

PLAINTIFF'S CHECKLIST FOR DIVORCE 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@uds.state.sd.us.

Before You Begin

If you are the person starting the divorce, you are the Plaintiff on all forms. Your spouse will be referred to as the Defendant. This form serves as a simple checklist outlining the steps for the Plaintiff in a divorce proceeding. Each form mentioned in this checklist will include instructions.

If you have already received a Summons and Complaint, consult the Checklist for Divorce with Minor Children (Defendant's Checklist). Divorce actions can only be filed in the county in which you or your spouse reside.

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

Starting a Divorce

1. Complete a Case Filing Statement (UJS-232) with both your demographic information and your spouse's demographic information. Your social security number and date of birth are required when filing a divorce action with children.
2. Complete the Summons (with Minor Children) (UJS-311) and attach a copy of the current South Dakota Parenting Time Guidelines (UJS-302) to the back.
3. Complete the Complaint (with Minor Children) (UJS-312).
4. File the original copies of each of the forms listed above with the Clerk of Court along with the required \$97 filing fee.
 - a) **WAIVER OF FILING/SERVICE FEE** - If you cannot afford the \$97 filing and or service fee, please complete the Motion, Affidavit, and Order to Waive Filing Fee (UJS-022) and submit it with the above forms in lieu of the \$97.
5. Serve the Defendant with the Summons, attached South Dakota Parenting Time Guidelines, the Complaint, and a blank Case Filing Statement (UJS-232).
 - a) For more detailed instructions on how to serve the Defendant, please refer to the Instruction for Service of Summons and Complaint with Minor Children (UJS-317).

6. File the proof of service with the Clerk of Court (ex. Sheriff Return, Certificate of Service, etc.)

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

South Dakota Parenting Course

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

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

Stipulated Divorce

If/When both parties come to an agreement regarding the terms and conditions of their divorce, it is referred to as a stipulated divorce. If such an agreement has been reached, both parties are required to complete and file the following forms:

1. Complete the Financial Statement (UJS-023).
2. Stipulation and Settlement Agreement with Minor Children (UJS-325). All pages must be initialed and signed by both parties.
3. Complete and attach child support calculation to your Stipulation Agreement. The Child Support Obligation calculator can be found on the [South Dakota Department of Social Services website](#).
4. Statement of Plaintiff and Defendant as to Jurisdiction and Grounds for Divorce (UJS-319B) will need to be signed by both parties.
5. File the originals of the completed forms with the Clerk of Court.

Finalizing a Stipulated Divorce

If both parties have signed the stipulation, the stipulation has been filed with the Clerk of Court, and the sixty-day waiting period has elapsed since the Defendant was served with the Summons and Complaint, you may proceed as follows:

1. Complete form UJS/DSS-089 and file with the Clerk of Court.
2. Complete the Judgment and Decree of Divorce Stipulation and Agreement with Children (UJS-326B): Fill out this form and either file the original with the Clerk of Court or bring it to your hearing if one is required. Carefully read the instructions and complete the form as directed. Please contact the Clerk of Court to determine whether a hearing is required.
 - a) Attach SDCL 25-4A-5 Sanctions for Violation of Custody or Visitation Decree to the Judgment and Decree of Divorce.
3. Judgment and Decree of Divorce Signing: If granted, the Judge will sign the Judgment and Decree of Divorce.

Notice of Entry of Judgment and Decree of Divorce

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

1. Complete and File the Notice of Entry: You may obtain this form from the Clerk of Court. Depending on the county, either the Clerk of Court will complete the form for you or provide you with the form for completion. Check with the Clerk of Court in your county.
2. Complete the Statement of Mailing: You may obtain this form from the Clerk of Court. Again, depending on the county, either the Clerk of Court will complete it or provide you with the form for completion. Check with the Clerk of Court in your county.
3. File the originals of both the Notice of Entry and the Statement of Mailing with the Clerk of Court.
4. Mail a copy of the Notice of Entry, the Statement of Mailing, and the signed, certified copy of the Judgment and Decree of Divorce (UJS326B) to the opposing party.

***Steps under “Finalizing a Stipulated Divorce” can be completed by either party**

Default Divorce

If it has been at least sixty days since the Defendant was served with the Summons and Complaint, and the Defendant has failed to file an Answer, you may request a Default Divorce by following these steps:

1. Complete form UJS/DSS-089.
2. Complete the Statement of Default (UJS-323A) along with the Application for Judgment and Decree of Divorce Default (UJS-323B).
3. Complete the Statement of Military Status (UJS-306).
4. Complete the Statement of Mailing (UJS-323D). Mark which forms are being mailed.
5. File the originals of all documents with the Clerk of Court.
6. Mail a copy of the above-listed forms to the opposing party.
 - a) If a hearing is not required on your Application for Default Divorce, complete the Judgment and Decree of Divorce with Children (Default) (UJS-322B) and attach SDCL 25-4A-5 Sanctions for Violation of Custody or Visitation Decree. File the completed form with the Clerk of Court for the Judge to review.

Hearing on Default Divorce

If a hearing on the Application for Default Divorce is required, you will need to complete the following steps as well:

1. Complete the Notice of Hearing (UJS-323C). The Clerk of Court or Court Administration will provide you with a hearing date and time.
2. Complete a Statement of Mailing (UJS-323D). Mark which forms are being mailed.
3. File the originals with the Clerk of Court.
4. Mail a copy of the documents to the Defendant.
 - a) Attend the hearing on the date and time that was provided to you for the Notice of Hearing. Bring a completed copy of the Judgment and Decree of Divorce with Children (Default) (UJS-322B) and attach SDCL 25-4A-5 Sanctions for Violation of Custody or Visitation Decree to the Default Judgment and Decree of Divorce for the Judge's review.

Default Divorce Granted

If the Court grants the Default Judgment of Divorce Decree, a signed, certified copy of the Judgment and Decree of Divorce (Default) will be provided to you, and you will need to do the following:

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

Dismissing the Divorce

If the parties reconcile before the Judge grants the divorce, the divorce action may be dismissed. You will choose one of the following options:

1. Stipulation and Order for Dismissal (UJS-328): Use this form if both parties agree to dismiss the divorce action and file the original with the Clerk of Court.
2. Motion and Order for Dismissal (UJS-329): If the Plaintiff wishes to dismiss the action and the Defendant has not yet filed an Answer, this form should be used, and the original filed with the Clerk of Court.

Contested Divorce (The Parties cannot agree on some or all of the terms of the divorce)

1. If the parties cannot agree on the terms and conditions of the divorce, one party will have to request that a hearing, or trial, be scheduled.
2. Contact the Clerk of Court or Court Administrator to obtain a court date.
3. Complete a Notice of Hearing (UJS-336), available in the General Motions link on the [UJS Self Help page](#) and make two copies. File the original. Send one copy to the other party and keep a copy for yourself.

4. Complete the Statement of Mailing (UJS-338), available at the General Motions link given immediately above. Make one copy for yourself and file the original.
5. If the parties cannot reach an agreement, the Judge can order them both to mediation. A Court-approved mediator will help the parties mutually agree on the various issues in your divorce. Mediation is not binding, and the issues discussed in mediation are confidential.

For more information on your case or to track events you may register as a user on [eCourts](#).

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 on [South Dakota Unified Judicial Attorney forms and Documents](#) webpage.

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 City State Zip
☐ Check is Same as Mailing

Mailing Address City State Zip

Home Work Cell

Social Security No. Date of Birth Driver's License No. State Employed 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 City State Zip
☐ Check is Same as Mailing

Mailing Address City State Zip

Home Work Cell

Social Security No. Date of Birth Driver's License No. State Employed ID (Business)

Attorney:

Last Name First Name State Bar ID No.

Mailing Address City State Zip

Phone

INSTRUCTIONS AND FORM FOR SUMMONS (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

To complete this form, you will need to:

1. Complete the caption of the Summons.
 - a. Enter the name of the County you are filing in.
 - b. Enter the Judicial Circuit number of the county. You may find your judicial circuit number on the UJS website on the [Court Finder Page](#).
 - c. Insert your name on the line for the Plaintiff.
 - d. Insert your spouse's name on the line for the Defendant.
 - e. You can leave the Case Number blank as this will be provided to you by the Clerk of Court at the time of filing.
2. Date and sign.
3. File this form along with the Complaint (with Minor Children) (UJS-312), South Dakota Parenting Time Guidelines, Case Filing Statement (UJS-232), and the required filing fee, with the Clerk of Court.
4. It is very important that you read and follow the Temporary Restraining Order that becomes automatic when you file for divorce and the other party has been served. Both parties are required to obey it. Violation of any of these terms could subject you to penalties and delay your divorce. Please read it carefully.

STATE OF SOUTH DAKOTA

IN CIRCUIT COURT

COUNTY OF _____

_____ JUDICIAL CIRCUIT

_____ Plaintiff v. _____ Defendant	Case No.:_____ SUMMONS (WITH CHILDREN)
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TO THE ABOVE-NAMED DEFENDANT:

YOU ARE HEREBY SUMMONED and required to answer the Complaint with Minor Children, a copy of which is hereby served upon you, and to serve the Plaintiff with a copy of your Answer or other proper response, within thirty days from the date of the service of the Summons upon you, not counting the day of service.

IF YOU FAIL TO DO SO, judgment by default may be taken against you for the relief demanded in the Complaint sixty days from the date of the service of this Summons and Complaint with Minor Children, not counting the day of service.

NOTICE

South Dakota law provides that upon the filing and service of the Summons and Complaint with Minor Children on the Defendant, a Temporary Restraining Order shall be in effect against both parties until the final decree is entered, the Complaint with Minor Children is dismissed or until further order of the Court. Either party may apply to the Court for further temporary orders or modification or revocation of this Order.

TEMPORARY RESTRAINING ORDER

PER SDCL § 25-4-33.1, BY ORDER OF THE COURT, YOU AND YOUR SPOUSE ARE:

- (1) Restrained from transferring, encumbering, concealing or in any way dissipating or disposing of any marital assets, without the written consent of the other party or an order of the court, except as may be necessary in the usual course of business or for the necessities of life. You are to notify the other party of any proposed extraordinary expenditures and to account to the court for all extraordinary expenditures made after the Temporary Restraining Order is in effect;

- (2) Restrained from molesting or disturbing the peace of the other party;
- (3) Restrained from removing any minor child of the parties from the state without the written consent of the other party or an order of the court; and
- (4) Restrained from making any changes to any insurance coverage for the parties or any child of the parties without the written consent of the other party or an order of the court unless the change under the applicable insurance coverage increases the benefits, adds additional property, persons, or perils to be covered, or is required by the insurer.

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 children of this marriage shall remain in the custody of the parent who has been the primary caregiver for the minor children for the majority of time in the twelve months preceding the filing of the Summons and Complaint with Minor Children, 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 thirty 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.

IF EITHER SPOUSE VIOLATES ANY OF THESE PROVISIONS, THAT SPOUSE MAY BE FOUND TO BE IN CONTEMPT OF COURT AND MAY BE ORDERED TO PAY COSTS AND EXPENSES, INCLUDING BUT NOT LIMITED TO THE ATTORNEY FEES OF THE OTHER SPOUSE.

Dated this _____ day of _____, 20_____.

Plaintiff's Signature

Plaintiff's Printed Name

Address

City/State/Zip

Phone No.

Forms for representing yourself in a divorce action can be found on the [UJS self-help website](#).

INSTRUCTIONS AND FORMS FOR DIVORCE COMPLAINT WITH 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@uds.state.sd.us.

To Complete this form, you will need to:

1. Complete the caption of the Complaint.
 - a. County (insert county name).
 - b. Judicial Circuit (insert circuit number). You may find your judicial circuit number on the [South Dakota Unified Judicial website](#).
 - c. Plaintiff (insert your name).
 - d. Defendant (insert spouse's name).
 - e. Case Number will be provided to you by the Clerk of Court at the time of filing.
2. Complete the remainder of the information on the lines provided throughout the form. Please note for Number 9, irreconcilable differences is the most common reason cited for divorces. You are welcome to select an alternative option in addition to irreconcilable differences but are not required to do so.
3. Date and sign.

STATE OF SOUTH DAKOTA

IN CIRCUIT COURT

COUNTY OF _____

_____ JUDICIAL CIRCUIT

_____ Plaintiff v. _____ Defendant	Case No.: _____ COMPLAINT (WITH MINOR CHILDREN)
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1. Plaintiff's full legal name is _____ and their date of birth is _____
2. Plaintiff is a resident of _____ County, State of _____
3. Defendant's full legal name is _____, and their date of birth is _____
4. Defendant is a resident of _____ County, State of _____
5. Plaintiff and Defendant were married on the _____ day in the month of _____ in the year of _____, in the city of _____ and in the State of _____
6. Are the parties currently living apart? **(check one)**
Yes ☐ No ☐
If yes, what date did the parties begin to do so? _____ **(date)**
7. Is the Plaintiff an active-duty member of the armed forces? **(check one)**
Yes ☐ No ☐
8. Is the Defendant an active-duty member of the armed forces? **(check one)**
Yes ☐ No ☐

9. Irreconcilable differences have arisen between the Plaintiff and Defendant which necessitates the dissolution of the marriage. Alternatively, further grounds for dissolution of marriage exist under SDCL § 25-4-2, if the parties do not agree to the grounds selected below, a hearing will be required, and you will need to provide proof to support the grounds claimed: **(check one or more)**

- ☐ 1. Adultery
- ☐ 2. Extreme Cruelty
- ☐ 3. Willful Desertion
- ☐ 4. Willful Neglect
- ☐ 5. Habitual Intemperance
- ☐ 6. Conviction of Felony
- ☐ 7. Irreconcilable Differences

10. We have _____ minor child(ren) which have been born to or adopted by the parties. ☐ **Plaintiff** / ☐ **Defendant (check one)** ☐ **is** ☐ **is not (check one)** pregnant.

If one spouse is pregnant, her due date is. _____

11. The minor children's names and dates of birth are listed below:

Name:	Date of Birth:

12. During the past five years, the children have lived with the following persons at the times and places indicated below:

Child Name:	Lived With:	County/State:	Timeframe:

13. There ☐ has / ☐ has not **(check one)** been any prior court proceedings regarding custody of the minor child(ren).

If so, that action took place in _____ County, in the State of _____ in the year of _____

(Attach any existing orders regarding custody of the minor child(ren))

14. Other than the parties, no one has ever had legal custody of the minor child(ren) except _____ (if not applicable, write "none").

(Attach any existing orders regarding custody of the minor child(ren))

15. Regarding custody of the minor child(ren), Plaintiff alleges: **(check one)**

☐ Both parties are fit and proper parents to share joint legal custody of the minor child(ren), with the ☐ **Plaintiff** ☐ **Defendant (check one)** having primary physical custody, subject to reasonable visitation rights with ☐ **Plaintiff** ☐ **Defendant (check one);**

☐ **Plaintiff** ☐ **Defendant** ☐ **(check one)** is the fit and proper persons to have sole legal and physical custody of the minor child(ren), subject to visitation with the ☐ **Plaintiff** ☐ **Defendant (check one)** as follows:

- ☐ Both parties are fit and proper persons to share the joint legal and physical custody of the minor child(ren), with the parent sharing the duties and responsibilities of parenting the minor child(ren), with 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;

☐ Other: _____

Plaintiff acknowledges that in the State of South Dakota an order for child support must be entered.

If a child support order already exists, please indicate the case number and attach a copy of it this complaint _____ **(case number)**.

(Even if the Plaintiff is the non-custodial parent, they may still request that child support be entered.)

16. Plaintiff requests that the ☐ **Plaintiff** / ☐ **Defendant (check one)** be ordered to provide health insurance for the minor child(ren) with the uncovered medical expenses, including the premium attributable to the minor child(ren), being allocated between the parties in proportion to their incomes.

17. Plaintiff requests that the daycare expenses of the minor child(ren) be allocated between the parties. **(check one)**

Yes ☐ No ☐

18. The parties have accumulated property and debts during the marriage which must be equitably divided. **(check one)**

Yes ☐ No ☐

19. Plaintiff seeks spousal support (alimony). **(check one)**

Yes ☐ No ☐

Wherefore, Plaintiff prays for a judgment as follows:

1. For a Judgment and Decree of Divorce dissolving the marriage of the parties;
2. For an equitable division of the marital property and debts;
3. That the Plaintiff's last name be restored to: *(only if requesting)*
_____ whose date of birth is _____
4. That custody and visitation of the minor child(ren) be established as set forth above;
5. That an order for child support be established if one does not already exist;
6. That health insurance for the minor child(ren) be addressed, if requested above;
7. For alimony to be ordered, if requested above; and
8. For such other and further relief as may be equitable and just.

I declare under penalty of perjury under the law of South Dakota that the foregoing is true and correct.

Signed on the _____ day of _____, _____ at _____
(Date) (Month) (Year) (City or other location, and State)

Plaintiff Signature

Plaintiff Name

Plaintiff Address

City, State, Zip Code

Phone Number

South Dakota Parenting Guidelines



Effective July 1, 2026

The South Dakota Parenting Guidelines are located on the South Dakota Legal Self-Help Center found at: <https://ujs.sd.gov/self-help/family-law-help/>

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.

Established by the 2025 Commission on Parenting Time Guidelines.

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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 SD UJS Family Law Self Help under divorce or paternity actions for instructions on how to initiate an action (service of summons).

Parental Agreements Encouraged:

Parents are both allowed and encouraged to work together and create a parenting plan for their child(ren) after giving meaningful consideration of the needs and abilities of the child(ren) and parents involved in their specific situation. These guidelines are intended to provide guidance regarding the **minimum** parenting time children should have with parents in order to ensure meaningful contact and allow for the parent/child relationship. Parents should agree to parenting time they find reasonable and in the best interests of their children. These Parenting Guidelines are intended to provide guidance and fill in the gaps when parents are unable to reach an agreement and are not intended to prevent agreements.

If the parents are unable to agree on a parenting plan, these Guidelines become a mandatory initial parenting plan and are enforceable as a court order upon commencement of a divorce or court action involving custody. SDCL 25-4A-11. This is a court order that will remain in place until further order of the court or until the parents agree otherwise.

Objection:

If either parent disagrees with the use of these guidelines as the initial parenting time plan, that parent has a right to object. A written objection shall be filed with the clerk. A form for the objection (form 372) can be found here: https://ujs.sd.gov/media/od3jgnnd/ujs-372-objection-to-order-implementing-guidelines-9_2022.pdf Upon filing of the objection, a hearing will be scheduled within 30 days. Following the hearing, the court will issue an order for temporary custody. To assist the Court in formulating an interim order, parents should be prepared to concisely convey the degree of each parent's participation in the child's life and provide information regarding the provisions set forth in SDCL 25-4-45.

When constructing an interim parenting time schedule the Court will work to maximize the time each parent has with the child consistent with each parent's demonstrated participation in the child's life and ensuring the child's welfare. When constructing a parenting plan, the Court may consider these guidelines, as guidance regarding the **minimum** exposure recommended for children with parents in order to ensure meaningful contact and allow for the maintenance of the parent/child relationship. SDCL 25-4A-13.

Instructions and forms regarding enforcement can be found at:

<https://ujs.sd.gov/self-help/family-law-help/shared-parenting-guidelines-plans/>

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

1.1. Children Under Age 5 Generally.

- 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.
- Overnights with very young children can establish and maintain meaningful bonds between the child and both parents and should occur when both parents can provide nurturing and routine within a stable environment. The schedule should be adjusted as needed to support the child's comfort and development.
- 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.

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, 2-hour parenting time periods per week and one weekend parenting time period for 6 hours; or
- (2) 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 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 24 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 24 hours; or
- (3) Children spend time in alternate homes, but spend 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 24 hours; or
- (3) Children spend 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, 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 applies 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 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.
- 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 24-hour periods while the nursing mother sleeps or works, that arrangement 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	Mother	Mother
Memorial Day	5:00 p.m. Friday – 8:00 a.m. Tuesday	Parent 2	Parent 1
Juneteenth (6/19)	Starts at 8:00 a.m. on 6/19 and ends 8:00 a.m. on 6/20. (In the event that Juneteenth and Father’s Day lands on the same day, Father’s Day prevails).	Parent 1	Parent 2
Father’s Day	8:00 a.m. – 8:00 a.m. the following day	Father	Father
4th 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
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 holiday takes precedence and 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 holiday takes precedence and 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 holiday takes precedence and the parenting time for the birthday shall take place the day before)	Parent 1	Parent 1
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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. 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.

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 Less 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 upon the release of school for the week, and continuing until the return to school following week. Parenting time shall be an equivalent period of time if a parent is unavailable on weekends and the children do not miss school. Holiday time takes precedence over weekends.

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. if no school is in session, and concludes when the children are returned to school the next day or at 8:00 a.m. 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 for the week and ends when the children are returned to school the following week.	Parent 2	Parent 1
President's Day weekend	Starts when school is released for the week and ends when the children are returned to school the following week.	Parent 1	Parent 2
Easter weekend	Starts when school is released for the week and ends when the children are returned to school the following week.	Parent 2	Parent 1

Spring Break, if one is designated separately from Easter	Starts when school is released for the week and ends when the children are returned to school the following week. 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.	Mother	Mother
Memorial Day weekend	Starts when school is released for the week and ends when the children are returned to school the following week. If school is not in session, the holiday will be 5:00 p.m. Friday to 8:00 a.m. Tuesday.	Parent 2	Parent 1
Juneteenth	Starts at 8:00 a.m. on 6/19 and ends at 8:00 a.m. on 6/20. (In the event that Juneteenth and Father's Day lands on the same day, Father's Day prevails)	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.	Father	Father
4th 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 for the week and ends when the children are returned to school the following week. If school is not in session, the holiday will be 5:00 p.m. Friday to 8:00 a.m. Tuesday.	Parent 1	Parent 2
Native American Day weekend	Starts when school is released for the week and ends when the children are returned to school the following week.	Parent 2	Parent 1
Halloween	Starts on 10/31 when school releases for the day or 3:00 p.m. if no school, and concludes on 11/01 when the children are returned to school or 8:00 a.m. if there is no school.	Parent 1	Parent 2
Thanksgiving weekend	Starts when school is released for the week and ends when the children are returned to school the following week.	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
1st half of winter break	The winter break starts 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
2nd half of winter break, including New Year's holiday	The winter break starts 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

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 holiday takes precedence and 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 holiday takes precedence and 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.

2.7. 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.

2.8. 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.

2.9. 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.

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 week and ends when the children are returned to school the following week.	Parent 2	Parent 1
Spring Break, if one is designated separately from Easter	Starts when school is released for the week and ends when the children are returned to school the following week. 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 is released for the week and ends when the children are returned to school the following week.	Parent 2	Parent 1
Winter Break	The winter break starts 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 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 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 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 and permission from the court may be required. See SDCL 25-4A-17. Instructions and forms on how to comply with the requirements

surrounding relocation: <https://ujs.sd.gov/self-help/family-law-help/relocate-with-minor-child/>

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 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://ujs.sd.gov/self-help/family-law-help/shared-parenting-guidelines-plans/%23timeorders>

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 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.

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.

“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 under Shared Parenting Plans at: <https://uj.s.sd.gov/self-help/family-law-help/shared-parenting-guidelines-plans/>

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://uj.s.sd.gov/media/od3jgnnd/uj.s-372-objection-to-order-implementing-guidelines-9_2022.pdf. 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 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://uj.s.sd.gov/programs-services/> for additional information on mediators, parenting coordinators, co-parenting tools and counseling options.

Mediation is another opportunity for parents to meet and confer regarding parenting plans with the assistance with a professional. Mediation can be voluntary or court ordered. Approved court appointed mediators can be found at <https://uj.s.sd.gov/programs-services/> under Mediators.

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.

INSTRUCTIONS AND FORMS ON NOTICE AND ADMISSION OF SERVICE

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@uds.state.sd.us.

IMPORTANT NOTICES

When filing for divorce, the Defendant will need to be served with copies of the Summons and Complaint and proof that the Defendant was served is required by the Court. The day the Defendant is served initiates the thirty days the Defendant can file an answer to the Summons and Complaint. **A divorce cannot be finalized until at least sixty days have elapsed from the date the Summons and Complaint are served.** (The day of service is **NOT** counted.)

**** When serving the Defendant, you have three options****

- 1) **Option 1 – Mailing to the Defendant** *(the Defendant will need to sign the admission of service within twenty days of mailing and provide the signed forms back to you or file with the Clerk of Court themselves.)*
 1. Complete two copies of the Notice and Admission of Service (UJS-317A) by filling in the caption with the name of the county, judicial circuit number, name of the Plaintiff and Defendant on the lines provided, case file number, sign, and date.
 2. Complete two copies of the Admission of Service (UJS-317B) by only filling in the caption. The remainder of the form is for the Defendant to complete.
 3. Mail a copy of the Summons with Minor Children (UJS-311), South Dakota Parenting Guidelines, Complaint without Minor Children (UJS-312), both copies of the Notice and Admission of Service (UJS-317A), both copies of the Admission of Service (UJS-317B), and a self-addressed stamped envelope to the Defendant.
 4. Once you've mailed copies, complete the Statement of Mailing (UJS-317C) and file it with the Clerk of Court. Certified mail is not considered proper service.
 5. Once you receive the signed Admission of Service (UJS-317B) from the Defendant, you **MUST** file it with the Clerk of Court. The Defendant may also file the Admission of Service with the Clerk of Court but should provide you with a copy.
- 2) **Option 2 – Hand Deliver to the Defendant** *(if you believe the Defendant will willfully accept the Summons and Complaint from you)*
 1. Complete the Admission of Service of Summons and Complaint (UJS-317B) by filling in the caption with the name of the county, judicial circuit number, name of the Plaintiff and Defendant on the lines provided and case file number. Leave the remainder of the form blank for the Defendant to complete.
 2. Attach a copy of the Summons with Minor Children (UJS-311), South Dakota Parenting Guidelines, and Complaint with Minor Children (UJS-312) and provide to the Defendant.
 3. The Defendant will need to sign the Admission of Service (UJS-317B) and provide the original back to you or file directly with Clerk of Court.

3) **Option 3 – Sheriff or Process Server** *(if the Defendant will NOT willfully sign the Admission of Service, you will want to follow these steps)*

1. You will provide copies of the Summons (UJS-311), South Dakota Parenting Guidelines, and Complaint (UJS-312) to the Sheriff or Process Server.
2. You will need to provide the Defendant's physical address, phone number, place of employment and any other relevant information for location.
3. Typically having the Defendant served requires a fee to be paid prior to completing service.
4. Once the Defendant is served, the server will provide you with a Proof of Service that you **MUST** file with the Clerk of Court.
5. Contact information for process servers can be found on the [Unified Judicial website under Programs and Services](#).

COUNTY OF _____

_____ JUDICIAL CIRCUIT

_____ Plaintiff v. _____ Defendant	Case No.: _____ NOTICE AND ADMISSION OF SERVICE OF SUMMONS AND COMPLAINT (WITH MINOR CHILDREN) SOUTH DAKOTA PARENTING GUIDELINES
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TO THE ABOVE-NAMED DEFENDANT: The enclosed Summons and Complaint (with Minor Children) and South Dakota Parenting Guidelines are sent to you pursuant to SDCL § 15-6-4(i), as well as two copies of this Notice and Admission of Service of Summons and Complaint (with Minor Children), South Dakota Parenting Guidelines, 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 twenty 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 twenty days after the date of mailing without good cause could result in the Court ordering you to pay the costs of personal service SDCL § 15-6-4(i).

After you complete and return the Admission of Service, you must then respond to the Summons and Complaint within thirty days. If you fail to do so, a judgment may be entered against you by default as requested in the Complaint.

Dated this ____ day of _____, 20 ____.

Plaintiff Signature

Plaintiff Name

Plaintiff Address

City, State, Zip Code

Phone Number

STATE OF SOUTH DAKOTA

IN CIRCUIT COURT

COUNTY OF _____

_____ JUDICIAL CIRCUIT

_____ Plaintiff v. _____ Defendant	Case No.: _____ ADMISSION OF SERVICE OF SUMMONS AND COMPLAINT (WITH MINOR CHILDREN)
---	--

I, _____ the above-named Defendant, admit to receiving a copy of the Summons and Complaint (with Minor Children), and the South Dakota Parenting Guidelines, in the above-captioned matter on the _____ day of the month of _____ and year of _____ and in the City of _____ in the County of _____ and in the State of _____. This admission merely acknowledges receipt of the papers on the date provided above; I do not admit or deny any of the statements contained in these documents.

I declare under penalty of perjury under the law of South Dakota that the foregoing is true and correct.

Signed on the _____ day of _____, _____ at _____.

(Date) (Month) (Year) (City or other location, and State)

Defendant Signature

Defendant Name

Defendant Address

City, State, Zip Code

Phone Number

COUNTY OF _____

_____ JUDICIAL CIRCUIT

Plaintiff v. Defendant	Case No.: _____ STATEMENT OF MAILING OF NOTICE AND ADMISSION OF SERVICE OF SUMMONS AND COMPLAINT (WITH MINOR CHILDREN)
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I, _____, the above-named Plaintiff being sworn, state that on the _____ day of _____, 20____, I sent two copies of the Notice and Admission of Service of Summons and Complaint (with Minor Children); the Summons (with Minor Children); the Complaint (with Minor Children); and the South Dakota Parenting Guidelines by placing true and correct copies in an envelope addressed to:

(Name of Defendant)

(Street Address)

(City, State, Zip)

And depositing the envelope, with sufficient postage, in the United States Mail in:

(City and State you mailed from)

(SIGNATURE PAGE TO FOLLOW)

I declare under penalty of perjury under the law of South Dakota that the foregoing is true and correct.

Signed on the _____ day of _____, _____ at _____.
(Date) (Month) (Year) (City or other location, and State)

Plaintiff Signature

Plaintiff Name

Plaintiff Address

City, State, Zip Code

Phone Number

INSTRUCTIONS AND FORM ON STATEMENT OF COURT APPROVED PARENTING COURSE

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@uj.s.state.sd.us. Remember that legal matters are better addressed by professionals who specialize in this field.

IMPORTANT NOTICES:

1. In order for a final decree or order to be entered in a case involving child custody or parenting time a parenting course is required to be completed by both parties within sixty days of service of a summons, complaint, petition, motion, or other request concerning child custody.
2. Participation in the course may be waived if good cause is shown, or there has been completion of a court-approved course within the past five years.
3. More information and a list of court-approved parenting classes can be found on the [South Dakota Unified Judicial website](#).
4. The following form should only be completed if you are requesting to waive the Parenting Course Requirement.

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, and list the names of the parties as they appear on the Summons and Complaint.
2. Fill in your name on the first line provided as you are the Petitioner.
3. Number 2 – Check mark one or both boxes depending on what fits your case.
4. Number 3 – Check mark A, B, or C.
 - a) Option A – can be marked if you have completed a court-approved parenting course within the past five years.
 - b) Option B – can be marked if you are seeking to waive the parenting course requirement with good reason for the request.
 - c) Option C – can be marked if you are seeking additional time (more than sixty-day requirement) to complete the parenting course and reason for the delay.
 - d) Date, Sign, and file with the Clerk of Court.

STATE OF SOUTH DAKOTA

IN CIRCUIT COURT

COUNTY OF _____

_____ JUDICIAL CIRCUIT

_____ Plaintiff v. _____ Defendant	Case No.: _____ STATEMENT ON COURT-APPROVED PARENTING COURSE AND ORDER
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I, _____, the Petitioner, hereby swear under oath and penalty of law that the following is true to the best of my knowledge and belief:

1. I am a party to the above-captioned action.
2. The above-captioned action involves (**check one or both**) ☐ child custody/ ☐ parenting time issues, it is not a protection order proceeding, and does not terminate parental rights.
3. I _____, the Petitioner (**check A, B, or C**)

☐ A – Have completed a court-approved parenting course within the last five years. I have attached proof of completion to this Affidavit.

☐ B – Seek to waive the court requirement for the following reason (*check one*):

☐ The other party has not responded within the required timeframe.

OR

☐ Other: _____

☐ C – Seek to delay the court requirement until _____ days after the ☐ summons,

☐ petition, or ☐ motion (**check one**) is/was served for the following reasons:

4. I understand that if the course requirement is waived or delayed by the Court, the Court may order that I receive the course information in an alternative format.
5. I further understand that a final decree shall not be granted or a final order in this matter shall not be entered until both parties have complied with the parenting course requirement, unless the Court waives or delays the participation in the Court for good cause.

I declare under penalty of perjury under the law of South Dakota that the foregoing is true and correct. Signed on the _____ day of _____, _____ at _____.

(Date) (Month) (Year) (City or other location, and State)

Petitioner Signature

Petitioner Name _____

Petitioner Address

City, State, Zip Code

Phone Number

ORDER

The Petitioner having moved this Court to waive or delay the parenting requirement or having completed a court-approved parenting course within the last five years, and the Court having reviewed and considered said request the Court determines that it is hereby:

☐ ORDERED that the petitioner's proof of completion of a court-approved parenting course is:

☐ DENIED ☐ GRANTED

☐ ORDERED that the request made by the Petitioner to waive the parenting course requirement is hereby:

☐ DENIED ☐ GRANTED

☐ ORDERED that the request made by the Petitioner to delay the court required parenting course requirement is hereby:

☐ DENIED ☐ GRANTED

Circuit Court Judge

Attest:

Clerk of Court

Deputy Clerk

(Seal)

INSTRUCTIONS AND FORM FOR STIPULATION AND SETTLEMENT 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@uds.state.sd.us. Remember that legal matters are better addressed by professionals who specialize in this field.

IMPORTANT NOTICES:

The Stipulation and Settlement Agreement is an agreement made between the Plaintiff and the Defendant on the dissolution of marriage. The Stipulation and Settlement Agreement is required for the Court to grant a divorce without either party appearing in court. In some cases, a hearing may still be required.

To complete this form, you will need to:

1. Read each page in detail.
2. Complete the caption by filling in the name of the county you are filing in, the judicial circuit number, name of the Plaintiff and Defendant on the lines provided, and case filing number.
3. Pages 1 and 2 – Read and fill in the lines provided.
4. Page 3 Number 3 – List the name(s), date of birth(s), and date of adoption, if applicable.
5. Page 3 Number 3, Section A – Mark the appropriate box regarding the custody of the child(ren).
6. Pages 3 and 4 Number 3, Section B – Provide the parenting time schedule for both the Plaintiff and the Defendant.
7. Pages 4 and 5 Number 3 Section C – Provide the transportation arrangement of the child(ren) during holidays.
8. Pages 7 and 8 Number 4 Section A – Provide the agreed upon child support obligation. A [Child Support Obligation Calculator](#) can be found on the South Dakota Department of social services website and should be attached to this stipulated agreement at the time of filing.

9. Page 8 Number 4 Section B – List the parties' percentage of health care coverage for the child(ren) that exceeds \$250.
10. Page 8 Number 4 Section C – Enter who prepared the child support obligation and attach how the child support was reached to this stipulation agreement.
11. Page 8 Number 4 Section D – List the month and year the child support obligation will begin.
12. Pages 9 and 10 Number 4 Section H – Mark who will be responsible for obtaining health insurance for the child(ren).
13. Page 10 Number 5 Section C – List property that the Plaintiff will receive as a part of the divorce. Property would include vehicles, boats, motorcycles, ATV/Mobile homes, etc. Include make and model number for each.
14. Page 11 Number 5 Section D – List property the Defendant will receive as part of the divorce. Property would include vehicles, boats, motorcycles, ATV/ Mobile homes, etc. Include make and model number for each.
15. Page 11 Number 5 Section E – List any property that either party has possession of but is to be given to the other party within thirty days of entry of the Judgment and Decree of Divorce.
16. Page 12 Number 6 Sections A and B – List any debt each party will be responsible for. This will include debt such as credit cards, banks loans, personal loans, vehicle loans, outstanding bills, student loans, medical bills, etc.
17. Page 13 Number 7 – Set the timeframe for the parties to remove the others name from any property or debt received as a part of this Agreement.
18. Page 13 Number 8 – Provides for the parties to equalize the property and debt distribution by requiring one party to make an equalization payment to the other party. If the parties believe the distribution of assets and debts is equal, you should mark the second box.
19. Pages 13, 14, and 15 Number 9 – Request the distribution of real property such as houses, land, and buildings.
20. Pages 15 and 16 Number 10 – List investment and retirement account information, if any, and the division of each.
21. Page 16 Number 11 – Include life insurance information, if any, and the division of such.
22. Pages 17 and 18 Number 12 – Mark if either party is currently a member of the military.

23. Page 18 Number 13 – Select whether alimony is appropriate and if so, enter the amount and payment details.
24. Page 18 Number 14 – Enter income tax return agreement.
25. Page 19 Number 15 – Indicate if either the Plaintiff or Defendant would like to be restored to a maiden or former name and if so, provide that information.
26. Page 19 Number 16 – Provide any other agreement the Plaintiff and Defendant have agreed upon if not listed previously.
27. Page 19 Number 17 – Select if either party is awarded attorney fees.
28. Each page must be initialed by each party.
29. Each party will need to sign and date.

COUNTY OF _____

_____ JUDICIAL CIRCUIT

_____ Plaintiff v. _____ Defendant	Case No.: _____ STIPULATION AND SETTLEMENT AGREEMENT (WITH MINOR CHILDREN)
--	---

THIS STIPULATION AND SETTLEMENT AGREEMENT (WITH MINOR CHILDREN), made and entered into this _____ day of _____, 20____, by and between the Plaintiff, _____ and the Defendant, _____. Within this document we understand that we may be referred to individually as Plaintiff/Defendant, or together as party(ies).

WHEREAS The, the parties were married in the City of _____, in the State of _____, on the _____ day of _____, 20____, and ever since that time have been and are now married; and

WHEREAS, irreconcilable differences and disputes have arisen between the parties and have or will separate with the intent to live apart; and

WHEREAS, Defendant was served with a true and correct copy of the Summons and Complaint (with Minor Children) on the _____ day of _____, 20____, and;

WHEREAS, At the time of the commencement of this divorce action Plaintiff resided in the City of _____, in the County of _____, in the State of _____, and presently resides in the City of _____, in the County of _____, in the State of _____, and the Defendant at the time of the commencement

Plaintiff Initials_____
Defendant Initials

of this divorce action resided in the City of _____, in the County of _____, in the State of _____, and presently resides in the City of _____, in the County of _____, in the State of _____.

Both parties agree that venue and jurisdiction in this Court is appropriate and consent to such jurisdiction and venue; and

WHEREAS, the parties are the parents of _____ (#) minor child(ren) born to or adopted by the parties during the course of their relationship/marriage. The Spouse ☐ **is** / ☐ **is not (check one)** pregnant at the time of this action. If pregnant, the spouse is due on the _____ day of _____, 20_____, and

WHEREAS, the parties hereto now desire to enter into an Agreement settling all claims, visitation, child support, property division, and all other matters between the parties regarding this divorce action,

NOW THEREFORE, it is hereby stipulated and agreed by and between the parties herein as follows:

1. **Release.** Except as stated in this agreement, each party is released from any future obligations or responsibilities for the other parties actions. Both parties are free from any debts, liabilities, or claims the other may incur after this agreement. This agreement is meant to settle all matters between the parties, unless stated otherwise.

2. **After-Acquired Property.** Any and all property, whether real or personal acquired by either party after the date of this agreement shall be the sole and separate property of the person who acquired the property, and each of said parties respectfully grants to the other all such other and future acquisitions of property as the sole property of the one acquiring the same.

Plaintiff Initials

Defendant Initials

3. **Custody & Visitation.** The parties are the parents of the following minor child(ren) born to or adopted by them during their relationship/marriage:

Name of Child	Date of Birth	Date of Adoption

A. **Legal & Physical Custody:** The parties agree that as to custody of the minor child(ren) **(check one)**:

- ☐ The parties share joint legal custody of the minor child(ren) with _____ having primary physical custody;
- ☐ The parties share joint legal and joint physical custody of the minor child(ren);
- ☐ _____ has sole legal and physical custody of the minor child(ren);
- ☐ The parties agree to joint legal and physical custody with a shared parenting plan, as set forth below, in which the child(ren) reside no less than 180 nights per calendar year in each parent's home. The parents further agree to share the duties and responsibilities of parenting the child(ren) and shall divide the expenses of the child(ren) in proportion to their incomes, i.e. Plaintiff paying _____% and Defendant paying _____%.

B. **Parenting Time Schedules:** The parties agree to the following parenting time schedules with the minor child(ren):

During the school week, including pick-up and return times and location, the **Plaintiff** shall have the minor child(ren): _____

Plaintiff Initials

Defendant Initials

During the school week, including pick-up and return times and location, the **Defendant** shall have the minor child(ren): _____

During the summer, including pick-up and return times and location, the **Plaintiff** shall have the minor child(ren): _____

During the summer, including pick-up and return times and location, the **Defendant** shall have the minor child(ren): _____

- C. Holidays: In addition to the custodial arrangement designated above, and unless the parties otherwise agreed, major holidays shall be alternated as set forth in the South Dakota Parenting Guidelines (Form UJS-302). When there is a conflict between a holiday and the regular parenting schedule, the holiday takes precedence. Therefore, if the Defendant misses a regular weekend because it is Plaintiff's holiday, the regular parenting time schedule will resume following the holiday. If the Defendant receives two consecutive weekends because of a holiday, the regular alternating weekend schedule will resume the following weekend with the Plaintiff. Unless mutually agreed, there will be no makeup parenting time after any conflicts between the holiday weekend and the regularly scheduled weekend time. Parenting time "missed" during the summer period is not made up.

Plaintiff Initials

Defendant Initials

The parties agree to arrange transportation for the child(ren) for holiday visits as follows:

The parties may, by mutual agreement, alter the parenting time schedule above which shall be in writing and signed by both parties. Text messages and emails are sufficient in amending this agreement as long as the text messages and emails are retained.

- D. Failure to comply: Neither parenting time 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 have a right to both support and parenting time, neither of which is dependent upon the other. In other words, if you do not receive child support, you still have to allow parenting time and if you are denied parenting time, you still have to pay child support. If there is a violation of either parenting time or a support order, the exclusive remedy is to apply to the court for appropriate sanctions.
- E. Telephone Calls: Telephone calls between parent and child shall be liberally permitted at reasonable hours and at the expense of the calling parent, if it is a long-distance call. The parent with whom the child is staying shall not refuse to answer the phone or turn off the phone in order to deny the other parent telephone contact. Messages or voice mails left for a child should be returned in a timely manner.
- F. Clothing: If one parent has primary physical custody, that parent shall send an appropriate supply of the child(ren)'s clothing with them during the other parent's parenting time, which shall be returned clean (when reasonably possible), with the child(ren). The parent exercising parenting time shall advise, as far in advance as possible, of any special activities so that the appropriate clothing belonging to the child(ren) may be sent.

Plaintiff Initials

Defendant Initials

If the parties are exercising shared parenting, it is expected that they will each maintain clothing at their individual homes for the child(ren). However, the parents agree to cooperate in returning clothing to the appropriate parent so each can maintain a supply of clothing.

- G. Transportation: Unless otherwise agreed to herein, the transportation between the parents shall be handled equally. When the parents live in the same community, the parent commencing their parenting time will pick up the child(ren) from the other parent's home and upon conclusion of the parenting time, the other parent shall retrieve the child(ren) from the home of the parent who just had parenting time. The parents have an obligation to be punctual, arriving at the agreed time, not substantially early or late. Repeated, unjustified violations of this provision may subject the offender to court sanctions.
- H. Parental Affection: Each of the parents shall take all measures deemed advisable to foster a feeling of affection between the minor child(ren) and the other parent and neither will do anything which may estrange the child(ren) from the other parent nor impair their high regard for the other parent. Both parties agree they will speak only favorably of the other while in the child(ren)'s presence. Each will promote and foster good parental relations between the child(ren) and the other parent and avoid any communication of any kind which would be detrimental to the child(ren)'s respect or admiration for the other parent.
- I. Grade Reports and Medical Information: If the parties share joint legal custody, each parent shall provide the other parent with grade reports and notices from school as they are received and shall authorize the other parent to communicate concerning the child(ren) directly with the daycare, the school, and the child(ren)'s doctors and other professionals outside the presence of the other parent. Unless there are abuse and neglect, criminal or protection orders to the contrary, both parents shall also be listed as the

child(ren)'s parent and as an emergency contact with the daycare, the school, and all health professionals. Each parent shall immediately notify the other of any medical emergencies or serious illnesses of the child(ren). Each parent shall, as soon as reasonably possible, notify the other parent of all school or various activities (for example, music or sports) involving parental participation. If a child is taking medications, each parent shall have a sufficient amount of medication and appropriate instructions during their parenting time.

- J. Future Disputes: If the parties develop disputes in the future, they agree to first review the South Dakota Parenting Time Guidelines (UJS-302) to determine if a resolution can be reached.
- K. Relocation: The parties acknowledge that if either of them desire to relocate, they must abide by specific provisions required by law. These provisions can be found at SDCL §§ 25-4A-17-19.
- L. Parenting Course Requirement: Because this stipulation involves issues of custody and parenting time, the parties recognize that they must complete a court-approved parenting course pursuant to SDCL § 25-4A-32. The parties have therefore each filed a certificate of completion or an Affidavit on the Court-Approved Parenting Course with the Clerk of Court within sixty days of the service of the Complaint on the other party.

4. **Child Support.**

- A. The parties agree that _____ shall pay child support to _____ for the support and maintenance of the minor child(ren) in the amount of \$_____ per month, which includes:

(check all that apply)

- ☐ Their pro rata share of the health insurance provided by _____ for the parties' minor child(ren).
- ☐ Their pro rata share of daycare expenses for the minor child(ren).

Plaintiff Initials

Defendant Initials

- ☐ An annualized abatement of \$_____ per month in consideration for the months_____ has the child(ren) six or more over-nights per month. Pursuant to SDCL § 25-7-6.14, it shall be presumed that the parenting time is exercised for the purposes of the abatement, although if the noncustodial parent does not exercise this extended parenting time, the noncustodial parent is required to repay the abated amount of child support to the custodial parent;
- ☐ A cross-credit calculation for the shared parenting plan, as allowed in SDCL § 25-7-6.27;
- ☐ A deviation of \$_____ per month pursuant to SDCL § 25-7-6.10(____), based on the following facts: _____

B. Any reasonable medical costs, including optometrist, dental, orthodontic, counseling, or other health care costs for the minor child(ren) which exceed \$250.00 in any year and are not covered by insurance, shall be split between the parents with Plaintiff paying _____% and Defendant paying _____%. Pursuant to SDCL § 25-7-6.16, the parent with physical custody, which is _____, is solely responsible for the first \$250.00 of health care expenses incurred for each child in any calendar year.
(This option would not be applicable in shared parenting arrangements.)

C. The child support calculation is attached to this document and was prepared by the_____. (You may want an attorney to calculate child support, or you can determine the support obligation by using the child support calculator provided by the Department of Social Services and found at the [South Dakota Department of Social Services website](https://www.sdsos.gov/child-support-calculator)).

D. The child support obligation shall commence on the 1st day of_____, 20_____.

 Plaintiff Initials

 Defendant Initials

- E. 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 full-time student in a secondary school.
- F. The employer of the parent who is required to pay child support shall be immediately directed to withhold amounts for current support and arrearages as specified herein and as provided in SDCL § 25-7A-23 and shall transmit said amount as provided in SDCL § 25-7A-34.
- G. 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 Governor’s Drive
Suite 84 Pierre, SD 57501-2291

- H. Regarding Health Insurance **(choose one)**:

- ☐ _____ shall obtain and/or maintain health insurance coverage for the minor child(ren) if available through employment or other group carrier at a reasonable cost. ☐ **Plaintiff /**
☐ **Defendant (check one)** shall notify the Department of Social Services of the insurance company name, address, policy number, and the names of persons covered within thirty days of entry of the Judgment and Decree of Divorce. ☐ **Plaintiff /** ☐ **Defendant (check one)** shall also notify the Department of any changes in coverage. ☐ **Plaintiff /**
☐ **Defendant (check one)** shall also provide the other parent with a card or copy of the health insurance card setting forth the insurance company name, address, policy number and the names of persons covered within thirty days of entry of the Judgment and Decree of Divorce;

OR

Plaintiff Initials

Defendant Initials

- ☐ Neither parent currently has medical insurance for the minor child(ren). Health insurance shall be provided for the child(ren) by a parent if the insurance is accessible for the child(ren) and available to a parent at reasonable cost. SDCL § 25-7-6.16. The cost shall be apportioned between the parents. *Id.* The parent providing health insurance shall notify the Department of Social Services of the insurance company name, address and policy number and name of persons covered within thirty days and shall also notify the Department of Social Services of any changes in coverage. The parent providing medical insurance shall also provide the other parent with a card or copy of the health insurance card setting forth the insurance company name, address, policy number, and the names of persons covered within thirty days.

5. **Property Division:** The parties agree that the following marital property shall be divided as follows and such division is equitable:

A. Clothing, Personal Effects, Personal Property: Each of the parties shall receive their own clothing, personal effects, and all personal property in their possession, free and clear of any claim from the other, unless otherwise specified herein.

B. Photographs, Memorabilia: The parties agree to equally split the photographs and any special memorabilia acquired during the marriage/relationship within ninety days of execution of this execution. Any expenses incurred in this process shall be mutually agreed upon and split equally between the parties.

C. Plaintiff shall exclusively receive, as their sole and separate property, the following items:

Plaintiff Initials

Defendant Initials

D. Defendant shall exclusively receive, as their sole and separate property, the following items:

_____	_____
_____	_____
_____	_____
_____	_____

E. Property in Possession of the Other: If Plaintiff has property to be given to Defendant, then Plaintiff shall, within thirty days of execution of entry of this Agreement give to Defendant the following personal property items:

_____	_____
_____	_____
_____	_____
_____	_____

and Defendant shall, within thirty days of execution of this Agreement, give to Plaintiff the following personal property items:

_____	_____
_____	_____
_____	_____
_____	_____

F. Checking and Savings Accounts: It is acknowledged by the parties, that they have divided their bank accounts, including checking and/or savings accounts. Each party shall maintain exclusive ownership of the cash balance in their individual accounts, without by any claims from the other party. Furthermore, any joint accounts that remain, shall be promptly closed and the funds shall be divided equally between the parties.

Plaintiff Initials

Defendant Initials

G. Tax Consequences: The parties agree that the above transfers of property between them are tax-free under the Internal Revenue Code § 1041, and both agree not to take any inconsistent position on their tax returns filed after this Agreement is signed.

6. **Debt Division**: The parties agree the following marital debt of the parties shall be divided as follows: *(list all debts and outstanding balances incurred by one or both parties: credit cards, bank loans, personal loans, vehicle loans, outstanding monthly bills, student loans, medical bills, etc.):*

A. Plaintiff shall be solely responsible for and take over the following debts:

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

B. Defendant shall be solely responsible for and take over the following debts:

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

C. Unless otherwise provided for herein, each of the parties shall be solely responsible for any debts they incur from the date of signing of this Agreement. Each party agrees not to incur any debt or liability that could potentially hold the other party, their property, or estate responsible in the future.

Plaintiff Initials

Defendant Initials

- D. Unless stated otherwise, any unpaid debts from the marriage not covered in this document will be the responsibility of the person who incurred them. Each party agrees to protect the other from any liability for these debts.
- E. Unless stated otherwise, each party promises to protect the other from any debts or liabilities they individually owe or will owe in the future. Each party will promptly apply to have the debts they are responsible for officially transferred or assumed by them, so the other party is released from responsibility. However, neither party can guarantee that creditors will agree to release them from liability. If a creditor denies the release, both parties will continue to apply for it periodically.

7. As set forth above, the party receiving the property or debt listed in this agreement shall assume receipt commencing on the date of this Agreement. Further, the party receiving the asset or debt obligation, shall remove the other party's name from it within _____ days from entry of the Judgment and Decree of Divorce. The other party shall also cooperate in transferring titles to the party receiving the asset(s) once their name is removed.

8. In respect to equalizing the property distribution, the parties agree **(check one)**:

- ☐ That ☐ Plaintiff / ☐ Defendant **(check one)** shall pay to the other the amount of \$_____ to equalize the property/debt distribution within _____ days of entry of the Judgment and Decree of Divorce;

OR

- ☐ That the allocation of personal property and debt is equitable, and no amount is necessary to equalize the distribution.

9. **Real Property (house, land or buildings):**

- ☐ The parties have no real property (*check if applicable and then proceed to #10*).
- ☐ The parties have an interest in the following real property:

A. Physical Address: _____

Plaintiff Initials

Defendant Initials

B. Legal description (obtained from a document such as a Warranty Deed, Mortgage or Title Insurance):

C. Regarding the property, the parties agree (**check one**):

- ☐ That the ☐ **Plaintiff** / ☐ **Defendant** (**check one**) will receive the house/land and all the fixtures therein and/or the improvements thereon. The parties agree that the amount of equity in the real estate is \$_____.
(Value - Debt(s) = Equity)
The party receiving the real estate shall pay \$_____ to the other to equalize this division within_____ days of entry of the Judgment and Decree of Divorce. If there is a mortgage(s) or other joint debt encumbering the real estate, the person receiving the property shall remove the other party's name from the mortgage(s) within_____ days of entry of the Judgment and Decree of Divorce. The person receiving the property has consulted a lender and received pre-approval to refinance. The party not receiving the real property shall cooperate in the release or refinancing and shall sign a quit claim deed releasing all interest in the property to the other party.

OR

- ☐ The parties agree that the house/land and all the fixtures therein and/or the improvements thereon shall be listed for sale by _____, 20____ with a realtor, on an active multiple listing service, for fair market value. The parties shall mutually agree upon a realtor, and both shall cooperate with signing the appropriate documents. Unless the parties otherwise agree, the parties shall accept a minimum offer for fair market value. While the sale is pending, ☐ **Plaintiff** / ☐ **Defendant** / ☐ **Not Applicable** (**check one**) shall have exclusive possession of the marital home if they do not commit waste thereto. Commencing _____, 20____, the parties

Plaintiff Initials

Defendant Initials

agree that ☐ **Plaintiff** / ☐ **Defendant** / ☐ **Not Applicable (check one)** shall be responsible for the mortgage payments, which payments include taxes and insurance, normal maintenance, as well as payment of utility bills associated with the marital home. The parties further agree that the net proceeds of the sale of the home shall be divided with Plaintiff receiving _____% and Defendant receiving _____%. Additionally, any monies refunded to the parties from any escrow account shall be divided between the parties with Plaintiff receiving _____% and Defendant receiving _____%. The parties agree, if they are not able to file a joint return, ☐ **Plaintiff** / ☐ **Defendant (check one)** shall claim the real estate taxes on their 20 _____ income tax return and ☐ **Plaintiff** / ☐ **Defendant (check one)** shall claim the mortgage interest on their 20 _____ income tax return.

10. **Investments and Retirement Funds and Pension Plans:** Retirement and investments may be considered marital property and must be considered when dividing the marital assets between the parties. There are additional legal documents necessary to accomplish a transfer of certain retirement and investment accounts and you are strongly advised to consult an attorney if you are dividing such property.

A. The parties agree (**check the appropriate box**):

- ☐ Each party specifically waives any and all claims, if any, to the other's 401K, IRA, stock options, retirement, pension, and profit-sharing accounts and benefits, whether such claim is known or unknown, contingent or vested, or now owing or will become owing to the other party in the future. It is the intent and purpose of the parties hereto by this provision to waive any entitlement to the 401K, IRA, stock options, pension, retirement, and/or annuity benefits of the other party, including both present and future benefits;

OR

Plaintiff Initials

Defendant Initials

☐ Effective the date this Agreement is signed by both parties, the Plaintiff shall receive the following investments and retirement accounts (list the current value of each): _____

_____ and;

Effective the date this Agreement is signed by both parties, the Defendant shall receive the following investments and retirement accounts (list the current value of each): _____

B. The parties recognize that, unless otherwise provided herein, they have been advised to change any designation of their spouse as the beneficiary of any policy governed by ERISA, to include life insurance policies or employee benefit plans.

11. **Life Insurance.** Life insurance policies, particularly the cash value of some policies, may be considered marital property and should be considered when dividing the marital assets. Thus, the parties agree **(check one)**:

☐ The parties do not have any life insurance policies to distribute;

OR

☐ The parties agree to the allocation of the life insurance policies as follows:

Plaintiff shall receive the following (term/whole life) life insurance policy(ies) and shall be responsible for any premium associated with said policy:

Defendant shall receive the following (term/whole life) life insurance policy(ies) and shall be responsible for any premium associated with said policy:

Plaintiff Initials

Defendant Initials

12. **Military Benefits (check one)**

☐ **(If applicable, check one or both)** ☐ **Plaintiff** / ☐ **Defendant** confirms they are not currently a member of the military service of the United States of America as defined by the Soldier and Service Member's Civil Relief Act of 1940.

OR

☐ **(If applicable check one or both)** ☐ **Plaintiff** / ☐ **Defendant** was a member of the military (includes the National Guard and Reserves) during the marriage. Accordingly, the other party may be entitled to, as a former spouse of a service member, specific benefits depending on the length of the marriage and the amount of time the service member spouse spent in the military during the marriage. Benefits may include, if you qualify, retirement pay, military health care, commissary privileges and base facility benefits. There are state and federal laws that come into play; i.e. the Uniformed Services Former Spouses' Protection Act, and the Survivor Benefit Plan. There are numerous and complicated laws, and it is advised that you seek legal advice and/or assistance from the Defense Finance and Accounting Service to understand and protect all benefits you may be entitled to. When receiving retirement pay, you need to consult legal counsel regarding the "disposable retired pay" and the importance of disability pay in lieu of retired pay. Also, an Order dividing benefits must be timely received by the Defense Finance and Accounting Service and, if necessary, an Order requiring Survivors Benefit Protection (SBP).

If the Plaintiff or Defendant or both are members of the military service, past or present, please list branch of service, rank at the time of retirement, the specific years that they were in service (ex. 1992–2004) and the specific years of service during marriage (ex. 1994-2004): _____

Plaintiff Initials

Defendant Initials

In respect to military benefits of the service member, the parties agree as follows:

13. Alimony (Spousal Support). Please check the appropriate box and fill in the appropriate blanks. *(You are strongly encouraged to consult with an attorney before completing this section):*

☐ _____ shall receive alimony in the sum of \$_____ each month beginning the 1st of _____, 20____ for the following duration:

☐ A period of _____ months; or

☐ Until remarriage of the person receiving alimony or death of either party.

OR

☐ No alimony of any kind shall be granted to either party. Both parties waive any right they may have to alimony and accepts this Agreement (with Minor Children) in full and final satisfaction of all marital claims.

14. Income Tax Returns. The parties agree to share historical accounting and tax information, documents and records with the other as may be necessary for each to prepare a complete and accurate income tax return for subsequent tax years. The parties agree:

☐ File a joint tax return if possible for the _____ tax year, if allowed by law, and share the expenses and tax liability or refund as follows: _____ % to Plaintiff and _____ % to Defendant;

OR

☐ File as single persons for the _____ tax year. Starting with the tax year that the Judgment and Decree of Divorce is signed, the parties shall file as single persons on their IRS returns and every year thereafter.

The parties further agree that the minor child(ren) shall be claimed as dependents on their individual tax returns as follows: _____

Plaintiff Initials

Defendant Initials

15. **Former Name.** If one party would like their maiden name or former name restored to them, complete this section: *(Leave section blank if not applicable)*
- ☐ Plaintiff / ☐ Defendant (**check one**), presently known as _____ and whose date of birth is _____, will be restored to their full former or maiden name of: _____ in any Judgment and Decree of Divorce issued herein and will be known hereafter as: _____

16. **Other Agreements Not Covered Previously.**

17. **Attorney's Fees.** *(Check one if appropriate and fill in where necessary):*
- ☐ Each party shall be solely responsible for their own attorney fees, costs and expenses incurred in this proceeding.

OR

- ☐ _____ will pay the sum of \$_____ towards the attorney fees, costs and expenses of their spouse within _____ days of entry of the Judgment and Decree of Divorce.

18. **Address.** Until all provisions herein are satisfied, the parties agree that each will promptly notify the other of any change of address and/or telephone number.

19. **Other Documents.** The parties shall, at any and all times upon request by the other party or their legal representative, make, execute, and deliver any and all such other and further documents as necessary or desirable for the purpose of giving full force and effect to the provisions of this Agreement, without charge therefor.

Plaintiff Initials

Defendant Initials

20. Grounds. The parties mutually understand that a divorce shall be granted to both parties on the grounds of irreconcilable differences, per SDCL § 25-4-17.3. The parties have executed a Statement of Plaintiff and Defendant as to Jurisdiction and Grounds for Divorce and understand the Court may grant the divorce without requiring personal appearances of the parties. If the Court decides to grant a Judgment and Decree of Divorce, the parties agree that this Agreement shall be presented to the Court without further notice. In the event the Court does not accept and approve all terms and provisions of this Agreement, then the same shall be null and void and no Judgment and Decree of Divorce may be entered by default in favor of either party without prior notice to either party.

21. Interference. The parties hereafter shall live separate and apart. Each party shall be free from interference, authority or control, direct or indirect, of the other party. The parties agree not to molest, annoy, harass, stalk, or interfere with each other in any aspect of their personal or professional lives.

22. Enforcement. The parties agree this Agreement shall be binding upon them until otherwise mutually agreed or otherwise ordered by the Court. Upon any violation of the terms of this Agreement, or if one party determines modifications are necessary without consent of the other party, each shall be free to petition the Court to have this Agreement modified/enforced in accordance with the law.

23. Release of Inheritance Rights. Unless otherwise specified herein, each party releases all rights to shares in the estate of the other or shares in the estate of the parents of the other, or to serve as personal representative or administrator of the estate of the other, except only as specified by will or codicil to will executed after the date of this Agreement.

24. Modification and Waiver. Any modification/waiver of any provisions of this Agreement shall be effective only if made in writing and executed with the same formality as this Agreement and approved by the Court. The failure of either party to insist upon strict performance of any of the provisions shall not be construed as waiver of any subsequent default of the same or similar nature.

Plaintiff Initials

Defendant Initials

25. Partial Invalidity. If any of the provisions of this Agreement are held to be invalid or unenforceable, all other provisions shall nevertheless continue in full force and effect.

26. Titles. The paragraph captions contained herein are inserted for convenience and descriptive purposes only and do not constitute a part of this Agreement.

27. Conflict of Laws. This Agreement shall be construed in accordance with the substantive laws of the State of South Dakota.

28. Waiver and Incorporation. The parties waive notice of trial, notice of hearing, findings of fact and conclusions of law and consent to the entry of a Judgment and Decree of Divorce without further notice, upon the Court's determination that there is a just cause for divorce. It is further stipulated and agreed by and between the parties that all provisions of this Agreement shall be incorporated by reference into any Judgment and Decree of Divorce which may be issued herein.

29. Written Memorandum. This Agreement contains the entire understanding of the parties who hereby acknowledge there have been and are no representations, warranties, covenants or understandings other than those expressly set forth herein.

30. Ratification.

A. This Agreement was made and entered into with the full knowledge of both parties, and they have read the entire document and have signed the same of their own free will and accord.

B. The parties represent to the Court that each acknowledges the importance of consulting separate, independent legal counsel as well as a tax expert prior to the execution of this Agreement. The parties acknowledge that it is a legal document and binding upon them.

C. Each party promises and guarantees to the other: (a) they have fully disclosed the existence of and value of all assets and debts in which they have any interest whatsoever; and (b) the assets and debt set forth and identified herein constitutes all the property of the parties, whether owned jointly or by either of them individually, or in conjunction with a third party; and (c) the full and frank disclosure of all assets and liabilities by both parties is an essential and material element of the consideration of this Agreement.

Plaintiff Initials

Defendant Initials

*I declare under penalty of perjury under the law of South Dakota that the foregoing
is true and correct.*

Signed on the _____ day of _____, _____ at _____.
(Date) (Month) (Year) (City or other location, and State)

Plaintiff Signature

Plaintiff Printed Name

Plaintiff Address

City, State, Zip Code

Phone Number

*I declare under penalty of perjury under the law of South Dakota that the foregoing
is true and correct.*

Signed on the _____ day of _____, _____ at _____.
(Date) (Month) (Year) (City or other location, and State)

Defendant Signature

Defendant Printed Name

Defendant Address

City, State, Zip Code

Phone Number

INSTRUCTIONS FOR STATEMENT OF PLAINTIFF AND DEFENDANT AS TO JURISDICTION AND REASON FOR DIVORCE AND FORM

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@uds.state.sd.us.

IMPORTANT NOTICE:

- This Statement establishes jurisdiction and grounds for divorce in which the Court may grant a divorce without requiring their personal appearance. Although this Statement can be used to help waive a court hearing, **the Judge presiding over your case may still require one.**
- In South Dakota, to use irreconcilable differences as the reason for divorce both parties must agree. Additionally, the Plaintiff must be a resident of the State of South Dakota when the divorce is started. This Statement confirms those facts for the Court.
- This form shall be completed once the Stipulation and Settlement Agreement has been signed by both parties.

To complete this form, you will need to:

- Complete the caption by filling in the name of the county you are filing in, the judicial circuit number, Plaintiff and Defendant's names.
 - The Clerk of Court will provide you a case number at the time of filing.
 - Your judicial circuit can be found on the South Dakota Unified Judicial website.
- Plaintiff and Defendant will need to sign and date.
- Once signed it will need to be filed with the Clerk of Court.
- If the Defendant refuses to sign this form, the Plaintiff should still file this Statement with only their signature.

STATE OF SOUTH DAKOTA

IN CIRCUIT COURT

COUNTY OF _____

_____ JUDICIAL CIRCUIT

_____ Plaintiff v. _____ Defendant	Case No.: _____ STATEMENT OF PLAINTIFF AND DEFENDANT AS TO JURISDICTION AND GROUNDS FOR DIVORCE
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The above-named Plaintiff and Defendant, being first duly sworn upon their oath, depose and state as follows:

1. That they are the Plaintiff and the Defendant in the above-entitled divorce action.
2. This Statement is made pursuant to the provisions of SDCL § 25-4-17.3 so that the divorce may be granted without requiring the personal appearance by either party in Court.
3. Pursuant to SDCL § 24-4-30, the Plaintiff, at the time of the commencement of this divorce action was a bona fide resident of _____ County in the State of South Dakota (or stationed in the State of South Dakota while a member of the armed services)
4. Plaintiff and Defendant agree by signing this Statement that there are irreconcilable differences between the parties which the parties cannot repair to save the marriage. Both parties' consent to the Court's entry of a Judgment and Decree of Divorce to both parties on the grounds of irreconcilable differences.
5. A written Stipulation and Settlement Agreement (with Minor Children) has been entered into between the Plaintiff and the Defendant setting forth the terms and conditions of the division of property and other matters. The Agreement is presented to the Court with this Statement.
6. Both parties authorize the immediate presentation of the Stipulation and Settlement Agreement (with Minor Children), this Statement of Jurisdiction and Ground for Divorce and the proposed Judgment and Decree of Divorce to the Court and respectfully request the Court to consider the same without need for any noticed hearing or trial. The Parties further waive the entry of formal Findings of Fact and Conclusions of Law.

I declare under penalty of perjury under the law of South Dakota that the foregoing is true and correct. Signed on the _____ day of _____ ,
(Date) (Month)
_____, *at* _____ .
(Year) (City or other location, and State)

Plaintiff Signature

Plaintiff Name

Plaintiff Address

City, State, Zip Code

Phone Number

I declare under penalty of perjury under the law of South Dakota that the foregoing is true and correct. Signed on the _____ day of _____ ,
(Date) (Month)
_____, *at* _____ .
(Year) (City or other location, and State)

Defendant Signature

Defendant Name

Defendant Address

City, State, Zip Code

Phone Number

INSTRUCTIONS AND FORM FOR FINANCIAL STATEMENT

If you have any legal questions while completing this form, it is highly recommended that you consult with an attorney. Court staff are unable to provide legal advice or assist with form completion. For specific questions related to the forms, you can also contact the Legal Form Help Line at 1-855-784-0004 or email UJS staff at ujssrlhelp@uj.s.state.sd.us.

To complete this form, you will need to:

- 1) Plaintiff and Defendant each will need to complete their own Financial Statement.
- 2) Complete the caption by filling in the name of the county you are filing in, the judicial circuit number, name of the Plaintiff and Defendant on the lines provided, case filing number, and check if you are the Plaintiff or Defendant. The Clerk will provide you with a case number at the time of filing. You can find your circuit number on the [Unified Judicial System Website](#).
- 3) Provide your full name on the first line provided.
- 4) **Number 1 Monthly Income** (a through g) – Enter your gross monthly income for any income you receive.
- 5) **Number 2 Employment** – Indicate your employment status.
- 6) **Number 3 Monthly Expenses** (a through g) – Enter your monthly expenses (housing, utilities, food, ect.), and the average cost of that expense.
- 7) **Number 4 Annual Income** (a and b) – Enter your annual income before taxes in box (a) and your annual income after taxes in box (b).
- 8) **Number 5 Anticipated Income** – List any anticipated income, such as income from the sale of a house, land, gifts, inheritances, ect., you are expecting to receive.
- 9) **Number 6 Dependents** – List the number of dependents, if any, that you have.
- 10) **Number 7 Insurance** (a through e) - Indicate if you have insurance and if so the name, monthly cost for just you, monthly cost for you and your child(ren), if applicable, and all names of persons covered under the insurance.
- 11) **Number 8 Assets** (a through k) – list the total fair market value of any asset that you may have.
- 12) **Number 9 Liabilities** (a through j) - Number 19 is your total monthly deductions.
 - a) List the name of who you owe money to;
 - b) The total outstanding balance; and
 - c) Your monthly payment of the liability.
- 13) **Number 10 Childcare Costs** (a through g) – Indicate if you incur childcare cost, and if yes, complete line items a through g.
- 14) **Number 11 Benefits** (a and c) – Indicate if you receive any benefits such as social security or veteran benefits that are provided to the child(ren). If yes list the amount and which parent receives the payment for the child(ren)
- 15) Sign and date.

COUNTY OF _____ JUDICIAL CIRCUIT

_____ Plaintiff v. _____ Defendant	Case No.: _____ FINANCIAL STATEMENT ☐ PLAINTIFF ☐ DEFENDANT
--	--

I, _____, an above-named party, hereby state under penalty of law that the following is true pursuant to SDCL 18-7-6.

1) Monthly Income

		Per Month Amount
a)	(If employed) My monthly take home pay is:	\$
b)	My pension, retirement, disability, veterans, social security, or insurance payments I receive total:	\$
c)	My rental income, interest, dividends, royalties, or other gains is:	\$
d)	I receive unemployment insurance and workers compensation benefits of:	\$
e)	Do you receive Public Assistance? If Yes, list which type(s) you receive and the total amount: _____	☐ Yes or ☐ No \$
f)	Gain from sale, trade or conversion of capital assets is:	\$
g)	Other income (including spousal support) is: Explain: _____	\$
→	TOTAL MONTHLY INCOME (add columns a-g)	\$

2. Employment (Check One)

I am (check one) ☐ Employed ☐ Unemployed ☐ Self-Employed

- 3) **Monthly Expenses** – Housing, utilities, insurance, food, etc. List the items you pay and what you pay/your share of pay you are responsible for.

		Monthly Payment
a)		\$
b)		\$
c)		\$
d)		\$
e)		\$
f)		\$
g)		\$
TOTAL MONTHLY EXPENSES (add all monthly payments together)		\$

- 4) **Annual Income** Yearly

My total income before deductions for last year was:	\$
My total income after deductions last year was:	\$

- 5) **Anticipated Income**

Total monies or income from sale of house or land, gifts, inheritance, allotments, trust funds, lease money, etc.	\$
---	----

- 6) **Dependents**

Including myself, I have the following number of dependents.	
--	--

- 7) **Insurance**

a)	Do you have health insurance available for dependents through your employer, Yes or No. If you provide health or dental care for your child(ren) complete this section.	☐ Yes ☐ No
b)	Name of the health and/or dental insurance _____	
c)	Total monthly cost for the employee only:	\$
d)	Total monthly cost for the employee and child(ren):	\$
e)	Persons covered under the policy: _____ _____	

- 8) **Assets** Value

a)	Cash on hand/in the bank	\$
b)	Accounts and notes receivable (IOU's and other money payable to me)	\$
c)	Investments (stocks, bonds, savings bonds, CD's, money market, ect.)	\$
d)	Retirement Account Balance	\$

e)	Real estate (house, land, tribal lease land, rental property, ect.)	\$
f)	Automobile(s) <i>(list the make model and year on the lines. If multiple vehicles, add the value of all vehicles for the total value.)</i> _____ _____	\$
g)	Recreational vehicles (boats, campers, ATV's ect.)	\$
h)	Household goods (furniture, appliance, TV, ect.)	\$
i)	Other personal property (tools, sports, equipment, jewelry, etc.)	\$
j)	Value of business if business owner	\$
k)	Any other assets (anything else I could sell or borrow money on)	\$
Total Value of Assets (Add value of columns a through k)		\$

- 9) **Liabilities** – (Money that you owe for any vehicle, mortgage, student or personal loans, credit cards, medical bills, ect.)

Name- who you owe		Outstanding balance	Monthly payment
a)		\$	\$
b)		\$	\$
c)		\$	\$
d)		\$	\$
e)		\$	\$
f)		\$	\$
g)		\$	\$
h)		\$	\$
i)		\$	\$
j)		\$	\$
Total Debts		\$ _____ (combined total of outstanding balances)	\$ _____ (combined total of monthly payments)

10) Childcare Costs

a)	Do you incur childcare costs because of employment, job search, training, or education? If es complete this section.	☐ Yes ☐ No
b)	Name of the childcare provider: _____	
c)	Number of children receiving childcare:	
d)	Names of child(ren) receiving childcare: _____ _____ _____	
e)	Total amount of childcare costs per month?	\$

f)	Do you receive assistance for childcare? If yes, how much do you receive per month?	☐ Yes ☐ No \$
g)	Do you claim the Federal Childcare Tax Credit?	☐ Yes ☐ No

11) **Benefits**

a)	Are any Social Security or Veteran's Benefits provided to a child(ren) of the parties due to retirement, disability, or other eligibility?	☐ Yes ☐ No
b)	If yes, how much is received each month?	\$
c)	Name which parent receives the payment for the child(ren)? Name: _____	

I declare under penalty of perjury under the law of South Dakota that the foregoing is true and correct.

Signed on the _____ day of _____ at _____, South Dakota
Month City or other location

By: ☐ Plaintiff ☐ Defendant

Signature

Printed Name

Address

City, State, Zip

Phone Number

INSTRUCTIONS FOR CHILD SUPPORT ORDER FILING DATA FORM (UJS/DSS FORM 089)

PLEASE READ THE FOLLOWING INSTRUCTIONS CAREFULLY. COMPLETE ALL SECTIONS OF THIS FORM AND FILE THE FORM WITH THE CLERK OF COURT'S OFFICE IN WHICH YOUR CASE IS BEING HANDLED.

As a result of federal welfare reform, *effective October 1, 1998*, new procedures apply to child support cases in South Dakota. The most significant changes are:

- ➡ The Department of Social Services will be the central case registry for the state.
- ➡ The Department of Social Services will be the central payment center for the state and will handle all disbursements.
- ➡ Your failure to update certain information on file with the Department of Social Services and the court, by using this Child Support Order Filing Data Form, can have serious legal consequences regarding your legal right to be notified of enforcement actions regarding your child support obligations.

INSTRUCTIONS

1. Upon entry of any new or modified court order for child support, the parties in the case must personally, or through their attorney, file a completed Child Support Order Filing Data Form with the clerk of court.
2. Whenever any information on the form changes (for example, you change jobs or place of residence), you must complete a new form and file it with the clerk of court's office.

PLEASE NOTE: You are responsible for ensuring that all information is accurate and current. If you fail to keep the information current, you may be served with future notices and orders of enforcement actions regarding your child support obligation at the last residential or employer address provided. Failure to appear in court when so notified may result in a default judgment being entered against you.

3. If a protection order for domestic violence against a spouse or abuse of a child is in effect (whether temporary or permanent), check the appropriate box on the form and attach a copy of the order to the form.
4. Keep the pink copy for your records and file the white and yellow copies with clerk of court.

THIS FORM WILL BE TREATED AS A CONFIDENTIAL DOCUMENT BY THE COURT (This means the information will not be released to the public as defined by SDCL 15-15A-2(1)-(3)).

**CONFIDENTIAL
FORM**Original Court Order
Modification Order
Information Change
Change of Venue_____
(Docket Number)
Date _____ Clerk Initials _____**Child Support Order Filing Data***Please type or print information on form.*

PLAINTIFF/PETITIONER (Check one)	DEFENDANT/RESPONDENT (Check one)
Name: _____	Name: _____
SSN: _____ SEX: M F	SSN: _____ SEX: M F
Driver's License # : _____	Driver's License # : _____
Date of Birth: _____ Race: _____	Date of Birth: _____ Race: _____
Residential Address: _____	Residential Address _____
_____	_____
Mailing Address (if different from above) _____	Mailing Address (if different from above) _____
_____	_____
Phone No. _____	Phone No. _____
Attorney Name _____	Attorney Name _____
Attorney Phone No. _____	Attorney Phone No. _____
Employer _____	Employer _____
Employer Address _____	Employer Address _____
_____	_____
Employer Phone No. _____	Employer Phone No. _____
Second Employer _____	Second Employer _____
Second Employer Address _____	Second Employer Address _____
_____	_____
Second Employer Phone No. _____	Second Employer Phone No. _____

Full names, sex of child, dates of birth, and social security numbers of the children involved in this proceeding (if more than six, write on back of form):

_____	SEX: M / F	DOB: _____	SSN: _____ - _____ - _____
_____	SEX: M / F	DOB: _____	SSN: _____ - _____ - _____
_____	SEX: M / F	DOB: _____	SSN: _____ - _____ - _____
_____	SEX: M / F	DOB: _____	SSN: _____ - _____ - _____
_____	SEX: M / F	DOB: _____	SSN: _____ - _____ - _____

Is a protection order for domestic violence against a spouse or abuse of a child currently in effect?

☐ Yes ☐ No ☐ Unknown **If yes, please attach a copy of the order.**

I certify that the above information is true and accurate concerning ☐ Plaintiff/Petitioner or ☐ Defendant/Respondent and is accurate to the best of my knowledge as to the other party, or is unavailable. The information is unavailable because _____

I hereby certify that the information required by SDCL 25-7A-56.7 is not available.

Circuit Judge_____
Signature_____
Date

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@uj.s.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.

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. The ☐ Plaintiff / ☐ Defendant **(check one if applicable)** currently known as
_____ and born as _____
shall be restored to their former name or maiden name of
_____; therefore, they shall now be known 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.

**INSTRUCTIONS AND FORMS FOR STATEMENT OF DEFAULT, APPLICATION FOR JUDGMENT AND
DECREE OF DIVORCE (DEFAULT), NOTICE OF HEARING AND STATEMENT OF MAILING**

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.

IMPORTANT NOTICES:

1. These forms can only be completed by the Plaintiff and only if all the following are true:
 - a. The Defendant was served with copies of the Summons and Complaint with Minor Children and Proof of Service was filed with the Clerk of Court.
 - b. The Defendant has failed to file an Answer to the Summons and Complaint with Minor Children within thirty days of being served.
 - c. The Defendant is not in the military on active duty.
2. A Default Judgment for Divorce can only be granted if it has been at least sixty days since the Defendant was served with the Summons and Complaint.

To complete these forms, you will need to:

1. Complete the Statement of Default (UJS-323A) by completing the caption, date the Defendant was served with the Summons and Complaint with Minor Children, date, and sign.
2. Complete the Application for Judgment and Decree of Divorce - Default (UJS-323B) and sign and date.
3. Complete the Statement of Mailing (UJS-323D) and sign and date.
4. File the originals of the Statement of Default (UJS-323A), Application for Judgment and Decree of Divorce – Default (UJS-323B), Statement of Mailing (UJS-323D), and Statement of Defendant's Military Status (UJS-306) with the Clerk of Court.

*A hearing may be required on your application for Default Judgment. You will need to contact the Clerk of Court for this information. If a hearing is required continue with the steps below.

1. Request a hearing date and time from the Clerk of Court or Court Administration depending on your county. Complete the Notice of Hearing (UJS-323C), sign and file the original with the Clerk of Court. The Notice of Hearing would then be mailed along with the other forms listed above.

COUNTY OF _____

_____ JUDICIAL CIRCUIT

_____ Plaintiff v. _____ Defendant	Case No.: _____ STATEMENT OF DEFAULT
---	---

Plaintiff, being first duly sworn on oath states:

1. That I am the Plaintiff in the above-captioned action.
2. That the Summons and Complaint (with Minor Children) were served together upon the Defendant on the _____ day of _____, 20_____.
3. That the proof of service has been filed (*i.e., Admission of Service or Sheriff's Return*)
4. That more than sixty days have passed since service of the Summons and Complaint (with Minor Children) and the Defendant has not filed an Answer, made an appearance, or filed any other responsive pleading and is in default.
5. It is my belief that the Defendant is not in the military service on active duty.

I declare under perjury under the law of South Dakota that the foregoing is true and correct. Signed on the _____ day of _____, _____ at
(Date) (Month) (Year)

(City or other location, and State)

Plaintiff Signature

Plaintiff Printed Name

Plaintiff Address

City, State, Zip Code

Phone Number

COUNTY OF _____

_____ JUDICIAL CIRCUIT

Plaintiff v. Defendant	Case No: _____ APPLICATION FOR JUDGMENT AND DECREE DEFAULT
---	---

COMES NOW, the above-named Plaintiff and respectfully submits this Application for Judgment and Decree of Divorce by Default pursuant to SDCL § 15-6-55(b), hereby requesting the Court to enter a Judgment and Decree of Divorce by default against the Defendant in favor of the Plaintiff in the above-entitled action. The Plaintiff's Statement of Default is incorporated herein.

I declare under penalty of perjury under the law of South Dakota that the foregoing is true and correct. Signed on the _____ day of _____, _____ at _____.
(Date) (Month) (Year) (City or other location, and State)

Plaintiff Signature

Plaintiff Name

Plaintiff Address

City, State, Zip Code

Phone Number

COUNTY OF _____

_____ JUDICIAL CIRCUIT

Plaintiff v. Defendant	Case No: _____ NOTICE OF HEARING
---	---

TO: THE DEFENDANT IN THE ABOVE-CAPTIONED MATTER:

PLEASE TAKE NOTICE that on _____ a hearing on Plaintiff's Statement of Default and Application for Judgment and Decree of Divorce (Default) will be held in the courtroom of the Honorable _____, Circuit Court Judge of the _____ Judicial Circuit, presiding, located at the _____ County Courthouse, in _____, South Dakota.

The Plaintiff will seek judgment for the relief demanded in the Complaint with Minor Children in the above-entitled action.

I declare under penalty of perjury under the law of South Dakota that the foregoing is true and correct. Signed on the _____ day of _____, _____ at _____
(Date) (Month) (Year)
(City or other location, and State)

Plaintiff Signature_____
Plaintiff Name_____
Plaintiff Address_____
City, State, Zip Code_____
Phone Number

COUNTY OF

JUDICIAL CIRCUIT

Plaintiff v. Defendant	Case No: _____ STATEMENT OF MAILING
---	--

I, _____, the above-name Plaintiff being sworn, state that on the _____ day of _____, 20____, I mailed the **(check all that apply)**

- ☐ Statement of Default, ☐ Application for Judgment and Decree of Divorce – Default
☐ Notice of Hearing, by placing true and correct copies in an envelope addressed to:

(Name of Defendant)

(Street Address)

(City, State, Zip)

And depositing the envelope, with sufficient postage, in the United States Mail in:

(City and State where you mailed forms from)

I declare under penalty of perjury under the law of South Dakota that the foregoing is true and correct. Signed on the _____ *day of* _____ *,* _____ *at*
(Date) (Month) (Year)

(City or other location, and State)

Plaintiff Signature

Plaintiff Name

Plaintiff Address

City, State, Zip Code

Phone Number

INSTRUCTIONS AND FORM FOR JUDGMENT AND DECREE OF DIVORCE
(DEFAULT – 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@ujss.state.sd.us.

IMPORTANT NOTICE

A default judgment for divorce can only be granted if it has been at least sixty days since the Defendant was served with the Summons and Complaint and an Answer has not been filed by the Defendant.

To complete this form, you will need to:

1. Fill in the caption.
2. In the first paragraph fill in the blanks regarding the day the Defendant was served with the Summons and Complaint, and the day and location of the marriage.
 - a) Attach SDCL 25-4A-5 Sanctions for Violation of Custody or Visitation Decree to the Judgment and Decree of Divorce.
3. Attend the hearing (*if a hearing was required*) that was scheduled on your request for a divorce by default. You will submit this form to the Court at the hearing where the Judge will make their final determination.
4. If the Judge signs the Judgment and Decree of Divorce Default with Minor Children (UJS-322B) the Court will provide you with signed copies and you will need to:
 - a) Complete and file the Notice of Entry and Statement of Mailing.
 - b) This form may be obtained from the Clerk of Court. Depending on the county, either the Clerk of Court will complete the form for you or provide you with the form for completion. Check with the Clerk of Court in your county.
5. Mail a copy of the Notice of Entry, Statement of Mailing and signed Judgment and Decree of Divorce (UJS-322B) to the Defendant.

COUNTY OF _____

_____ JUDICIAL CIRCUIT

_____ Plaintiff v. _____ Defendant	Case No.: _____ JUDGMENT AND DECREE OF DIVORCE DEFAULT (WITH MINOR CHILDREN)
---	---

The above-entitled matter came before this Court on the ____ day of _____, 20____ on the Plaintiff's Statement for Judgment and Decree of Divorce (Default). It is satisfactory appearing to the Court from the records and files herein that the Defendant was duly served with Summons and Complaint on the ____ day of _____, 20____. The parties were married on the ____ day in the month of _____, in the year of _____, and in the City of _____ and State of _____. It further appearing to the Court by virtue of the Statement of Default signed by Plaintiff and filed herein that said Defendant has failed to plead, to otherwise defend, or make any appearance in this action and that said Defendant is in default; Findings of Fact and Conclusions of Law having been waived by virtue of Defendant's failure to appear in this action; the Court having jurisdiction over the parties and the subject matter herein, Now Therefore;

IT IS HEREBY ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

1. Plaintiff is 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. The parties are the parents of the following minor child(ren):

_____ Date of Birth: _____
_____ Date of Birth: _____
_____ Date of Birth: _____
_____ Date of Birth: _____

3. Custody of the minor child(ren) shall be **(check the applicable box)**

☐ Joint legal custody between the parties with the ☐ Plaintiff / ☐ Defendant
(check one) having primary physical custody.

☐ The parties share joint legal and physical custody of the minor child(ren)

☐ Sole legal and physical custody to the ☐ Plaintiff / ☐ Defendant **(check one)**

☐ The parents agree to joint legal and physical custody with shared parenting plan, as set forth below, in which the child(ren) reside no less than 180 nights per calendar year in each parent's home. The parents further agree to share the duties and responsibilities of parenting the child(ren) and shall divide the expense of the child(ren) in proportion to their incomes, i.e. Plaintiff paying _____% and Defendant paying _____%; or:

4. The ☐ Plaintiff / ☐ Defendant **(check one)** parenting time with the minor child(ren) shall be as follows:

5. _____ shall pay child support and maintenance of the minor child(ren) in the amount of \$_____ per month, which includes:

(check all that apply)

☐ Their pro rata share of the health insurance provided by the ☐ Plaintiff/ ☐ Defendant **(check one)** for the parties' minor child(ren).

☐ Their pro rata share of day care expenses for the minor child(ren).

☐ An annualized abatement of \$_____ per month in consideration for the months ☐ Plaintiff / ☐ Defendant **(check one)** has the child(ren) ten or more overnights per month. Pursuant to SDCL 25-7-6.14, it shall be presumed that the parenting time is exercised for the purposes of the abatement.

☐ A deviation of \$_____ per month pursuant to SDCL 25-7-6.10(____) based on:

6. Any reasonable medical costs, including optometric, dental, orthodontic, counseling, or other health care costs for the minor child(ren) which exceed \$250.00 in any year and are not covered by insurance shall be split between the parents with the Plaintiff paying____% and the Defendant paying____%. Pursuant to SDCL § 25-7-6.16, the parent with physical custody, ☐ Plaintiff/ ☐ Defendant **(check one)**, being solely responsible for the first \$250.00 of health care expenses incurred for each child in any calendar year.

7. The child support calculation is filed herein.

8. The child support obligation shall start on the 1st day of_____, 20_____.

9. Pursuant to SDCL § 25-5-18.1, the support obligation shall continue until each child attains the age of eighteen or until each attains the age of nineteen, if the child is a full-time student in a secondary school.

10. The obligor's current or subsequent payor of income shall be immediately directed to withhold amounts for current support and past due amounts as specified herein and as provided in SDCL § 25-7A-23 and shall transmit said amount as provided in SDCL § 24-7A-34.

11. 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**

12. Regarding Health Insurance: **(check one)**

- ☐ The ☐ Plaintiff / ☐ Defendant **(check one)** shall obtain and/or maintain health insurance coverage for the minor child(ren) if available through employment or other group carrier at a reasonable cost. _____ shall notify the Department of Social Services of the insurance company name, address, and policy number and the names of the persons covered within thirty days of entry of the Judgment and Decree of Divorce and shall also notify the Department of any changes in coverage. _____ shall also provide _____ with a hard copy of the health insurance card setting forth the insurance company name, address, and policy number and the names of the persons covered within thirty days of entry of the Judgment and Decree of Divorce:

OR

- ☐ The Court finds that neither parent currently has health insurance for the minor child(ren). Medical insurance shall be provided for the child(ren) by a parent if the insurance is accessible for the child(ren) and available to a parent at a reasonable cost per SDCL § 25-7-6.16. The cost shall be apportioned between the parents. The parent providing health insurance shall notify the Department of Social Services of the insurance company name, address, and policy number and name of persons covered within thirty days and shall also notify the Department of any changes in coverage. The parent providing health insurance shall also provide the other parent with a card or copy of the health insurance card setting forth the insurance company name,

address and policy number and the names of persons covered within thirty days.

13. The parties shall retain as their separate property all the vehicles, personal clothing and effect, all household goods, appliances and such other items and personal property as are currently in their respective possessions, free and clear of any claim from the other. In addition, the Plaintiff shall be awarded the following property: _____

The Defendant shall be awarded the following property: _____

14. Retirement/Investment accounts shall be divided as follows: _____

15. Any encumbrances or debts relating to or accompanying an item of personal property shall be the sole responsibility of the party retaining such property.

The following debts shall be assumed by the Plaintiff: _____

The following debts shall be assumed by the Defendant: _____

All other debts shall be paid by the party incurring such debt.

16. Regarding alimony, the Court orders:

☐ Neither party shall be awarded alimony;

OR

☐ _____

17. The ☐ Plaintiff / ☐ Defendant (**check one if applicable**) currently known as _____ and born as _____

shall be restored to their former name or maiden name of

_____; therefore, they shall now be known as

_____.

18. Each party shall, at the request of the other, execute and deliver any such documents as may be required to carry out the intentions and provisions of the Judgment and Decree of Divorce. In the event either party shall fail to execute deeds, titles, or other documents of transfer as required by this Judgment and Decree shall operate as an effective transfer of that party's interest in said property as set forth herein.

19. That SDCL § 25-4A-5 is attached as required by SDCL § 25-4A-5.1 and shall become an Order of this Court.

20. Additional order(s): _____

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.

INSTRUCTIONS AND FORM FOR PLAINTIFF'S MOTION AND ORDER FOR DISMISSAL

If you have any legal questions while completing this form, it is highly recommended that you consult with an attorney. Court staff are unable to provide legal advice or assist with form completion. For specific questions related to the forms, you can also contact the Legal Form Help Line at 1-855-784-0004 or email UJS staff at ujssrlhelp@uj.s.state.sd.us.

IMPORTANT NOTICE:

This form can only be filed if the Plaintiff wishes to dismiss the case and the Defendant has not yet filed an Answer t. The filing of this form you understand that you are requesting the court to dismiss your case entirely. This form will not be accepted by the Clerk's office if the opposing party has filed and Answer or Motion for Summary Judgment.

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, Plaintiff and Defendant's names.
- 2) Leave the order section of the form blank for the Judge to complete.
- 3) Date and sign.
- 4) File the original with the Clerk of Court.
- 5) If your Motion to Dismiss is granted by the Judge, two certified copies will be provided to you. One copy of the Motion and Order will need to be mailed to the Defendant.
- 6) Once you have mailed a copy, you will need to complete the Statement of Mailing section and file with the Clerk of Court.

STATE OF SOUTH DAKOTA

IN CIRCUIT COURT

COUNTY OF _____

_____ JUDICIAL CIRCUIT

_____ Plaintiff v. _____ Defendant	Case No.: _____ MOTION AND ORDER FOR DISMISSAL
---	---

The Plaintiff hereby respectfully requests this court to dismiss the above action in its entirety without prejudice, pursuant to SDCL 15-6- 41(a).

I declare under penalty of perjury under the law of South Dakota that the foregoing is true and correct. Signed on the _____ day of _____, _____
at _____
(Date) (Month) (Year)
(City or other location, and State)

Plaintiff Signature

Plaintiff Name

ORDER

Pursuant to SDCL 15-6-41(a), this action is hereby DISMISSED without prejudice.

Dated this _____ day of _____, 20_____.

BY THE COURT:

Circuit Court Judge

ATTEST:

Clerk of Court

Deputy Clerk
(SEAL)

STATE OF SOUTH DAKOTA

IN CIRCUIT COURT

COUNTY OF _____

_____ JUDICIAL CIRCUIT

Plaintiff v. Defendant	Case No.: _____ STATEMENT OF MAILING
---	---

I, _____, the above-named Plaintiff, state that on the ____ day of _____, 20 ____, I sent a certified copy of the Motion and Order for Dismissal by placing true and correct copies in an envelope addressed to the Defendant at:

(Name of Defendant)

(Street Address)

(City, State, Zip)

And depositing the envelope, with sufficient postage, in the United States Mail in:

(City and State you mailed from)

I declare under penalty of perjury under the law of South Dakota that the foregoing is true and correct. Signed on the _____ day of _____, _____ at
(Date) (Month) (Year)

(City or other location, and State)

Plaintiff Signature

Plaintiff Name

Address

City, State, Zip Code

Telephone

INSTRUCTIONS FOR JOINT MOTION AND ORDER FOR DISMISSAL FORM

If you have any legal questions while completing this form, it is highly recommended that you consult with an attorney. Court staff are unable to provide legal advice or assist with form completion. For specific questions related to the forms, you can also contact the Legal Form Help line at 1-855-784-0004 or email UJS staff at ujssrlhelp@uj.s.state.sd.us.

Important Notice:

In the event the parties resolve their differences prior to the entry of the Judgment and Decree of Divorce and want to stop the divorce proceeding, they may request the Court for an Order dismissing the divorce action, without prejudice.

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, Plaintiff and Defendant's names.
2. Provide your reasoning for the request to dismiss the case on the line provided.
3. Both parties must sign and date the Motion.
4. Leave the Order section on page two blank as the Judge will date and sign the Order.
5. File the original with the Clerk of Court. Retain a copy for your records.
6. Once the Judge has ruled on your motion you will be provided with two certified copies. One is for you and the other is for your spouse.

STATE OF SOUTH DAKOTA
COUNTY OF _____

IN CIRCUIT COURT
_____ JUDICIAL CIRCUIT

_____ Plaintiff v. _____ Defendant	Case No.: _____ JOINT MOTION AND ORDER FOR DISMISSAL
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COMES NOW, the above-named Plaintiff and Defendant and respectfully requests this Court for an Order dismissing this action without prejudice based on the following reason(s):

I declare under penalty of perjury under the law of South Dakota that the foregoing is true and correct.

Signed on the _____ day of _____, _____ at _____.
(Date) (Month) (Year) (City or other location, and State)

Plaintiff Signature

Plaintiff Name

I declare under penalty of perjury under the law of South Dakota that the foregoing is true and correct.

Signed on the _____ day of _____, _____ at _____.
(Date) (Month) (Year) (City or other location, and State)

Defendant Signature

Defendant Name

ORDER

This matter having come before the Court by the parties Joint Motion for Dismissal,
this action is hereby DISMISSED without prejudice.

Dated _____

Circuit Court Judge

ATTEST:

Clerk of Court

Deputy Clerk
(SEAL)