation and SD Administrative Rule 24:43 require school districts and DSS to collaborate to keep foster children in their school of origin when it is in their best interests. Transportation must be provided even across district lines.

- ✓ Obtain school records and most recent report card at every case review.
- ✓ Ask whether the child has an active IEP or 504 Plan — IDEA rights follow through all placement changes.
- ✓ Contact the district's Foster Care Point of Contact (FCPOC) for school of origin or enrollment issues.
- ✓ For Native American children, advocate for access to tribal education programs and cultural programming.
- ✓ Verify your authority in the court order before consenting to educational decisions for children in DSS custody.
- ✓ Report school absences exceeding 10 cumulative days in your court report.

Extended Foster Care (EFC): SD offers EFC for youth ages 18–21 under the federal Fostering Connections Act. Eligibility requires enrollment in school, vocational training, or employment of 80+ hours/month. Advocate for EFC planning beginning at age 16. For Native American youth, connect with tribal EFC programs where available.

8. Courtroom Practice

Before the Hearing

- File written report with the Circuit Court clerk AND serve all parties in advance (check local rules).
- In ICWA cases, ensure the tribal representative has received your report before the hearing.
- Review the prior order for compliance issues, particularly active efforts obligations in ICWA cases.
- Talk with the child in age-appropriate terms about what will happen.

During the Hearing

- Address the judge as 'Your Honor.' Remain standing when addressing the court.
- Present your report clearly and concisely — rural circuit judges cover large territories.
- In ICWA cases, be prepared to address tribal placement preferences and active efforts explicitly.
- State any objections to proposed orders clearly and specifically on the record.

After the Hearing

- Obtain a copy of the signed Circuit Court order. Review for ICWA-specific findings if applicable.

- Review for any tasks assigned to DSS, parents, tribal entities, or the GAL.
 - Communicate the outcome to the child in age-appropriate, culturally sensitive terms.
 - Update case notes and begin preparing for the next review period immediately.
-

9. Local Resources — Sioux Falls Metro

- **CASA of South Dakota — Sioux Falls** — (605) 336-2272 | casaofsd.org
 - **Minnehaha County DSS — Child Protection** — (605) 367-7460
 - **Sanford Children's Hospital** — (605) 333-7000 | sanfordhealth.org
 - **Avera McKennan Hospital — Children's Behavioral Health** — (605) 322-8000 | avera.org
 - **East River Legal Services** — (605) 336-9230 | sdlawhelp.org
 - **Lutheran Social Services of SD** — (605) 357-0100 | lsssd.org
 - **St. Francis House — Sioux Falls (emergency shelter)** — (605) 334-3624 | stfranchishouse.org
 - **211 Helpline — United Way of the Plains** — Dial 2-1-1 | sd.211.org
-

10. Mental Health Resources

- **SD Division of Behavioral Health (DBH)** — dss.sd.gov/behavioralhealth | (605) 367-5236
 - **SD Community Mental Health Centers (regional providers)** — Public mental health services for children in DSS custody statewide
 - **Trauma-Focused CBT (TF-CBT) Providers** — Request TF-CBT specifically — the evidence-based standard for childhood trauma
 - **Tribal Behavioral Health Programs (nine SD tribal nations)** — Culturally appropriate mental health services — often most effective for Native American children
 - **SD Crisis Line** — 1-800-691-4336 (24/7)
 - **988 Suicide & Crisis Lifeline** — Dial or text 988 (24/7)
-

11. Housing & Basic Needs

- **SD Youth in Transition (YIT) Program** — Life skills and housing support for aging-out foster youth | dss.sd.gov/fostercare
- **Extended Foster Care Housing (ages 18–21)** — Supervised independent living placements with DSS housing support
- **Tribal Housing Programs (nine SD tribes)** — Tribal housing may be culturally important option for aging-out Native American youth
- **SD Housing Development Authority (SDHDA)** — Rental assistance and Housing Choice Voucher | sdhda.org | (605) 773-3181
- **SNAP — SD DSS** — Youth exiting at 18 eligible without income verification | dss.sd.gov/foodstamps
- **WIC — SD Department of Health** — Nutrition assistance for children under 5 | doh.sd.gov/wic

12. Court Report Writing Guide

The court report is your primary advocacy tool. In ICWA cases, it must address active efforts and ICWA placement compliance explicitly to withstand appellate scrutiny. A well-written report educates the Circuit Court judge on facts the court record may not otherwise capture.

- 1. Case Identification:** Child's name/initials, case number, Circuit Court and county, hearing date, GAL contact, date of last visit. In ICWA cases: note the tribe and any tribal representatives involved.
- 2. Sources Reviewed:** List documents (DSS case plan, school records, medical records, tribal social services records if applicable, prior orders) and individuals interviewed.
- 3. Current Placement & Well-Being:** Describe placement, child's adjustment. In ICWA cases: note whether placement satisfies § 1915 preferences or document good cause for any deviation.
- 4. Services Status & Active Efforts:** In ICWA cases: specifically assess whether DSS is making 'active efforts' — not merely referrals. Flag services ordered but not provided.
- 5. Parental Progress:** Objective facts on parent compliance and visitation. In ICWA cases: note culturally significant visits (cultural events, language learning, etc.).
- 6. Child's Views & Cultural Connection:** For Native American children: report specifically on tribal identity, language, extended family, and community connection — legally relevant under ICWA and BIA regulations.
- 7. Best-Interest Recommendation:** State your recommendation clearly and specifically. In ICWA cases: address how your recommendation aligns with or departs from ICWA placement preferences with good cause explanation.
- 8. Requested Court Orders:** List specific orders requested. In ICWA cases: ensure proposed orders include explicit ICWA compliance findings where required by statute.

Disclaimer: This handbook is a reference resource only and does not constitute legal advice. Laws and program structures change frequently. Always verify current information with your supervising CASA supervisor before relying on it in any legal proceeding. In ICWA cases, consult with tribal representatives and your program's legal advisor to ensure full compliance.