

Instructions for Parenting Time Enforcement

The Term "Visitation" was changed to "Parenting Time" by the South Dakota Legislature. "Parenting Time" means the time a parent spends with a child regardless of the custodial designation regarding the child.

READ THESE INSTRUCTIONS AND REVIEW THE FORMS BEFORE BEGINNING

IMPORTANT NOTICES

- The Court expects every person who appears in court without an attorney to know and follow the law. The Judge will not be able to give you any help in court.
- Court employees **cannot** help you fill out forms or give you legal advice. If you have questions please **consult an attorney**.
- You must follow the instructions included in this packet.
- Type your answers or print neatly using dark ink.

Instructions for Parenting Time Enforcement

REQUIREMENTS OF THE LAW: SDCL 25-4A-2. *Any party granted visitation rights to a child by a court decree may Petition the court to enter an Order to Show Cause why the other party should not be held in contempt of court for violation of the decree relating to visitation of the child. Upon receipt of a written Petition for an Order to Show Cause, the Court may issue such an order and will schedule a hearing date.*

- If you have a visitation order from a court in South Dakota,

AND

- The other party has disobeyed the decree, temporary order, or other court order for custody or visitation,

YOU MAY FOLLOW THESE INSTRUCTIONS AND ASK THE COURT TO ENFORCE THE COURT ORDER:

1. Fill out the Petition for Order to Show Cause Hearing (Form UJS-376). The information to fill in the top part of the forms (called the Caption) can be found at the top of your current visitation Order. Be sure to copy the information **exactly** as it is on your current visitation Order.
2. Sign the Petition **in the presence** of a Notary Public. By signing your name you are telling the court that you are telling the truth and that you have a good faith reason for your requests. If you are not telling the truth, or if you are misleading the court, or if you are serving or filing this document for an improper purpose, the court can impose penalties.

3. Do not fill out any information on the Order to Show Cause (Form UJS-377), **EXCEPT** for the caption. The Judge will complete the Order to Show Cause, if the Judge orders a hearing.
4. Make copies of all paper work for your file.
5. File the **original** Petition with attached copy of prior visitation order and the proposed Order to Show Cause with the Clerk of Court along with the filing fee of \$50.00.
6. Based upon the information within the Petition and the prior visitation court order, the Judge may sign the proposed Order to Show Cause. If the Judge signs an Order to Show Cause, the clerk will notify you that a date for a hearing has been set.
7. Once a hearing date has been set, you must serve a copy of the Petition to Show Cause and a copy of the Order to Show Cause on the other party, which means you must give all the documents to the other party and you **must** provide proof to the Court that you did serve all the documents to the other party.
8. Service can be accomplished in two ways.
 - a. Make a copy of Petition and the Order to Show Cause and a copy of the Admission of Service (Form UJS-376) and mail to the other party. The other party is not required to sign the Admission of Service, but they may choose to sign the Admission and mail it back to you.
 - or**
 - b. If you do not think the other party will sign the Admission of Service or if the other party refuses to sign the Admission, you may take your paper work to the local sheriff's office and pay the sheriff to serve the other party. The sheriff will provide proof of Service for the Court.
9. Once you have proof that the other party was served you **must** file with the Clerk of Court the original Proof of Service (either the Admission of Service or the Sheriff's written documentation showing the other party was served).
10. **Failure to file** any of these documents with the clerk of courts may result in the dismissal of your petition.
11. You must go to court on the date set for the hearing. Be sure to be on time. Bring your copies of your documents with you to the hearing. **Do not** bring child(ren) to the hearing. Take any proof you have or witnesses who can verify your loss of visitation rights to the hearing. The hearing is very formal. You should be polite to everyone in the courtroom and address the Judge as "your honor." Remember to talk to the Judge, not the opposing party. Do not argue with the other party.

4. Current address of minor child(ren): _____

City: _____ State: _____ Zip: _____

5. The addresses of minor child(ren) for the past five years: (Please attach additional pages if necessary): _____

6. Names and addresses of all persons with whom the child(ren) has lived during the past five years: _____

7. I have/have not (circle one) participated in any capacity in any other legal proceeding that concerns the custody or visitation with the child(ren)?

If so please explain: _____

8. I know/do not know (circle one) of any proceeding (Protection Order, adoption, termination of parental rights, etc) which could effect this proceeding?

If so please explain: _____

9. Names and addresses of any person not a party to this proceeding who has the physical custody of the child or claims rights to the legal and/or physical custody of or visitation with the child(ren).

THEREFORE, I ask that the Court enter an Order to set a date for a Hearing to enforce my visitation rights and hold _____ (person receiving Petition) in contempt for violating my visitation rights. I further request whatever other relief the Court believes justified.

My current address is: _____

State _____ Zip Code _____.

The Plaintiff/Defendant's (circle one) current address is _____

State _____ Zip Code _____.

Signature (person filing Petition)

Date

State of South Dakota)
)ss.
County of _____)

On this _____ day of _____, 20____, I swear under oath that the allegations set forth in this Petition are true and correct to the best of my knowledge, and that I believe that I am entitled to the relief requested for, and that this legal action is not filed for harassment, abuse of process, or delay.

Signature (person filing Petition)

Signed and sworn to before me this _____ day of _____, 20____.

(SEAL)

Signature (Notary Public)
Commission Expires:

STATE OF SOUTH DAKOTA

)

IN CIRCUIT COURT

COUNTY OF _____

)SS.

_____ JUDICIAL CIRCUIT

)

)

No. _____

)

Plaintiff,

)

)

v.

)

ORDER TO SHOW CAUSE

)

)

Defendant.

)

)

To: _____.

Pursuant to SDCL 25-4A-1 and SDCL 25-4A-2, a petition has been filed with the Circuit Court to request an Order to Show Cause why Plaintiff/Defendant (circle one) should not be held in contempt of court for violation of a decree relating to visitation.

Upon review of the file and having considered all of the information presented to it within the Petition and having considered the prior custody or visitation court Order on file, and for good cause shown, the Court orders as follows:

IT IS HEREBY ORDERED: That a Hearing on the matter be scheduled on the _____ day of _____, 20____, at _____ o'clock ____m. At which time you must show any reasons why you have not allowed the Petitioner to exercise visitation. Your failure to appear may result in a warrant for your arrest being issued.

Dated this _____ day of _____, 20____.

BY THE COURT:

Circuit Court Judge

ATTEST:

Clerk

(SEAL)

By: _____, deputy

STATE OF SOUTH DAKOTA

)

IN CIRCUIT COURT

COUNTY OF _____

)SS.

_____ JUDICIAL CIRCUIT

Plaintiff,

)

No. _____

)

v.

)

ADMISSION OF SERVICE

)

Defendant.

)

)

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You must sign and date the admission part of this form in front of a notary or Clerk of Court and return completed form to the sender within twenty days. You may want to keep a copy for your records. If you are served on behalf of another person and you are authorized to receive process, you must indicate under your signature your authority.

If you do not complete and return the form to the sender within twenty days, you may be required to pay any expenses incurred in serving a summons in any other manner permitted by law.

ADMISSION OF SERVICE OF PETITION

I, _____, admit personal service of the Petition and Order to Show Cause by my receipt of said copies at _____, South Dakota, on this ___ day of _____, 20__.

Signature (person receiving Petition)

Date

Signed and sworn to before me this _____ day of _____, 20__.

(SEAL)

Notary Public/Clerk of Court
Commission Expires: