

Checklist for Child Custody, Parenting Time, and Support Action

These forms are related to specific South Dakota Codified Laws (SDCL) concerning child custody matters. You can find these laws on the South Dakota Legislature website. If you have any legal questions, it is highly recommended that you consult with an attorney. Court staff are unable to provide legal advice or assist with form completion. For specific questions related to the forms, you can also contact the Legal Form Help line at 1-855-784-0004 or email UJS staff at ujssrlhelp@uj.s.state.sd.us.

Before You Begin

If you are the person starting a child custody, parenting time, and support action, you are the Plaintiff on all forms. The other parent will be referred to as the Defendant. This form serves as a simple checklist outlining the steps for the Plaintiff and Defendant in a child custody, parenting time, and support proceeding. Each form mentioned in this checklist will include instructions.

If paternity has not yet been established, you should contact [South Dakota Department of Social Services](#).

Remember that all original copies of any form must be filed with the Clerk of Court, who upon request will provide you with file stamped copies. Before submitting anything to a Sheriff, process server, or opposing party, make sure to retain a copy for your own records.

FOR THE PLAINTIFF – Starting a Child Custody, Parenting Time, and Support Action

1. Complete a Case Filing Statement (UJS-232) for each party.
2. Complete the Summons (UJS-181) and attach a copy of the current South Dakota Parenting Time Guidelines (UJS-302) to the back.
3. Complete the Complaint (UJS-182).
4. File the original copies of each of the forms listed above with the Clerk of Court along with the required \$72 filing fee.
 - a) **WAIVER OF FILING/SERVICE FEE** - If you cannot afford the \$72 filing and or service fee, please complete the Motion, Affidavit, and Order to Waive Filing Fee (UJS-022) and submit it with the above forms in lieu of the \$72.
5. Serve the Defendant with the Summons (UJS-181), attached South Dakota Parenting Time Guidelines (UJS-302), the Complaint, and a blank Case Filing Statement (UJS-232).
 - a) For more detailed instructions on how to serve the Defendant, please refer to the Instructions in form UJS-183.
6. File the proof of service with the Clerk of Court (ex. Sheriff Return, Certificate of Service, etc.)

PLEASE NOTE: REGULAR OR CERTIFIED MAIL IS NOT CONSIDERED PROPER SERVICE

FOR THE DEFENDANT – Answering a Summons and Complaint

If you've been served with a Summons and Complaint for Divorce, you have thirty days from the date of service to file an Answer. Failing to do so could lead to a Default Judgment being filed against you. To complete and file your Answer, follow these steps:

1. Read and follow the Initial Custody Order in the Summons (UJS-181).
2. Complete a Case Filing Statement (UJS-232).
3. Complete the Answer and Statement of Mailing (UJS-184).
4. File the original copies of the forms listed above with the Clerk of Court in the county the case was filed in, along with the required \$25 Answer fee.
 - a) **WAIVER OF FILING FEE** - If you cannot afford the \$25 Answer fee, please complete the Motion, Affidavit, and Order to Waive Filing Fee (UJS-022) and submit with the above forms in lieu of the \$25.
5. Mail a copy of the above forms to the Plaintiff.

South Dakota Parenting Course – *Must be completed by both parties.*

According to South Dakota law, all parties involved in an action related to child custody or parenting time, must complete a court-approved parenting course within sixty days of being served with the Summons and Complaint. Failure to comply may result in delays in regard to finalizing these proceedings.

1. **Course Requirement:** Both parents must complete the court-approved parenting course. The course aims to educate participants about the impact of proceedings on children and provide parenting guidelines.
2. **Waiver or Delay:** Participation in the course can only be waived or delayed if:
 - a. Good cause is shown.
 - b. The individual has previously completed a court-approved course within the last five years.
3. **Requesting a Waiver:** If you believe you have good cause to waive the required parenting course, complete and file the Affidavit on Court-Approved Parenting Course (UJS-364) form and file the original with the Clerk of Court.
4. **Course Information:** For more details about court-approved parenting classes, visit the [South Dakota Unified Judicial website parenting classes page](#).

Stipulated Child Custody Agreement – *Must be completed by both parties.*

If/When both parties come to an agreement regarding the terms and conditions of child custody, parenting time, and support, both parties are required to complete and file the following forms:

1. Complete the Financial Statement (UJS-023).
2. Stipulation, Custody, Parenting Time, and Support Agreement (UJS-185). All pages must be initialed and signed by both parties.

3. Complete and attach child support calculation to your Stipulation, Custody, Parenting Time, and Support Agreement. The Child Support Obligation calculator which can be found on the [Department of Social Service's website](#).
4. File the originals of the completed forms with the Clerk of Court.

Finalizing a Stipulated Child Custody and Support Agreement – *Can be completed by either party.*

If both parties have signed the stipulation and the stipulation has been filed with the Clerk of Court, you may proceed as follows:

1. Complete form UJS/DSS-089 and file with the Clerk of Court.
2. Complete the Order (UJS-186): Fill out this form and either file the original with the Clerk of Court or bring it to your hearing if one is required. Carefully read the instructions and complete the form as directed. Please contact the Clerk of Court to determine whether a hearing is required.
 - a) Attach SDCL 25-4A-5 Sanctions for Violation of Custody or Visitation Order.
3. If the Order is granted, the Judge will sign, and a copy will be provided to the parties.
4. A certified copy of the signed Order (UJS-186) will also need to be provided to the Department of Health, Vital Records:

SOUTH DAKOTA DEPARTMENT OF HEALTH
VITAL RECORDS OFFICE
221 W CAPITOL AVE
PIERRE SD 57501

Notice of Entry of Order– *Can be completed by either party.*

Once the Judge has signed the Order, the Clerk of Court will provide you with signed certified copies. To finalize the process, follow these steps:

1. Complete and File the Notice of Entry of Order (UJS-186)
2. Complete the Statement of Mailing: You may obtain this form from the Clerk of Court. Again, depending on the county, either the Clerk of Court will complete it or provide you with the form for completion. Check with the Clerk of Court in your county.
3. File the originals of both the Notice of Entry and the Statement of Mailing with the Clerk of Court.
4. Mail a copy of the Notice of Entry, the Statement of Mailing, and the signed, certified copy of the Order (UJS-186) to the opposing party.

***This process can be completed by either party.**

Contested Custody, Parenting Time, and Support Action (The Parties cannot agree on some or all of the terms of the custody, parenting time, and support proceeding)

1. If the parties cannot agree on the terms and conditions of the case, one party will have to request that mediation, a hearing, or trial, be scheduled.
2. Contact the Clerk of Court or Court Administrator to obtain a court date.
3. Complete a Notice of Hearing (UJS-336), available on the Unified Judicial System website under the [General Motions page](#) and make two copies. File the original. Send one copy to the other party and keep a copy for yourself.
4. Complete the Statement of Mailing (UJS-338), available at the General Motions link given immediately above. Make one copy for yourself and file the original.
5. If the parties cannot reach an agreement, the Judge can order them both to mediation. A Court-approved mediator will help the parties mutually agree on the various issues in your custody case. Mediation is not binding, and the issues discussed in mediation are confidential. Instructions and forms to request mediation can be found on the [Unified Judicial System Mediation web page](#).

For more information on your case or to track events you may register as a user on eCourts.