

INSTRUCTIONS AND FORM FOR ORDER (CUSTODY 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 completing the form. For specific questions related to the form, you can contact the Legal Form Help Line at 1-855-784-0004 or email UJS staff at ujssrlhelp@uj.s.state.sd.us.

To complete this form, you will need to:

1. Complete the caption of the Order.
 - a) County (insert county name).
 - b) Judicial Circuit (insert circuit number).
 - c) Enter the Plaintiff and Defendant's Name on the lines provided.
 - d) Enter the case number. If you are not aware of the case number, please contact the Clerk of Court.
 - e) In the first paragraph you will enter the day, month, and year the Defendant was served the Summons and Complaint. You can refer to the proof of service, if they were served by sheriff or process server or the Admission of Service if they signed one, to find the date they were served.
 - f) Complete number 2 by entering the child(ren)'s name, date of birth and city, county, and state of their birth.
 - g) Complete number 5 with the parties agreed upon child support.
 - h) For number 6, enter the month and year child support will begin.
 - i) Leave the remainder blank for the Judge to sign.
 - j) File with the Clerk of Court.

COUNTY OF _____

_____ JUDICIAL CIRCUIT

_____ Plaintiff v. _____ Defendant	FILE NO.: _____ ORDER (CUSTODY ACTION)
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The above-entitled matter came before this Court on the ____ day of _____, 20____. It satisfactorily appearing to the Court from the records and files herein that the Defendant was duly served with the Summons, South Dakota Parenting Time Guidelines and Complaint on the ____ day of _____, 20____, and that the parties thereafter entered into the Stipulation, Custody, Parenting Time & Support Agreement on file in this case. After considering the record in this case, the Court finds and concludes that it has jurisdiction over the parties and the subject matter of this case, and that the parties have expressly waived entering of Findings of Fact and Conclusions of Law. Now therefore,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

1. That the Stipulation, Custody, Parenting Time & Support Agreement (Custody Action) on file between the parties is hereby approved and by this reference made a part of this Judgment and Order as it is fully set forth.
2. The above-named parties are the biological parents of the following named child(ren):

Name of Child on Brith Certificate	Date of Birth	City, County, and State of Birth

3. The child(ren)'s birth certificates shall be amended to reflect that both parties are listed as the child(ren)'s parents.
4. If the child(ren)'s birth certificate needs to be amended, the Plaintiff must provide the Office of Vital Records-equivalent agency in the state(s) where the child(ren) was/were born with a certified copy of this "Order (Custody Action)" and pay any applicable filing fee for amending the child(ren)'s birth certificate; that the agency/agencies in the state(s) where the child(ren) was/were born locate the child(ren)'s birth certificate using the identifying information above and verify that information within the state's vital records registration system; and that the agency/agencies, within a reasonable time after receiving both the certified copy of this "Order (Custody Action)" and any applicable fee from the Plaintiff, amend the child(ren)'s birth certificate as set forth herein.
5. _____ (insert name of party) shall pay child support for the support and maintenance of the minor child(ren) in the amount of \$_____ per month which includes (check all the boxes that apply):
 - A. his/her proportionate share of the health insurance provided by the Plaintiff / Defendant (circle one) for the parties' minor child(ren);
 - B. his / her proportionate share of day care expenses for the minor child(ren);
 - C. an annualized abatement of \$_____per month that is allowed for_____nights per month with the noncustodial parent, based on the Court's calculation pursuant to SDCL 25-7-6.14;
 - D. a cross-credit calculation for the shared parenting plan, as allowed in SDCL 25-7-6.27;
 - E. a deviation of \$_____per month based on facts established on the record per SDCL 25-7-6.10(____).
6. The child support obligation shall commence on the 1st day of _____, 20_____.
7. Pursuant to SDCL 25-5-18.1, the support obligation shall continue until each child attains the age of eighteen (18) or until each child attains the age of nineteen (19) if the child is a full-time student in secondary school.

8. The current or subsequent employer of the parent obligated to pay support shall be immediately directed to withhold amounts for current support and arrearage as specified herein and as provided in SDCL 25-7A-23 and shall transmit said amount as provided in SDCL 25-7A-34.
9. Until otherwise notified by the Department of Social Services-Division of Child Support, all payments shall be made payable to "Division of Child Support" and mailed to:

Division of Child Support
700 Governors Drive, Suite 84
Pierre, SD 57501-2291

10. That SDCL 25-4A-5 is attached as required by 25.4A-5.1 and shall become an Order of this Court.
11. All of the other terms and conditions specifically set forth in the Stipulation are hereby approved and incorporated as if fully set forth in this Order.

Dated this ____ day of _____, _____.

BY THE COURT:

ATTEST:

CIRCUIT COURT JUDGE

Clerk of Court

BY:

Clerk/Deputy Clerk

(SEAL)

25-4A-5.Sanctions for violation of custody or visitation decree.

If the court finds that any party has willfully violated or willfully failed to comply with any provisions of a custody or visitation decree, the court shall impose appropriate sanctions to punish the offender or to compel the offender to comply with the terms of the custody or visitation decree.

The court may enter an order clarifying the rights and responsibilities of the parents and the court's order.

The court may order one or more of the following sanctions:

- (1) To require the offender to provide the other party with make up time with the child equal to the time missed with the child, due to the offender's noncompliance;
- (2) To require the offender to pay, to the other party, court costs and reasonable attorney's fees incurred as a result of the noncompliance;
- (3) To require the offender to pay a civil penalty of not more than the sum of one thousand dollars;
- (4) To require the offender to participate satisfactorily in counseling or parent education classes;
- (5) To require the offender to post bond or other security with the court conditional upon future compliance with the terms of the custody or visitation decree or any ancillary court order;
- (6) To impose a jail sentence on the offender if not more than three days; or
- (7) In the event of an aggravated violation or multiple violations, the court may modify the existing visitation or custody situation, or both of any minor child.

The provisions of this section do not prohibit the court from imposing any other sanction appropriate to the facts and circumstances of the case

Source: [SL 1994, ch 195](#), § 5; [SL 2008, ch 125](#), § 1; [SL 2018, ch 155](#), § 3.