

INSTRUCTIONS FOR UNCONTESTED CUSTODY, VISITATION AND SUPPORT ACTION

ALL FORMS IN THIS PACKET MAY **ONLY** BE USED BY PARENTS WHEN BOTH PARENTS AGREE ON THE FATHER, THE MOTHER WAS NOT MARRIED AT THE TIME OF THE CHILD(REN)'S BIRTH(S), THERE IS NO PATERNITY AFFIDAVIT DESCRIBING ANOTHER PERSON AS THE FATHER, AND THERE IS AN AGREEMENT ON CUSTODY AND VISITATION. THESE FORMS ARE **NOT** DESIGNED TO ASSIST PARENTS WHO DO NOT AGREE ON THESE MATTERS. IF YOU DO NOT AGREE, YOU ARE STRONGLY ADVISED TO OBTAIN AN ATTORNEY TO PROTECT YOUR RIGHTS.

Who Can Use These Forms?

1. Does the Father acknowledge that he is the biological father of the child(ren)?
 Yes. Please answer the next question.
 No. You may not use this form.
2. Was/were the child(ren) born while the Mother was married or within ten months after divorce?
 Yes. You may not use this form.
 No, there is no paternity affidavit. Please answer the next question.
3. Has a paternity affidavit been filed with the child(ren)'s birth certificate?
 Yes, there is a paternity affidavit. You may not use this form.
 No, there is no paternity affidavit. You may use this form. Please answer the next question.
4. Do the parents agree who will have legal custody?
 Yes. Please answer the next question.
 No. You may not use this form.
5. Do the parents agree who will have physical custody?
 Yes. Please answer the next question.
 No. You may not use this form.
6. Do the parents agree on how to share parenting time with the minor child(ren)? (For example, splitting holidays, sharing summer visitation, etc.).
 Yes. Please answer the next question.
 No. You may not use this form.
7. Is there an existing valid protection order protecting the child and/or custodial parent from the non-custodial parent AND is visitation addressed in the protection order or in another file initiated after the protection order was entered?
 Yes. You do not need to complete this form.
 No. Please answer the next question.
8. Within the previous 12 months, was the other parent convicted of a violation of a protection order, criminal assault, child abuse or other domestic violence AND, if so, was visitation NOT addressed after conviction AND were you or the child the victim?
 Yes. You do not need to complete this form.
 No. Please complete the form.

How Do I Complete These Forms?

- **Complete all forms in black or blue ink only!**
- **Make sure the caption (the top portion of each document) is filled out correctly. The caption should be the same for each document.**

The caption should include:

- County where the action is being started;
- The judicial circuit in which that county is located within (“First,” “Second,” . . . “Seventh”). There are 7 judicial circuits in South Dakota. To locate the circuit, please refer to www.ujs.sd.gov under the “Court Finder” tab;
- Full legal name of Plaintiff;
- Full legal name of Defendant; and
- Case filing number – this will be provided to you by the Clerk of Courts when you set up your case.

The caption needs to be the same on all of the forms provided to the Clerk of Courts in this action.

STARTING THE CASE:

_____ Complete the Case Filing Statement (Form UJS-232) available in this packet. This document is self-explanatory and must be provided to the Clerk of Courts.

_____ Complete the Summons (Paternity Action) (Form UJS-181). Attach a copy of the South Dakota Parenting Guidelines (Form UJS-302) to this Summons. The Guidelines can be found at www.ujslawhelp.sd.gov.

Make sure you date and sign the form and complete all information requested after your signature.

It is very important that you read and follow the Initial Custody Order contained within the Summons that becomes automatic when you file your documents. This is a court order and both parties are required to abide by it, unless you have both agreed to another arrangement. Violation of any of these terms could subject you to penalties and delay your action. Read it carefully.

_____ Complete the Complaint (Paternity Action) Form (UJS-182). Complete this form in its entirety. If a provision does not apply to you, please indicate it is not applicable by writing “N/A.”

You must sign and date the Complaint in the presence of a notary public or Clerk of Court. Make sure to bring photo identification to show the notary public or Clerk of Court. A notary public can usually be found at the bank or courthouse.

**** Your signature is required in 2 places! ****

WARNING: 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, if you are misleading the court, or if you are serving or filing this document for an improper purpose, the court could find you in contempt or you could be charged with a crime for not telling the truth.

_____ Make at least two photocopies of all documents, one for you and one to serve on the other parent.

_____ Take the original completed Case Filing Statement, Summons, SD Parenting Guidelines, and Complaint to the Clerk of Court and tell the Clerk you want to start a Paternity Action.

_____ Pay the \$72.00 filing fee; **OR**

_____ If you cannot afford the filing fee, you must complete the Motion & Order to Waive Fee & Service of Process Fee (Form UJS-022) AND the Financial Affidavit (Form UJS-023), found at <https://ujslawhelp.sd.gov/WaiverofFees.aspx>. Present the Motion, Financial Affidavit, AND a **blank** Order Waiving Filing Fee And Service of Process Fee (Form UJS-028) to the Clerk of Court. The Clerk will present them to the judge and will be notify you if the fees have been waived or if you must pay them. If the Motion is granted, you will not be charged the filing fee and/or the Sheriff will not charge you for service of process. If your Motion is denied by the judge, you must pay the filing fee and service of process fee in order to proceed with the case. If the filing fee isn't paid within 30 days, your case will be dismissed.

_____ Arrange for service on the defendant. The different ways to serve the defendant are set forth in the "Instructions for Service of Summons (Paternity Action), South Dakota Parenting Guidelines & Complaint" (Form UJS-184).

_____ Copies of the following documents **MUST** be served on the defendant:

- _____ Summons (Paternity Action);
- _____ South Dakota Parenting Guidelines; and
- _____ Complaint (Paternity Action).

_____ Upon receipt of the proof of service (either the date the Admission of Service is signed by the Defendant or the date the Summons and Complaint are delivered to the Defendant by the Sheriff or process server), make a copy of proof of service for you and file the original proof of service with the Clerk of Court. Service of the Summons and Complaint starts the lawsuit and starts the 30 days in which the Answer must be filed.

_____ An Answer may be filed by the defendant within 30 days after service of the Summons

(Paternity Action), South Dakota Parenting Guidelines and Complaint (Paternity Action). If an Answer is filed, the matter is no longer uncontested, and the remaining forms in this packet are no longer appropriate. At that point, you are strongly encouraged to meet with and hire an attorney to protect your rights and interests.

Within sixty days of the date of service of the Summons and Complaint, you must complete a Court-approved parenting course per SDCL 25-4A-32. This requirement is met if you and the Defendant have completed a Court-approved course within the last five years. The Judge can also waive the requirement, but only for good cause shown. You must file an Affidavit on Court-Approved Parenting Course (UJS-364) with the Clerk to either provide proof of meeting the requirement or to seek waiver of the requirement. If you seek a waiver, file the Affidavit well in advance of the deadline.

PUTTING YOUR AGREEMENT IN WRITING:

Complete UJS Form-185 which is called the “Stipulation, Custody, Parenting Time & Support Agreement.” Read this document carefully and follow the instructions contained within this document.

The South Dakota Parenting Guidelines provides the *minimum* guidelines if you need some assistance in completing this section.

If you don’t have a child support order, **make sure you provide the child support calculation for the Judge’s consideration. Child support must be calculated before an Order will be signed.** A child support obligation calculator or shared parenting child support obligation worksheet can be found on the Department of Social Services website: <https://dss.sd.gov/childsupport/obligationsdetermined.aspx>.

Any modification of an existing child support order requires that you obtain a Petition for Modification of Child Support Obligation from the Department of Social Services and follow the associated process. For more information, please review this webpage: <https://dss.sd.gov/childsupport/modifysupportorder.aspx>.

Once the form is complete, make at least two photocopies of the signed Stipulation; one for you and one to be served on the other parent. The original copy must be filed with the Clerk of Courts.

WRAPPING IT UP...

When you file the Stipulation, Custody, Parenting Time & Support Agreement (Paternity Action), provide the Order (Paternity Action) (Form UJS-186) to the Clerk for the Judge’s consideration. The caption should be filled out.

Depending on your specific area, a hearing may or may not be required before the Judge will sign the Order.

Once the Order (Form UJS-186) is signed by the Judge, you will need to get a minimum of 2 certified copies of it. Send one certified copy to the Defendant along with the Notice of Entry of Order (Form UJS-187) and send one copy to Department of Health, Vital Records:

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

Additionally, if the Order establishes child support, you will need to fill out and file with the Clerk of Court a **UJS/DSS Form 089, Child Support Order Filing Data Form**.

WHAT IF WE NEED HELP?

If you and the other parent cannot agree upon certain provisions, you are strongly urged to contact an attorney of your choosing. Alternatively, parents have used mediators to help them reach an agreement. A list of mediators can be found on the UJS website at <https://ujs.sd.gov>.

CASE FILING STATEMENT – Information Only; Not Retained in Case Records

Provide the Case File No. for the record you are filing into or the Case Type if initiating a new action: _____

*A list of case types and party roles can be found here: <https://ujc.sd.gov/Attorneys/FormsDocumentation.aspx>

Social Security Numbers (not Driver’s License Numbers) must be provided for divorce, child support, & paternity cases, 42 USC 666(a)(13)(B). All filers are **required** to provide the SSN **or** DL# for each of **their** participants regardless of the case type. Business entities must provide the EIN number in lieu of SSN or DL#.

INFORMATION FOR PLAINTIFF/PETITIONER/APPLICANT:

_____	_____	_____	_____
Last/Business Name	First Name	Middle	Suffix
_____	_____	_____	_____
Physical Address <input type="checkbox"/> Check if Same as Mailing	City	State	Zip
_____	_____	_____	_____
Mailing Address	City	State	Zip
_____	_____	_____	_____
Home	Work	Cell	
_____	_____	_____	_____
Social Security No.	Date of Birth	Driver’s License No.	State Employer ID (Business)
Attorney:			
_____	_____	_____	
Last Name	First Name	State Bar ID No.	
_____	_____	_____	_____
Mailing Address	City	State	Zip

Phone			

INFORMATION FOR DEFENDANT/RESPONDENT/MINOR/DECEDENT/PERSON IN NEED OF PROTECTION:

_____	_____	_____	_____
Last/Business Name	First Name	Middle	Suffix
_____	_____	_____	_____
Physical Address <input type="checkbox"/> Check if Same as Mailing	City	State	Zip
_____	_____	_____	_____
Mailing Address	City	State	Zip
_____	_____	_____	_____
Home	Work	Cell	
_____	_____	_____	_____
Social Security No.	Date of Birth	Date of Death	Driver’s License No. State Employer ID (Business)
Attorney:			
_____	_____	_____	
Last Name	First Name	State Bar ID No.	
_____	_____	_____	_____
Mailing Address	City	State	Zip

Phone			

STATE OF SOUTH DAKOTA

IN CIRCUIT COURT

COUNTY OF _____

_____ JUDICIAL CIRCUIT

<p>_____</p> <p style="text-align: center;">Plaintiff</p> <p>vs</p> <p>_____</p> <p style="text-align: center;">Defendant</p>	<p>FILE NO: _____</p> <p style="text-align: center;">SUMMONS (PATERNITY ACTION)</p>
---	--

TO THE ABOVE-NAMED DEFENDANT:

YOU ARE HEREBY SUMMONED and required to answer the Complaint, a copy of which is herewith served upon you, and to serve the Plaintiff with a copy of your Answer or other proper response within thirty (30) days from the date of the service of the Summons upon you, exclusive of the day of service. IF YOU FAIL TO TIMELY ANSWER, judgment by default may be taken against you for the relief demanded in the Complaint.

INITIAL CUSTODY ORDER

Pursuant to SDCL 25-4A-11 et seq., upon service of this Summons the attached South Dakota Parenting Guidelines (Form UJS-302) become an order of this court. Except as provided in SDCL § 33-6-10, any minor child(ren) born or adopted to the above-named parties shall remain in the custody of the parent who has been the primary caregiver for the minor child(ren) for the majority of time in the twelve months preceding the filing of the Summons and Complaint, unless the parties otherwise agree. The guidelines are subject to any provision established by a South Dakota state court in the following: a temporary or permanent domestic protection order, an order arising out of an abuse or neglect proceeding, a bond condition arising out of a criminal case, and an order in any other proceeding affecting child custody or support. SDCL 25-4A-14.

The attached guidelines apply and shall continue in effect unless the parties agree or the court otherwise orders. Imposition of these standard guidelines creates no presumption as to who may be awarded custody at any hearing. Per SDCL 25-4A-12, any agreement by the parties for visitation other than the standard guidelines must be in writing, signed by both parties, and filed with the court. The agreed plan shall be approved by court order and replace the standard guidelines or any plan previously

filed.

Per SDCL 25-4A-13, if either party objects to the implementation of the South Dakota Parenting Guidelines (Form UJS-302) as the initial custody arrangement, the objecting party shall file an objection with the Clerk of Court. The court shall order a hearing which shall be held not later than 30 days after the date of the objection. The court shall then issue its temporary custody and visitation order after considering the best interest of the child(ren) consistent with the provisions of SDCL 25-4-45.

Dated this _____ day of _____, 20_____.

Plaintiff's Signature

Print Name

Mailing Address

City, State, Zip

Telephone Number

<p style="text-align: center;">_____ Plaintiff</p> <p style="text-align: center;">vs</p> <p style="text-align: center;">_____ Defendant</p>	<p>FILE NO: _____</p> <p style="text-align: center;">COMPLAINT (PATERNITY ACTION)</p>
---	--

1. Father’s full legal name is _____ and his date of birth is _____.
2. Father is a resident of _____ County, State of _____.
3. Mother’s full legal name is _____ and her date of birth is _____.
4. Mother is a resident of _____ County, State of _____.
5. Mother’s full maiden name on the child(ren)’s birth certificate(s) is _____.
6. Is Father an active duty member of the armed forces? Yes _____ No _____
7. Is Mother an active duty member of the armed forces? Yes _____ No _____
8. Father and Mother were never married, but have _____ child(ren) born or adopted to them:

<u>Name of Child on Birth Cert.:</u>	<u>Date of Birth:</u>	<u>City, County, and State of Birth:</u>
--------------------------------------	-----------------------	--

9. Father is the biological father of the above-named child(ren) as he has (*place an “X” next to all the statement(s) that apply*):

_____ Father has signed an Affidavit of Paternity agreeing he is the biological father of the above named child(ren) and the Affidavit complies with SDCL 25-8-50; **(attach a copy of the affidavit to this Complaint)**

_____ Submitted to a DNA test performed by a testing laboratory and with certified documentation that complies with SDCL 25-8-7.1 to 25-8-7.3, inclusive, verifying that he is the child(ren)'s biological father (**attach a copy of the documentation to this Complaint**);

_____ Father is listed as the natural father on the child(ren)'s birth certificate; and/or

_____ Father does not contest that he is the biological father of the above-named child(ren).

10. During the past five years the child(ren) have lived with the following persons at the times and places indicated below:

<u>Name of Person Living With:</u>	<u>County/State:</u>	<u>Dates:</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

11. There have / have not (*circle one*) been prior court proceedings regarding the parentage, custody, or support of the child(ren). If so, that action took place in _____ County, State of _____ in the year _____. **Attach all orders in those proceedings.**

12. Other than the parties, no one has ever had legal custody of any of these child(ren) except _____ (*if not applicable, write "none"*). **Attach all orders regarding custody of minor child(ren).**

13. In regards to custody, the Plaintiff alleges it would be in the best interests of the child(ren) as follows: (*Check one of the following*)

- Both parties are fit and proper persons to share the joint legal custody of the child(ren), with Plaintiff / Defendant (*circle one*) having primary physical custody, subject to reasonable visitation rights with Plaintiff / Defendant (*circle one*); or
- Plaintiff / Defendant (*circle one*) is the fit and proper person to have sole legal and physical custody of the minor child(ren), subject to visitation with the Plaintiff / Defendant (*circle one*) as follows: _____
_____; or

- Both parties are fit and proper persons to share the joint legal and physical custody of the minor child(ren), with the parents sharing the duties and responsibilities of parenting the child(ren), the child(ren) residing no less than 180 nights per calendar year in each parent's home and the parents dividing the expenses of the child(ren) in proportion to their incomes; or

Other _____

14. In regard to child support matters, including but not limited to daycare and health insurance, the Plaintiff requests the following:

- Child support has never been established and needs to be established in this action.
- Child support matters have been established and we do not wish to modify. ***Attach the current order regarding support of the minor child(ren).***

WHEREFORE, Plaintiff prays for Judgment as follows:

1. That Father be determined to be the legal father of the minor child(ren);
2. That legal and physical custody of the minor child(ren) as well as the parenting plan / visitation be established as requested herein;
3. That child support be established as requested herein; and
4. For such other and further relief as may be equitable and just.

Dated this _____ day of _____, 20_____.

Plaintiff's Signature

Print Name

Mailing Address

City, State, Zip

Telephone Number

VERIFICATION

STATE OF SOUTH DAKOTA)
 : SS
COUNTY OF _____)

Plaintiff, _____, being first duly sworn, deposes and states that he/she verifies the facts expressed within this Complaint are true.

Dated _____, 20____.

Plaintiff's Signature

Print Name

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

Notary Public/Clerk of Courts
If Notary, my commission expires: _____

(SEAL)

Instructions for Service of Summons (Paternity Action), South Dakota Parenting Guidelines and Complaint (Paternity Action)

WHICH DOCUMENTS NEED TO BE SERVED?

In order to start the action, the Defendant must be served with copies the following documents (the originals are filed with the Clerk of Court Office):

- Summons (Paternity Action);
- South Dakota Parenting Guidelines; and
- Complaint (Paternity Action).

HOW DO I SERVE SOMEONE?

The most common ways to serve the Defendant are:

- A. When the parties are agreeable to the terms, the Defendant will often agree to accept service, avoiding the need to have a Sheriff or private process server serve him/her. This means that as the Plaintiff, you may:
- Hand-deliver the above-itemized documents and the NOTICE AND ADMISSION OF SERVICE OF SUMMONS & COMPLANT (UJS-183) and attached ADMISSION OF SERVICE OF SUMMONS & COMPLAINT (UJS-183A) to the Defendant. **Do not include the attached Affidavit of Mailing on page 4);** or
 - Mail the above-itemized documents and 2 copes the NOTICE AND ADMISSION OF SERVICE OF SUMMONS & COMPLANT and attached AFFIDAVIT OF MAILING (UJS-183B) to the Defendant. You must include a return envelope, postage prepaid, addressed to you, the Plaintiff. **Do not include the attached Admission of Service of Summons & Complaint (page 3).**

The Defendant neither admits nor denies the contents of the documents; he/she merely admits that they received the documents on the specified date;

OR

- B. The Plaintiff can request that the Sheriff's Office or private process server serve the Defendant. Under this scenario, the Plaintiff delivers one full copy of the Summons, South Dakota Parenting Guidelines and Complaint to the Sheriff's Office along with the Defendant's current physical address, telephone number, place of employment and any other relevant information. Typically, the cost of service (the service fee and mileage reimbursement) is pre-paid. After service, the Sheriff

or process server has his own form that he/she uses to prove service and that form is usually mailed to you. Make sure you make a copy of this form for yourself and file the original with the Clerk of Court's office.

It is the act of “service” that actually starts the legal action. Therefore, it is very important that you file the proof of service!

IF YOU HAND-DELIVER OR MAIL THE DOCUMENTS TO THE DEFENDANT, HAVE THE DEFENDANT:

- Complete the Admission of Service of Summons (Paternity Action), South Dakota Parenting Guidelines and Complaint (Paternity Action) (Form UJS-183A):
- Complete the form in black or blue ink only!
- Complete the “caption.” This information will be the same as on the Summons (with Minor Children) and Complaint with Minor Children.
- The Defendant must fill in their full legal name in the body of the text.
- The Defendant must fill in the town, county and state of the place where he/she received the documents.
- The Defendant must fill in the date with the month, day and year he/she received the documents.
- The Defendant must complete the signature block with his/her signature, printed name, mailing address and telephone number.
- The Defendant should make a copy of the completed Admission for his/her own records and return the original document to the Plaintiff.

Note: You should also make a copy for your own records and then file the original Admission of Service (UJS-183A) or Affidavit of Mailing (UJS-183B) with the Clerk of Court.

SOUTH DAKOTA PARENTING GUIDELINES



Prepared by the 2021 South Dakota
Commission on Parenting Guidelines

**The South Dakota Parenting Guidelines are located on the
South Dakota Legal Self-Help Center found at www.ujslawhelp.sd.gov**

For more information, contact:

South Dakota Unified Judicial System
State Court Administrator's Office
500 E. Capitol Avenue
Pierre, SD 57501
605-773-3474

The Parenting Guidelines are not copyrighted and may be reproduced without prior permission of the South Dakota Unified Judicial System, State Court Administrator's Office.

SOUTH DAKOTA PARENTING GUIDELINES

Enforcement.

These Guidelines are required to be served with the Summons and Complaint in a divorce, paternity action or any other custody action or proceeding. See <https://ujslawhelp.sd.gov/onlineforms.aspx> under divorce or paternity actions for instructions on how to initiate an action (service of summons).

If the parents are able to agree to a schedule other than the guidelines, these Guidelines should be used as a *minimum* direction in creating the parenting time plan. Parents should agree to parenting times that they find reasonable and in the best interest of their children and the Parenting Guidelines are not intended to prevent such agreements.

If the parents are unable to agree on a parenting plan, these Guidelines become mandatory as the parenting plan and are enforceable as a court order upon initiation of a divorce or court action involving custody. SDCL 25-4A-11. If you disagree with the use of these Guidelines as your parenting time plan, either parent has the right to object. Your written objection shall be filed with the Clerk. After it is filed, a hearing will be held and the Judge will determine your parenting time schedule. Instructions and this objection form can be found at <https://ujslawhelp.sd.gov/defendants.aspx>.

Instructions and forms regarding enforcement can be found at <https://ujslawhelp.sd.gov/enforcement.aspx>.

Guideline 1. For Parents Who Have Children Under Age 5.

1.1. Children Under Age 5 Generally.

- O Newborns (birth to 3 months) and infants (3 – 6 months) have a great need for continuous contact with their primary caregiver, but also frequent contact with both parents who provide a sense of security, nurturing and predictability.
- O Generally, overnights for very young children is not recommended unless the parents are both very closely attached to the children, are able to personally provide primary care, the children are adaptable, and the parents are cooperative.
- O Older children are able to tolerate more and longer separations from one parent or the other.

The following Guidelines for children under age 5 are designed to take into account childhood developmental milestones. Since children mature at different rates, these may need to be adjusted to fit the children's individual circumstances.

1.2. Birth until 3 Months. Three, 2-hour parenting time periods per week and one weekend parenting time period for 6 hours. In situations where both parents have been engaged in an ongoing caregiving

SOUTH DAKOTA PARENTING GUIDELINES

routine with a nursing child, overnights are allowed to continue as much as possible to provide the same caregiving arrangement to the child and maintain stability for the child. If applicable, breastfeeding shall be accommodated, but the parents must cooperate in working out alternatives. See 1.8 below.

1.3. 3 – 6 Months. Recognizing the amount of time each parent spent with the children prior to the parents' separation and/or since that time, alternative parenting plans are recommended:

- (1) Three, 3-hour custodial periods per week and one weekend day for 6 hours. If applicable, breast feeding shall be accommodated but the parents must cooperate in working out alternatives; or
- (2) Three, 3-hour custodial periods per week and one overnight on a weekend not to exceed 18 hours, if the parent is capable of personally providing primary care. See exceptions in Section 1.8 below; or
- (3) In situations where both parents have been engaged in an ongoing caregiving routine with a child, overnights are allowed to continue as much as possible to provide the same caregiving arrangement to the children and maintain stability for the children.

1.4. 6 – 12 Months. Recognizing the amount of time each parent spent with the children prior to the parents' separation and/or since that time, alternative parenting times are recommended:

- (1) Three, 4-hour parenting time periods per week and one weekend day for 6 hours; or
- (2) Three, 4-hour parenting time periods per week and one overnight on a weekend not to exceed 18 hours, if the child is not breastfeeding and the parent is capable of personally providing primary care; or
- (3) Children spend time in alternate homes, but spends significantly more time in one parent's home and no more than 1-2 overnights spaced regularly throughout the week at the other parent's home; or
- (4) In situations where both parents have been engaged in an ongoing caregiving routine with a child, overnights are allowed to continue as much as possible to provide the same caregiving arrangement to the children and maintain stability for the children.

1.5. 12 – 36 Months. Recognizing the amount of time each parent spent with the children prior to the parents' separation and/or since that time, alternative parenting times are recommended:

- (1) Three, 8-hour parenting time periods per week on a predictable schedule; or
- (2) Three, 8-hour parenting time periods per week on a predictable schedule and one overnight per week not to exceed 18 hours; or

SOUTH DAKOTA PARENTING GUIDELINES

- (3) Children spends time in alternate homes, but with significantly more time in one parent's home with 1-2 overnights spaced regularly throughout the week. This arrangement requires adaptable children; or
- (4) In situations where both parents have been engaged in an ongoing caregiving routine with the children (nursing or otherwise), overnights are allowed to continue as much as possible to provide the same caregiving arrangement to the children and maintain stability for the children.

1.6. 3 Years – 5 Years. Recognizing the amount of time each parent spent with the children prior to the parents' separation and/or since that time, alternative parenting times are recommended:

- (1) One overnight parenting time period not to exceed 24 hours and two additional 8-hour parenting time periods each week, separate from the overnight, with the children returning to the other parent's home at least 1 hour before bedtime; or
- (2) Two to three overnights at one home, spaced throughout the week, the remaining time at the other parent's home. This arrangement requires adaptable children; or
- (3) In situations where both parents have been engaged in an ongoing caregiving routine with the children, overnights are allowed to continue as much as possible to provide the same caregiving arrangement to the children and maintain stability for the children.

If the parents cannot agree on which provision shall apply in sections 1.2 through 1.6, the parties shall use option 1 until further order of the court. Absent special circumstances as determined by the court, parenting time shall not decrease from one age category to the next.

1.7. Children in Day Care. In families where children are in day care before and/or after parental separation, the children may be able to tolerate more time with each parent earlier than their specific age group indicates above because the children are accustomed to separations from both parents.

1.8. Breastfeeding Children. – Parents must be sensitive to the special needs of breastfeeding children. Children's basic sleeping, feeding, and waking cycles should be maintained to limit disruption in the children's routine. Forcibly changing these routines due to the upheaval of parental disagreement is detrimental to the physical health and emotional well-being of the children. On the other hand, it is important that the children be able to bond with both parents.

- a. For children being exclusively breastfed, the nursing child can still have frequent parenting time with the other parent. The amount of time will be guided by/subject to the infant's feeding schedule, progressing to more time as the child grows older. Both parents should be mindful that a feeding may occur, and the child may return to time with the other parent after the feeding.

SOUTH DAKOTA PARENTING GUIDELINES

- b. Where both parents have been engaged in an ongoing caregiving routine with a nursing child, the same caregiving arrangement should be continued as much as possible to maintain stability for the children.
- c. If the other parent has been caring for the children overnight or for twenty-four hour periods while the nursing mother sleeps or works, that arrangement should/shall continue.
- d. A mother may not use breastfeeding to deprive the other parent of time with the children. If, for example, a nursing mother uses day care or a babysitter for the children, the same accommodations (i.e., bottle feeding with breast milk or formula, or increased time between breast feeding sessions) used with the day care provider or babysitter will be used with the other parent, if the other parent is capable of personally providing the same caregiving.

1.9. Holidays. For children aged 0-5 years, when the parents live and/or celebrate the holiday in the same or a nearby community, the parents shall alternate the following holidays in the chart below. Prior to a child's 5th birthday, holiday parenting time shall not exceed the longest period of parenting time currently being exercised and shall be scheduled by the parent exercising holiday time. If the parents cannot otherwise agree, the holiday time shall be exercised within the time frames provided in the chart below not to exceed the longest period of parenting time currently being exercised. It is recommended that the parents communicate two weeks in advance about who is exercising what time period for the holidays set forth below. Parenting time, however, shall not be withheld solely for failure to abide by this two-week recommendation.

Holiday	Details	Even-Numbered Years	Odd-Numbered Years
Martin Luther King, Jr. Day weekend	5:00 p.m. Friday – 8:00 a.m. Tuesday	Parent 2	Parent 1
President's Day weekend	5:00 p.m. Friday – 8:00 a.m. Tuesday	Parent 1	Parent 2
Easter weekend	8:00 a.m. Friday – 8:00 a.m. Monday	Parent 2	Parent 1
Mother's Day	8:00 a.m. – 8:00 a.m. the following day	Parent 1	Parent 1
Memorial Day	5:00 p.m. Friday – 8:00 a.m. Tuesday	Parent 2	Parent 1
Juneteenth (6/19)	8:00 a.m. – 8:00 a.m. the following day	Parent 1	Parent 2
Father's Day	8:00 a.m. – 8:00 a.m. the following day	Parent 2	Parent 2
4 th of July	5:00 p.m. July 3rd – 5:00 p.m. July 5th	Parent 1	Parent 2
Labor Day	5:00 p.m. Friday – 8:00 a.m. Tuesday	Parent 1	Parent 2
Native American Day	5:00 p.m. Friday – 8:00 a.m. Tuesday	Parent 2	Parent 1
Halloween	3:00 p.m. – 8:00 p.m.	Parent 1	Parent 2
Thanksgiving	8:00 a.m. Thursday – 5:00 p.m. Sunday	Parent 2	Parent 1

SOUTH DAKOTA PARENTING GUIDELINES

Christmas Eve	8:00 a.m. Christmas Eve – 8:00 a.m. Christmas Day	Parent 2	Parent 1
Christmas Day	8:00 a.m. Christmas Day – 8:00 a.m. December 26th	Parent 1	Parent 2
Child’s Birthday	Ages 0-3 = 4 hours Ages 3-5 = 8 a.m. on date of birthday – 8:00 a.m. the next day (If the birthday falls on a holiday, the parenting time for the birthday shall take place the day before)	Parent 2	Parent 1
Parent 2’s Birthday	Ages 0-3 = 4 hours Ages 3-5 = 8 a.m. on date of birthday – 8:00 a.m. the next day (If the birthday falls on a holiday, the parenting time for the birthday shall take place the day before)	Parent 2	Parent 2
Parent 1’s Birthday	Ages 0-3 = 4 hours Ages 3-5 = 8 a.m. on date of birthday – 8:00 a.m. the next day (If the birthday falls on a holiday, the parenting time for the birthday shall take place the day before)	Parent 1	Parent 1

1.10. Vacation With Children 3 – 5 Years Old. Upon 30 days advance written notice (by mail, email or text message), each parent is entitled to two separate periods of uninterrupted time for up to 5 days each with their children each year, not to conflict with the other parent’s holiday parenting time. Parents are encouraged to coordinate vacation plans. The parents shall consider extending the 5 day time periods to 7 days if the children are adaptable and accustomed to spending time with both parents.

1.11. Long-Distance Parenting. When substantial distance between the parents exists, the ability to exercise these Guidelines is compromised. The parents will need to create a developmentally appropriate parenting plan for their unique situation. When parenting time is unable to be frequent, parents are encouraged to use video/audio contact to build and/or maintain the bond between the children and parent who lives afar.

Guideline 2. For Parents Who Have Children Age 5 and Older And Reside No More Than 200 Miles Apart.

2.1. Weekends. In most cases, it is a positive experience for the children to have both parents involved in taking the children to and from school. Parenting time shall consist of alternate weekends starting Friday upon the release of school or 3:15 p.m., whichever is applicable, and continuing until the return to school Monday or 8:00 a.m., whichever is applicable. Parenting time shall be an equivalent period of time if a parent is unavailable on weekends and the children do not miss school.

SOUTH DAKOTA PARENTING GUIDELINES

2.2. Mid-Week. If time and distance allow, parenting time shall include one mid-week overnight every week, in addition to the weekends in 2.1 above, with the children. If the parents cannot otherwise agree, this mid-week time shall be on Wednesdays and shall start when the children are released from school or at 3:15 p.m., whichever is applicable, and concludes when the children are returned to school the next day or at 8:00 a.m., whichever is applicable. All transportation for the midweek parenting time is the responsibility of the parent exercising the parenting time.

2.3. Summer Break. The children shall be with each parent for one-half of the school summer break. Summer break begins the day after school is released and ends the day before school commences. The parent with whom the children reside the majority of the time during the school year has priority to have the children the week before school resumes, which counts as part of that parent’s summer break. At the option of the other parent, his/her parenting time during summer break may be consecutive or it may be split into 2 or more blocks of time. This parent shall provide a minimum of 30 days advance notice of the dates selected.

If the children go to summer school and it is impossible for a parent to schedule time other than during summer school, the parent may elect to take the time when the children are in summer school and transport the children to the summer school sessions at the children’s school or an equivalent summer school session in that parent’s community.

The parent with whom the children reside for the majority of the school year shall have the weekend before the beginning and the weekend after the end of the other parent’s summer period, regardless of whose weekend it may be. This weekend time will not be made up.

During any summer vacation parenting times of three or more consecutive weeks, the parent exercising parenting time shall arrange for a mutually convenient 48-hour continuous period of time for the other parent to spend with the children.

2.4. Holidays. The following chart shows the allocation of the holidays between parents. School breaks and release times may be different from school to school and district to district. The school calendar is published on your children’s school’s website before each school year starts. It is important to know these dates / times as they pertain to your children.

Holiday / Special Event	Details / Times	Even-Numbered Years	Odd-Numbered Years
Martin Luther King Jr. Day weekend	Starts when school is released on Friday or 3:15 p.m., whichever is applicable and ends when the children are returned to school on Tuesday or at 8:00 a.m., whichever is applicable.	Parent 2	Parent 1
President’s Day weekend	Starts when school is released on Friday or 3:15 p.m., whichever is applicable and ends when the children are returned to school on Tuesday or at 8:00 a.m., whichever is applicable.	Parent 1	Parent 2

SOUTH DAKOTA PARENTING GUIDELINES

Easter weekend	Starts when school is released for the holiday weekend and ends at 8:00 a.m. on the day school recommences after the holiday weekend.	Parent 2	Parent 1
Spring Break, if one is designated separately from Easter	Starts when school is released for Spring Break and ends at 8:00 a.m. on the day school begins after the break. If a spring break is not granted by the school, this provision would not apply. Also, if the spring break is combined with Easter, this provision would not apply.	Parent 1	Parent 2
Mother's Day	Starts at 8:00 a.m. on Mother's Day and ends at 8:00 a.m. on Monday; one overnight.	Parent 1	Parent 1
Memorial Day weekend	Starts when school is released on Friday or 3:15 p.m., whichever is applicable, and ends when the children are returned to school on Tuesday or at 8:00 a.m., whichever is applicable.	Parent 2	Parent 1
Juneteenth	Starts at 8:00 a.m. on 6/19 and ends at 8:00 a.m. on 6/20	Parent 1	Parent 2
Father's Day	Starts at 8:00 a.m. on Father's Day and ends at 8:00 a.m. on Monday; one overnight.	Parent 2	Parent 2
4 th of July	Begins July 3 at 5:00 p.m. and ends July 5 at 5:00 p.m.	Parent 1	Parent 2
Labor Day weekend	Starts when school is released on Friday or 3:15 p.m., whichever is applicable, and ends when the children are returned to school on Tuesday or at 8:00 a.m., whichever is applicable.	Parent 1	Parent 2
Native American Day weekend	Starts when school is released on Friday or 3:15 p.m., whichever is applicable, and ends when the children are returned to school on Tuesday or at 8:00 a.m., whichever is applicable.	Parent 2	Parent 1
Halloween	Starts on 10/31 when school releases for the day or 3:15 p.m., whichever is applicable, and concludes on 11/01 when school resumes or at 8:00 a.m., whichever is applicable.	Parent 1	Parent 2
Thanksgiving weekend	Starts when school releases on Wednesday or 3:15 p.m., whichever is applicable, and ends Monday at 8:00 a.m.	Parent 2	Parent 1
Christmas Eve	Starts on 12/23 at 8:00 a.m. and concludes on 12/25 at 8:00 a.m.	Parent 2	Parent 1
Christmas Day	Starts on 12/25 at 8:00 a.m. and concludes on 12/27 at 8:00 a.m.	Parent 1	Parent 2
1 st half of winter break	The winter break starts when the day the children are released from school for the break and continues to the morning of the day the children return to school. The 48-hour parenting times for each Christmas Eve and Christmas Day are not included in the division of the winter break.	Parent 1	Parent 2
2 nd half of winter break, including New Year's holiday	The winter break starts when the day the children are released from school for the break and continues to the morning of the day the children return to school. The 48-hour parenting times for each Christmas Eve and Christmas Day are not included in the division of the winter break.	Parent 2	Parent 1

SOUTH DAKOTA PARENTING GUIDELINES

Children’s Birthdays	Starts 8:00 a.m. on date of birthday – 8:00 a.m. the next day (If the birthday falls on a holiday, the parenting time for the birthday shall take place the day before); parenting time shall be with all of the children not just the one who has the birthday.	Parent 2	Parent 1
Parent 2’s Birthday	Starts 8:00 a.m. on date of birthday – 8:00 a.m. the next day (If the birthday falls on a holiday, the parenting time for the birthday shall take place the day before).	Parent 2	Parent 2
Parent 1’s Birthday	Starts 8:00 a.m. on date of birthday – 8:00 a.m. the next day (If the birthday falls on a holiday, the parenting time for the birthday shall take place the day before).	Parent 1	Parent 1

2.5. Conflicts Between Regular and Holiday Weekends. When there is a conflict between a holiday weekend and the regularly scheduled weekend time, the holiday takes precedence. Unless mutually agreed in writing, there will be no makeup parenting time in conflicts between holiday weekend and the regularly scheduled weekend time. This may result in one parent having the children for three weekends in a row; however, neither parent shall have the children for more than 3 weekends in a row.

2.6. Parent’s Vacation with Children Age 5 and Older. Each parent is entitled to a vacation with the children totaling up to 14 days, with 7 days being the most that may be exercised at one time. When possible, each parent shall provide the other with 30 days advance notice of their intent to utilize their vacation time. Parents are encouraged to coordinate vacation plans. In the event there is a dispute, the mother gets priority in choosing her vacation periods first in even-numbered years and the father gets priority in choosing his vacation periods first in odd-numbered years.

2.8. Precedence. The allocation of holidays listed in the above chart shall take precedence over vacations. In other words, a parent cannot exercise their vacation with the children when it is the other parent’s holiday. But vacations shall take precedence over the regular parenting time schedule.

2.9. Notice of Canceled Time With the Children. Whenever possible, each parent shall give a minimum of three days’ notice of intent not to exercise all or part of the scheduled time with the children. When such notice is not reasonably possible, the maximum notice permitted by the circumstances, and the explanation, shall be provided to the other parent.

2.10. Pick Up and Return of Children. When the parents live in the same area/community, the responsibility for picking up and returning the children shall be shared. The parent who receives the children for his/her parenting time will pick the children up from the other parent. Both parents have an obligation to be punctual and to arrive at the agreed upon time, not substantially earlier or later. Repeated, unjustified violations of this provision may subject the offender to court sanctions.

SOUTH DAKOTA PARENTING GUIDELINES

Guideline 3. For Parents Who Have Children Age 5 and Older and Reside More Than 200 Miles Apart.

3.1. Holidays. Parents who reside more than 200 miles apart shall exercise the following holidays as follows:

Holiday	Details	Even-Numbered Years	Odd-Numbered Years
Easter weekend	Starts when school is released for the holiday weekend and ends at 8:00 a.m. on the day school recommences after the holiday weekend.	Parent 2	Parent 1
Spring Break, if one is designated separately from Easter	Starts when school is released for Spring Break and ends at 8:00 a.m. on the day school begins after the break. If a spring break is not granted by the school, this provision would not apply. Also, if the spring break is combined with Easter, this provision would not apply.	Parent 1	Parent 2
Thanksgiving	Starts when school releases on Wednesday or 3:15 p.m., whichever is applicable, and ends Monday at 8:00 a.m.	Parent 2	Parent 1
Winter Break	The winter break starts when the day the children are released from school for the break and continues to the morning of the day the children return to school.	Parent 1	Parent 2

3.2. Summer Break. The parent with whom the children do not reside during the school year shall have the children for the children's summer break as follows: summer break begins 3 days after school is released and ends 7 days before school recommences. This allows 10 days of parenting time during the summer with the parent with whom the children reside during the school year. Additionally, the parent with whom the children reside during the school year shall be entitled to exercise a 48 hour period of parenting time with the children every three weeks during the summer break; to be exercised at the sole expense of the parent with whom the children reside during the school year.

3.3. Priority of Summer Time With Parent. Parenting time in the summer with the parent who lives more than 200 miles away takes precedence over summer activities (such as sports) when the parent's time cannot be reasonably scheduled around such events. Even so, the conscientious parent will often be able to enroll the children in a similar activity in the parent's community. When each child reaches an age and maturity where activities are very important to them, the parents should reach an agreement that works best for the child.

3.4. Notice. At least sixty (60) days' notice (recommended to be by mail, email, or text message) shall be given by the parent who lives more than 200 miles away from the children of the date for commencing extended summer parenting time with the children so that the most efficient means of transportation may be obtained and the parents and the children may arrange their schedules. Failure to

SOUTH DAKOTA PARENTING GUIDELINES

give the precise number of days' notice does not entitle the parent with primary residence of the children the right to deny the other parent parenting time with the children.

3.5. Additional Time With the Parent Who Lives More Than 200 Miles Away. The parent who resides more than 200 miles away from the children shall have the following parenting time:

- o If the parent who lives more than 200 miles away wants to travel, at his/her sole expense, to visit with his/her children, this parenting time shall be accommodated for a reasonable time period of no less than 48 hours. However, this is not intended to be exercised more than every other weekend;
- o Where distance and finances permit, additional parenting time for the parent residing more than 200 miles away from the children, such as holiday weekends or special events, is encouraged. Parents are encouraged to reference the holiday schedules set forth in Section 2.4 when determining the allocation and duration of other holidays; and
- o When the parent who lives 200 miles away is in the area where the children reside, or the children are in the area where this parent resides, liberal time with the children based on the circumstances must be allowed. Circumstances will vary and may only allow for a quick visit or may allow for overnight parenting time.

The children may miss some school to spend time with the parent who lives 200 miles away, so long as it does not substantially impair the children's academic progress. However, additional time with the parent who lives more than 200 miles away from the child shall not interfere with the alternating holiday schedule set forth in Section 3.1 herein.

Parents are encouraged to communicate with each other and cooperate in creating additional parenting times for the children. If the additional parenting time exceeds 4 hours, the parent who lives more than 200 miles away shall provide as much advance notice as possible, preferably 30 days. Failure to provide notice shall not be the sole reason for denial of additional parenting time.

Guideline 4. General Rules Applicable to All Parents

4.1. Rules of Conduct. A parent shall always avoid speaking negatively about the other parent and must firmly discourage such conduct by relatives or friends. Each parent should speak in positive terms about the other parent in the presence of the children. Each parent shall encourage the children to respect the other parent. Children should never be used by one parent to spy or report on the other parent.

4.2. Relatives. Children will usually benefit from continued contact with all relatives on both sides of the family. Such relationships should be protected and encouraged. But relatives, like parents, need to avoid being critical of either parent in front of the children. Parents should have their children maintain ties with both the maternal and paternal relatives. Usually the children will visit the paternal relatives

SOUTH DAKOTA PARENTING GUIDELINES

during times when the children are with their father and the maternal relatives during times when they are with their mother. This may include allowing the children to spend time with these relatives even when the parent is not present.

4.3. Relocation. Relocation is governed by South Dakota state law. See SDCL 25-4A-17. Instructions and forms on how to comply with the requirements surrounding relocation, as well as how to object to a parent's notice of relocation, can be found at www.ujslawhelp.sd.gov.

4.4. Communication between Parents. Parents must always keep each other advised of their home and work addresses and telephone numbers. Whenever possible and unless otherwise stated herein, all communication concerning the children must be conducted directly between the parents (i.e., in person, by telephone, email, text message, communication notebook, a designated third party or co-parenting tool). Absent an emergency, communication should not occur at a parent's place of employment.

4.5. School and Medical Information. Both parents shall keep the other parent informed with the name, address and telephone number of the school where each of their children attends and each parent is authorized to communicate concerning the children directly with the school and with the children's doctors and other professionals, outside the presence of the other parent. Each parent has an obligation to contact the school to ensure receipt of class schedules, school report cards, notices, etc. so that they can remain involved with their children's education. Both parents shall be listed as a parent and emergency contact on all of the children's records, forms, registrations, etc. Attendance at academic or disciplinary meetings pertaining to the minor children shall be limited to the parents and the respective school professional(s). Others may not attend such meetings without advance mutual parental agreement or court order.

Each parent shall immediately notify the other parent of any medical emergencies or serious illnesses of the children. Access to records and information pertaining to minor children, including, but not limited to, medical, dental, therapy, counseling, orthodontia and similar health care and school records must be made equally available to both parents. The parents must make reasonable efforts to ensure that the name and address of the other parent is listed on all such records. If children are taking medications, both parents shall have access to a sufficient amount for their parenting time as well as the instructions.

The parent who has medical insurance coverage on the children shall supply to the other parent an insurance card or copy thereof and, as applicable, insurance forms and a list of insurer-approved or HMO-qualified health care providers in the area where the other parent is residing. Except in emergencies, the parent taking the children to a doctor, dentist or other provider not so approved or qualified may be required to pay the additional cost for that provider. However, when there is a change in insurance, which requires a change in medical care providers and a child has a chronic illness, thoughtful consideration shall be given by the parents to what is more important, i.e., allowing the child to remain with the original provider or the economic consequences of changing carriers. When there is an obligation to pay medical expenses, the parent responsible for paying shall be promptly furnished with the bill, and where applicable, the explanation of benefits, by the other parent. The parents shall

SOUTH DAKOTA PARENTING GUIDELINES

cooperate in submitting bills to the appropriate insurance carrier. Thereafter, the parent responsible for paying the balance of the bill shall make arrangements unless previously paid by the other parent. Insurance refunds shall be promptly turned over to the parent who paid the bill for which the refund was received.

4.6. Extracurricular Activities. Both parents shall consult the other parent prior to enrolling the children in any event that may affect the other parent's parenting time. Both parents shall be listed as a parent and emergency contact on all of the children's records, forms, registrations, etc. Both parents shall be provided access to the name of the coach, director, and organization providing the activity for each child along with their contact information. Both parents shall have the obligation to contact the activity director to ensure receipt of information such as practice schedules, games, parental participation, etc.

4.7. Clothing. In situations where the children reside primarily with one parent, that parent shall send an appropriate supply of children's clothing with the children for the other parent's parenting time. At the conclusion of his/her parenting time, this clothing shall be returned clean (when reasonably possible). Parents must advise, as far in advance as possible, of any special activities so that appropriate clothing for the children may be sent. It is recommended that both parents have some basic clothing available in their home to ensure that all of the children's basic needs are met.

4.8. Withholding Support or Time with the Children. Neither time with the children nor child support is to be withheld because of either parent's failure to comply with a court order. Only the court may enter sanctions for non-compliance. Children generally have a right both to support and, time with both parents, neither of which is dependent upon the other. In other words, if the parent ordered to pay child support fails to do so, he/she is still entitled to their parenting time. Likewise, if one parent denies the other parent parenting time, child support payments must still be made.

Forms and instructions on how to enforce your parenting time can be found on the South Dakota Legal Self-Help Center at <https://ujslawhelp.sd.gov/onlineforms.aspx>.

4.9. Adjustments in Parenting Plan. Parents are expected to fairly modify the parenting plan as family necessities, illnesses, weather or commitments reasonably so require. The parents must work together in good faith to get any missed parenting time rescheduled to occur within a reasonable period of time, usually within 30 days. When possible, each parent must timely advise the other when scheduled parenting time with the children cannot be exercised.

4.10. Children of Different Ages. It usually makes sense for all the children to share the same schedule of parenting time. Having brothers or sisters along can be an important support for children. Because it is intended that parenting time with the children be a shared experience between siblings and, unless these Guidelines or a court order provides otherwise, all the children shall enjoy parenting time together. Parents shall consider the children's best interests when scheduling parenting time especially for newborns and infants who may have developmental needs that may prevent them from immediately experiencing the same schedule as their older siblings. Additionally, older teenagers' special needs for

SOUTH DAKOTA PARENTING GUIDELINES

peer involvement and for some control of their own lives may place them on different schedules from their younger brothers and sisters.

4.11. Communication with Children. Unless prohibited by a court order, either parent may mail, call, text, email, FaceTime or skype (or use similar technology) to communicate with the children at reasonable times and with reasonable frequency during those periods the children are with the other parent. The children may, of course, mail, call, text, email, FaceTime or skype (or use similar technology) to communicate with either parent, at reasonable hours or with reasonable frequency.

- Parents are cautioned that communication between the parent and the children should not be so excessive as to interfere with the other parent's time, nor used to undermine the other parent's authority.
- During long vacations, the parent with whom the children are on vacation is required to make the children available for telephone calls with the other parent at least every three days.
- At all other times, the parent the children are with must not refuse to answer the other parents telephone calls or turn off their telephone in order to deny the other parent telephone contact.
- If a parent uses an answering machine or cell phone voicemail, messages left should be returned to that person as soon as possible.
- Parents should agree on a specified time for calls to the children so that the children will be made available no less than three days a week.
- Either parent may provide the children with a cell phone subject to each parent's ability to set restrictions in their home. A parent shall not prohibit contact between the children and the other parent; nor shall they impede the children's ability to contact the other parent during reasonable times and at a reasonable frequency.
- Communication between a parent and the children must not be censored, recorded, or monitored, absent a court order.
- Each parent shall have an unrestricted right to send cards, letters and/or packages to their children. The children shall also have the same right to receive and send items to their parents.

4.12. Social Media. Each parent shall have full access to monitor the social media accounts of the children, but neither shall open or read communications between the children and the other parent.

4.13. Privacy of Residence. A parent shall not enter the residence of the other parent except by express invitation, regardless of whether a parent retains a property interest in the residence. Unless otherwise indicated herein, the children shall be picked up and returned to the front entrance of the other parent's residence. The parent dropping off the children shall not leave until the children are safely inside the other parent's residence. Parents must refrain from surprise visits to the other parent's home.

4.14. Refusal / Hesitation by Children. Parents should always encourage the children to attend parenting time with the other parent absent circumstances outlined in the "Scope of Application" provision on page 3. Parents shall not deny parenting time with the other parent solely based on the refusal of the children.

SOUTH DAKOTA PARENTING GUIDELINES

4.15. Special Considerations for Adolescents. While children never get to choose where they live, the parents should honestly and fairly consider their teenager’s wishes regarding time with a parent. Neither parent shall attempt to influence their teenager’s wishes on parenting time. Teenagers should explain the reason for their wishes directly to the affected parent, without intervention by the other parent.

4.16. Daycare Providers. When parents reside in the same community, they should use the same day care provider. To the extent feasible, the parents should rely on each other to care for the children when the other parent is unavailable.

4.17. Parents in the Armed Services. When one or both parents are serving in the military, it is important to create a parenting time schedule that focuses on sharing the children when the parents live close to each other and allowing for temporary duty assignment (TDY) possibilities. Military families should also consider what parenting time would look like if TDY’s or overseas commitments were engaged requiring one parent to live more than 200 miles from the children. The residential parent shall support the children’s relationship with the other parent by having a consistent plan of communication with the military parent.

Legal Notice.

These Guidelines do not provide legal opinions or legal advice and are not intended to serve as a substitute for the advice of licensed, legal professionals.

Laws and interpretations of laws change frequently, and the material contained in these Guidelines have important legal consequences. In using these Guidelines, parents are responsible for determining the applicability of any information contained in this document to their situation and are strongly encouraged to seek professional legal and other expert assistance in resolving their parenting time issues. Parents will often benefit from getting advice from mediators, counselors, therapists, parenting coordinators and lawyers to help them make a parenting time schedule.

Definitions.

Any custody proceeding involving children is going to involve a determination of both legal and physical custody.

“Legal Custody” refers to the legal authority to make major decisions for your children. There are 2 options when it comes to legal custody:

Joint Legal Custody – “[B]oth parents retain full parental rights and responsibilities with respect to their child[ren] and so that both parents must confer on, and participate in, major decisions affecting the welfare of the child[ren].” See SDCL 25-5-7.1.

Sole Legal Custody – one parent shall have the right and responsibility to make the decisions related to health, education and welfare of the children.

SOUTH DAKOTA PARENTING GUIDELINES

“Physical Custody” refers to how parenting time is divided between 2 parties. Parents may agree on the amount of time the children spend with each parent. If parents do not agree, the parenting time schedule set forth herein shall remain in place until a court orders otherwise.

Shared Parenting.

These Guidelines do not address shared parenting, which is defined as “a detailed shared parenting plan which provides that the children will reside no less than 180 nights per calendar year in each parent’s home and that the parents will share the duties and responsibilities of parenting the children and the expenses of the children in proportion to their incomes[.]” SDCL 25-7-6.27. If you are interested in this arrangement, you are strongly encouraged to consult with an attorney of your choosing. More information and sample schedules can be found at <https://ujslawhelp.sd.gov/>.

Scope of Application.

General. These Guidelines are applicable to all custody situations, including divorces with minor children, paternity actions and cases involving joint legal custody where one parent has primary physical custody. These Guidelines are not applicable to situations where the court reasonably believes the children’s physical health or safety is in danger or the children’s emotional development could be significantly impaired. These situations may include, but are not limited to, the following:

- Family Violence (physical, verbal or otherwise);
- Substance Abuse;
- Mental Illness of Parent or Child;
- Risk of Flight with Children;
- Long Interruption of Contact Between Parent and Children;
- A Parent’s New Relationship;
- Religious & Cultural Holidays; or
- An Incarcerated Parent.

In such cases one or both parents may have legal, psychological, substance abuse or emotional problems that may need to be addressed before these Guidelines can be used. The type of help that is needed in such cases is beyond the scope of these Guidelines.

A parent who believes one or more of the above situations exists should file an Objection to the Implementation of the South Dakota Parenting Guidelines (UJS Form 372). This form can be found at <https://ujslawhelp.sd.gov/defendants.aspx>. The opposing parent should also file a response to this Objection and should appear at the hearing.

Existing Parenting Time Orders. Existing parenting time orders on the date of adoption of these revised Guidelines shall be enforced according to the parenting time guidelines that were in effect on the date the parenting time order was issued. Changes to the South Dakota Parenting Time Guidelines do not alone constitute good cause for modifying an existing parenting time order; however, a court or parties

SOUTH DAKOTA PARENTING GUIDELINES

to a proceeding may refer to these Guidelines in requesting changes to their parenting time order after the effective date of the Guidelines.

Protection Orders. If a protection order has been established regarding the minor children, that order would prevail over these Guidelines, until a court specifically orders otherwise. If an active protection order prohibits contact between the parents or between one parent and the children, parents are cautioned that the parent who is the subject of the protection order will violate the order if he/she has contact with the other parent and makes agreements as suggested in these Guidelines without permission for contact from the court that issued the protection order.

Additional Resources

There are several resources available to parents who need help in creating, enforcing or improving their parenting plan. Visit <https://ujslawhelp.sd.gov/> (under the “Parenting” tab) for additional information on mediators, parenting coordinators, co-parenting tools and counseling options.

Additional tips that parents should consider in order to keep the children the focus of the parenting time arrangements can be found in Appendix A.

Tips to Stay Focused on the Children

A powerful cause of stress, suffering, and maladjustment in children of divorce or separation is not simply the divorce or separation itself, but rather continuing conflict between their parents before, during and after the divorce and/or separation. To minimize harm to the children, parents must agree on some basic rules to keep the children the focus of their parenting time arrangement.

Parents need to keep in mind that it is generally accepted that in most cases of divorce or separation:

1. Children of separated parents do best in both the short-term and the long-run when they feel loved and cared for by both parents;
2. Children generally do better when both parents have stable and meaningful involvement in their children's lives;
3. The strength of a parent's relationship to a child is affected more by parental commitment, warmth and the ability to meet the child's needs than it is by time spent with the child (i.e. quality vs. quantity);
4. Each parent has different and valuable contributions to make to their children's development;
5. Children should have structured routine time (such as bedtime and doing homework) with each parent, as well as unstructured time (such as playing in the park);
6. Parents should help their children maintain positive existing relationships, routines and activities;
7. Children may find security in personal possessions, like a favorite stuffed animal or blanket. Children should be permitted to bring personal possessions back and forth between homes, regardless of which parent purchased them; and
8. Parenting plans may need to be adjusted over time as the needs and circumstances of parents and children change.

Children are harmed by exposure to conflict between their parents. High conflict between parents increases children's anxiety and negatively impacts healthy child development. The following are guidelines to help you navigate your role in co-parenting your children:

1. Children shall not be put in a position to "choose" between the parents. Children must not be made to feel guilty about having a good time with the other parent;
2. Each parent should strive to show respect for the other parent;
3. Each parent must support the child's relationship with the other parent and encourage them to enjoy themselves with the other parent;

4. Children shall not be expected to communicate messages between parents, regarding parenting time, financial matters or issues about which parents disagree;
5. Parents should exchange the children in a respectful manner;
6. A parent should consider allowing their children to attend important family celebrations and events with both sides of their family, even when the events occur on the other parent's parenting time;
7. Differences between the parent's homes may occur (i.e. daily routines, activities, and diet). Parents should remember these are merely "differences" and are not necessarily a "better" or "worse" practice;
8. Children need consistency in both homes (i.e. bed times, meal times, medications etc.);
9. If one parent has been significantly more involved with the care of the child before separation, that parent may need to help the other parent gain the skills and knowledge to care appropriately for the child and support the development of a positive relationship between the child and the other parent, unless there are legitimate concerns about the other parent's capacity to care for their child. Both parents will need to approach this transition in a cooperative manner.

Parenting plans made for infants and young children may need to change as children get older and start to attend school. Parenting plans designed to accommodate a parent's employment may need to be modified if parents change their employment or work schedule. It is important for parents to communicate effectively, discuss changes that they observe in their children with one another and be prepared to modify the plans consistent with the best interests of the children.

Each family needs to consider the age, temperament, previous caretaking arrangements and the child's relationship with each parent, as well as whether the child has special needs. It is important that parents are able to communicate about their children on a regular basis, whether that communication is written or verbal. Parents shall share information so that a child's experience, as he/she transitions between parents, is as smooth as possible.

STATE OF SOUTH DAKOTA

IN CIRCUIT COURT

COUNTY OF _____

_____ JUDICIAL CIRCUIT

<p>_____</p> <p style="text-align: right;">Plaintiff</p> <p>vs</p> <p>_____</p> <p style="text-align: right;">Defendant</p>	<p>FILE NO: _____</p> <p style="text-align: center;">NOTICE AND ADMISSION OF SERVICE OF SUMMONS & COMPLAINT (PATERNITY ACTION)</p>
---	---

TO THE ABOVE-NAMED DEFENDANT:

The enclosed Summons (Paternity Action), South Dakota Parenting Guidelines, and Complaint (Paternity Action) are sent to you pursuant to SDCL 15-6-4(i), as well as two (2) copies of this Notice and Admission of Service of Summons (Paternity Action) and Complaint (Paternity Action), and a return envelope, postage prepaid, addressed to the Plaintiff.

You must complete the Admission of Service portion of this form and return the original to the sender within 20 days. In completing the form, you must fill in the town and state where you received the papers and sign and date the document. Failure to sign and return the original Admission of Service within 20 days after the date of mailing without good cause will result in the Court ordering the person so served to pay the costs of personal service. SDCL 15-6-4(i).

After you complete and return this form, you must then answer (respond to) the Complaint within 30 more days. If you fail to answer in time, judgment may be entered against you by default as requested in the Complaint.

I hereby certify that this Notice and Admission of service was mailed, postage prepaid, on this _____ day of _____, 20_____, to the above-named Defendant, _____, at the following mailing address:

from _____ (city where documents were mailed from),
_____ County, _____ (state where
documents were mailed from).

Date this _____ day of _____, 20_____.

Plaintiff's Signature

Typed or Printed Name

Mailing Address

City, State and Zip Code

Telephone Number

ADMISSION OF SERVICE OF SUMMONS & COMPLAINT (PATERNITY ACTION)

I, _____ (*insert the name of the Defendant*),
admit receiving copies of the Summons (Paternity Action), South Dakota Parenting Guidelines, the
Complaint (Paternity Action), and the Notice and Admission of Service of Summons & Complaint in
the above-captioned matter at (*insert the city, county and state where you were when you received the
document*):

_____ (city)
_____ (county)
_____ (state).

This Admission merely acknowledges receipt of the papers; I do not admit or deny any of the
statements contained in those papers.

Dated this _____ day of _____, 20_____.

Signature of Defendant

Typed or Printed Name

Mailing address

City, State and Zip Code

Telephone Number

FORM UJS-183A
REV. 07/2022

AFFIDAVIT OF MAILING

I, _____, being sworn, state that on
(Full legal name of Plaintiff)

_____, 20____, I sent the following documents:

- SUMMONS (PATERNITY ACTION);
- SOUTH DAKOTA PARENTING GUIDELINES;
- COMPLAINT (PATERNITY ACTION); &
- NOTICE & ADMISSION OF SERVICE OF SUMMONS & COMPLAINT (PATERNITY ACTION)

by placing true and correct copies in an envelope addressed to:

_____ at _____
Full legal name of Defendant Defendant's mailing address

in the City of _____, State of _____,

Zip Code _____ and depositing the envelope, with sufficient postage, in the United States

Mail at _____.
(city and state mailed from)

Dated this _____ day of _____, 20_____.

Plaintiff's Signature
(Date and sign in front of Notary Public/Clerk)

Print Plaintiff's Name

Sworn/affirmed before me this _____ day of _____, 20_____.

Mailing Address

Notary Public/Clerk of Court
If Notary, my commission expires:

City/State/Zip

(SEAL)

Phone No.

STATE OF SOUTH DAKOTA
COUNTY OF _____

IN CIRCUIT COURT
_____ JUDICIAL CIRCUIT

<p>_____ Plaintiff</p> <p>vs</p> <p>_____ Defendant</p>	<p>FILE NO: _____</p> <p style="text-align: center;">ORDER (PATERNITY ACTION)</p>
---	--

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, that the parties have met their obligations for Court-approved parenting courses under SDCL 25-4A-32, a 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 (Paternity 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):

<u>Name of Child on Birth Cert.:</u>	<u>Date of Birth:</u>	<u>City, County, and State of Birth:</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

3. The child(ren)'s birth certificates shall be amended to reflect that both parties are listed as the

child(ren)'s parents.

4. That the Plaintiff 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 (Paternity 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 (Paternity 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 obligator's current or subsequent payor of income 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 Judgment and Order.

Dated this _____ day of _____, _____.

BY THE COURT:

ATTEST:

CIRCUIT COURT JUDGE

Clerk of Court

BY: _____
Clerk/Deputy Clerk

(SEAL)

South Dakota Codified Laws
Title 25. Domestic Relations
Chapter 25-4a. Custody and Visitation Rights (Refs & Annos)

SDCL § 25-4A-5

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

Effective: July 1, 2018
Currentness

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 of 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.

Credits

Source: SL 1994, ch 195, § 5; SL 2008, ch 125, § 1; SL 2018, ch 155, § 3.

STATE OF SOUTH DAKOTA

IN CIRCUIT COURT

COUNTY OF _____

_____ JUDICIAL CIRCUIT

<p>_____ Plaintiff</p> <p>vs</p> <p>_____ Defendant</p>	<p>FILE NO: _____</p> <p style="text-align: center;">NOTICE OF ENTRY OF ORDER (PATERNITY ACTION)</p>
---	---

TO ALL PARTIES:

An Order Approving Stipulation, Custody, Parenting Time & Support Agreement was entered in the above-entitled action on this ____ day of _____, 20____, and is attached to this Notice.

Dated this ____ day of _____, 20____.

_____, Clerk of Court

by: _____, Clerk/Deputy