INSTRUCTIONS AND FORM FOR JUDGMENT AND DECREE OF DIVORCE (STIPULATION AND AGREEMENT WITH MINOR CHILDREN)

These forms are related to specific South Dakota Codified Laws (SDCL) concerning divorce 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@ujs.state.sd.us. Remember that legal matters are better addressed by professionals who specialize in this field.

IMPORTANT NOTICES

1. Use this form only if you and the Defendant have signed a Stipulation and Settlement Agreement (With Minor Children) and you want the Court to incorporate that Agreement into your Judgment and Decree of Divorce.
2. Even if you and the other party have signed the Stipulation and Settlement Agreement, the Judge assigned to your case may still require you to appear in court.

To complete this form, you will need to:

1. Complete the caption by filling in the name of the county you are filing in, the judicial circuit number, list your name for the Plaintiff and the other party for the Defendant.

2. In the first paragraph enter the day the Defendant was served with the Summons and Complaint, and the date and location of the marriage.

3. Provide the Clerk of Court with the proposed Judgment and Decree of Divorce (UJS-326B). The Clerk of Court will give to the Judge to grant or deny.
    a) Attach SDCL 25-4A-5 Sanctions for Violation of Custody or Visitation Decree to the Judgment and Decree of Divorce.

4. If the Judge signs the proposed Judgment and Decree of Divorce (UJS-326B), a Notice of Entry will need to be completed and filed with the Clerk of Court.
    a) The Notice of Entry form can be obtained from the Clerk of Court. Depending on the county, this may be completed by the Clerk of Court, or they may provide it to you to complete and file.

5. Certified copies of the Judgment and Decree of Divorce (UJS-326B) along with a copy of the Notice of Entry will need to be provided to both parties and a Statement of Mailing will need to be completed. Depending on the county, this may be completed by the Clerk, or they may provide to you to complete and file. You will need to check with the Clerk of Court on this.
    a) The Statement of Mailing form can be obtained from the Clerk of Court.

6. If a hearing is required, you will need to bring the Judgment and Decree of Divorce (UJS-326B) with you and if the Judge signs at the conclusion of the hearing, certified copies of the signed Judgment and Decree of Divorce (UJS-326B) along with a copy of the Notice of Entry will need to be provided to both parties and a Statement of Mailing will need to be completed. Depending on the county, this may be completed by the Clerk, or these forms may be provided to you to complete and file. You will need to check with the Clerk of Court on this.
    a) The Statement of Mailing form can be obtained from the Clerk of Court.

STATE OF SOUTH DAKOTA IN CIRCUIT COURT

COUNTY OF_____ _____JUDICIAL CIRCUIT

_____ Plaintiff v. _____ Defendant	Case No.:_____ **JUDGMENT AND DECREE OF DIVORCE (STIPULATION AND AGREEMENT WITH MINOR CHILDREN)**

The above-entitled matter came before this Court on the_____ day of,_____ 20____. It satisfactory appearing to the Court from the records and file herein that the Defendant was duly served with the Summons and Complaint (With Minor Children) on the_____ day in the month of _____ , and in the year of 20____ , and the parties thereafter entered into a Stipulation and Agreement (With Minor Children) on file and dated _____ , herein. The parties were married on the _____ day in the month of _____ in the year of_____ and in the City and State of_____ . After due consideration of the same and on the matters of record herein the Court finds and concludes that is has jurisdiction over the parties and the subject matter herein, that the parties have met their obligations for court-approved parenting courses under SDCL § 25-4A-32, and that the parties having expressly waived entering of Findings of Fact and Conclusions of Law. Now therefore;

IT IS HEREBY ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

1. The parties are both granted a Judgment and Decree of Divorce on the grounds of irreconcilable differences and the parties hereto are restored to the status of single persons.
2. That the Stipulation and Agreement (With Minor Children) on file between the parties is hereby approved and incorporated by this reference.

3. The parties are the parents of the following minor child(ren):

_____ Date of Birth: _____

_____ Date of Birth: _____

_____ Date of Birth: _____

_____ Date of Birth: _____

4. Custody and parenting time with the minor child(ren) shall be as set forth in the Stipulation and Agreement (With Minor Children) on file herein, which is incorporated herein by reference.
5. _____ shall pay child support to _____ for the minor child(ren) in the amount of $_____ per month, commencing the 1st day of _____, 20____, pursuant to the calculations and child support provisions set forth in the Stipulation and Agreement (With Minor Children), which are incorporated herein by reference as well as the child support calculation, which is filed here in and incorporated by reference.
6. Pursuant to SDCL § 25-5-18.1, the support obligation shall continue until each child attains the age of eighteen, or until each child attains the age of nineteen if the child is a fulltime student in a secondary school.
7. The obligor's current or subsequent payor of income shall be immediately directed to withhold amount for current support or arrearages as specified herein and as provided in SDCL § 25-7A-23 and shall transmit said amount as provided in SDCL § 24-7A-34.
8. Until otherwise notified by the Division of Child Support all payments shall be made payable to "Division of Child Support" and mailed to:

Division of Child Support
700 Governor's Drive, Suite 84
Pierre, SD 57501-2291

9. Plaintiff ☐ / Defendant ☐ **(*check one*)**, currently known as _____ shall be restored to their former or maiden name known hereafter as _____;

10. That SDCL § 25-4A-5 is attached as required by SDCL § 25-4A-5.1 and shall become an Order of this Court.
11. All the other terms and conditions specifically set forth in the Stipulation and Agreement (With Minor Children) are approved and incorporated herein as though fully set forth in extenso.

Dated this_____day of_____, 20_____.

_____
Circuit Court Judge

Attest:

_____
Clerk of Court

_____
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.