

Instructions for Notice to Relocate Minor Child(ren) & Form

THIS FORM IS DESIGNED SOLELY FOR THE PURPOSE OF ASSISTING INDIVIDUALS WITH COMPLYING WITH SDCL 25-4A-17. YOU ARE STRONGLY ADVISED TO MEET WITH AND HIRE AN ATTORNEY TO PROTECT YOUR RIGHTS AND INTERESTS.

Who should use this Form?

The Notice to Relocate Minor Child(ren) form is required in the following circumstances:

1. Are you the parent whom the child(ren) lives with 50% of the time or more?
 Yes. Please answer the next question.
 No. You may not use this form.
2. Do you have a court order specifically addressing what happens if you move with the minor child(ren)? (*If your current order only references the SD Parenting Guidelines, please proceed and answer the next question*).
 Yes. You do not need this form. Refer to your current court order.
 No. Please answer the next question.
3. Are you proposing to move further away from the other parent or moving to a different school district?
 Yes (to either). Please answer the next question.
 No (to both). You do not need to complete this form.
4. Is there an existing valid protection order protecting the child and/or custodial parent from the non-custodial parent AND visitation is addressed in the protection order or in another file after the protection order was entered?
 Yes. You do not need to complete this form.
 No. Please answer the next question.
5. Within the previous 12 months, was the other parent convicted of a violation of a protection order, criminal assault, child abuse or other domestic violence AND either you or the child was the victim AND visitation was not addressed after the conviction?
 Yes. You do not need to complete this form.
 No. Please complete the form.

When should I complete this form and provide a copy to the other parent?

As soon as possible! You want to allow as much time as possible to make arrangements. The law, however, requires that you provide a minimum notice of 45 days to the other parent. But, you should factor in additional time for service of the notice on the other parent. A good rule of thumb would be to serve the other parent 55 days in advance, but please consult an attorney to help you if you have questions regarding timing.

Complete the Form!

Complete this form in black or blue ink only!

This is a 5 page form; however, you will need four pages. You will use either the Affidavit of Mailing OR the Admission of Service. Complete “the Caption.” **NOTE:** The caption is the top portion of each form. You will need to know the name of your county, judicial circuit (ask your Clerk of Court if you don’t know), name of Plaintiff, name of Defendant and case filing number (ask your Clerk of Court if you don’t know). The caption is the same on every form related to this file.

Answer or complete the paragraphs within the Notice to Relocate Minor Child(ren):

- Paragraphs 1 – 6 are self-explanatory.
- Paragraph No. 7: List the street address, city and state of where you plan to move to. If you are not comfortable with including your street address, you are not required to do so, but you do have to include the city and state. Calculate how many miles away the minor child(ren) would live from the other parent, if you were allowed to move. You could use google maps to calculate the distance.
- Paragraph 8: Fill in the date that you expect to move. If you are unable to provide a minimum of 45 days notice to the other parent, please explain why. The law does provide that less than 45 days notice may be acceptable if the 45 days was “unreasonable under the specific facts giving rise to the relocation.”
- Paragraph 9: Explain your reasons for pursuing the proposed relocation with the minor child(ren).
- Paragraph 10: Explain why you feel this move is in the best interests of the minor child(ren).
- Paragraph 11: Presume that the Court allowed you to move with the minor child(ren), what would visitation with the other parent look like? Take into consideration things like:
 1. Travel expenses – who will pay what?
 2. Is it possible to continue the current schedule?
 3. Do you need a set schedule for FaceTime, phone calls, Skype?
 4. Will the child(ren) have extra days off school that the other parent can have for visits?
 5. How do you split holidays?
 6. How do you divide summer vacations?
 7. How much advance notice would be needed for travel arrangements?
 8. Share sports calendars in advance so both parents can attend if possible.

The more issues you address now, the less you will have to disagree over in the future. The South Dakota Parenting Guidelines provides the *minimum* guidelines if you need some assistance in completing this section.

- Sign the Notice and legibly print the remaining information.

Verification Section:

Do not fill out the verification section until you are in the presence of a notary public or Clerk of Court. Make sure to bring photo identification to show the notary public or Clerk of Court. A notary public can usually be found at the bank and sometimes at the courthouse.

WARNING: By signing your name, you are telling the court that you are telling the truth and that you have a good faith reason for your requests. If you are not telling the truth, if you are misleading the court, or if you are serving or filing this document for an improper purpose, the court could find you in contempt or you could be charged with a crime for not telling the truth.

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

Now, you need to get a copy of the Notice to Relocate Minor Child(ren) to the other parent and be able to prove to the Court that you sent it to him/her. This can be accomplished a couple different ways:

Affidavit of Mailing:

If you choose to mail a copy of the Notice to Relocate Minor Child(ren) to the other parent, it must be by **certified mail, return receipt requested**. You must also complete the Affidavit of Mailing form. The original copy must be filed with the Clerk of Courts with a copy for you and the other parent. Keep the return receipt (aka "green card") or the return receipt electronic signature (PDF) from the United States Postal Service and file with the Clerk of Courts.

Admission of Service:

Instead of mailing this Notice to Relocate Minor Child(ren), you can request that the other parent sign an Admission of Service. This does not indicate that the other parent agrees to the relocation. It simply means that the other parent received the Notice on a specific date. However, if the other parent refuses to sign the Admission of Service, you will need to mail the Notice to him/her. If signed, the original Admission of Service must be filed with the Clerk of Courts but keep a copy for yourself and give a copy to the other parent.

You do not need to do both the Affidavit of Service and Admission of Service.

What's Next?

Per SDCL 25-4A-19, if the other parent does not agree with your proposed move, he/she may file a letter objecting to the move with the Clerk of Courts and may request a hearing. The objection must be made within 30 days of this Notice. If the other parent fails to request a hearing within 30 days of this Notice, the proposed move is presumed to be consented to by them. Nothing further would be required.

STATE OF SOUTH DAKOTA)
)
COUNTY OF _____)
:SS

IN CIRCUIT COURT
_____ JUDICIAL CIRCUIT

<p>_____ Plaintiff,</p> <p>vs.</p> <p>_____ Defendant</p>	<p>File No. _____</p> <p>NOTICE TO RELOCATE MINOR CHILD(REN)</p>
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1. Plaintiff's full legal name is _____ and his/her date of birth is _____.
2. Plaintiff is a resident of _____ County, State of _____.
3. Defendant's full legal name is _____ and his/her date of birth is _____.
4. Defendant is a resident of _____ County, State of _____.
5. Is Plaintiff an active duty member of the armed forces? Yes _____ No _____
Is Defendant an active duty member of the armed forces? Yes _____ No _____
6. I share physical custody (at least 50%) or maintain the primary residence of the following minor child(ren) born to or adopted by the above-named parties:

Full Legal Name of Minor Child(ren):	Date of Birth of Minor Child(ren):
_____	_____
_____	_____
_____	_____

7. I am proposing to move with the above named minor child(ren) to:
_____ (*insert street address*),
_____ (*insert City & State*).
This proposed move will result in _____ miles between the minor child(ren) and the other parent.

8. I will be moving with the above named minor child(ren) on _____
(insert the date you expect to move). If applicable please complete: I am unable
to provide a minimum of 45 days notice to the other parent because: _____

9. I would like to relocate with the minor child(ren) because: _____

10. I believe this relocation is in the best interests of the minor child(ren) because:

11. If I am allowed to move with the minor child(ren) to _____
(insert city & state), I propose that the other parent have the following visitation
with the minor child(ren):

Dated this _____ day of _____, 20____.

Signature of Parent Wanting to Move

Print name

Current Mailing Address

City/State/Zip

Phone Number

STATE OF SOUTH DAKOTA)
 :SS
COUNTY OF _____)

IN CIRCUIT COURT

_____ JUDICIAL CIRCUIT

Plaintiff,

vs.

Defendant

File No. _____

AFFIDAVIT OF MAILING

I, _____, being sworn, state that on
(Full legal name of person mailing the documents)
_____, 20____, I sent the following documents:

The Notice to Relocate Minor Child(ren)

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

_____ at _____
(Full legal name of other parent) (Other parent's mailing address)

in the City of _____, State of _____,

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

United States Mail at _____.
(City and state where you mailed the documents from)

Dated this _____ day of _____, 20_____.

Signature of Person Mailing Documents
(Sign only in front of a notary or Clerk of Court)

Sworn/affirmed before me this _____ day of _____, 20____. Name: (Printed) _____

(Notary Public/Clerk of Court) Address: _____

If notary, my commission expires _____
(SEAL) City/State/Zip: _____
Telephone: (____) _____

STATE OF SOUTH DAKOTA)
 :SS
COUNTY OF _____)

IN CIRCUIT COURT
_____ JUDICIAL CIRCUIT

_____,
Plaintiff,

vs.

_____,
Defendant

File No. _____

**ADMISSION OF SERVICE
OF NOTICE TO RELOCATE**

(BY HAND DELIVERY)

I, _____ (*insert the name of the person receiving the document*), admit receiving a copy of the Notice to Relocate Minor Child(ren) in the above-captioned matter at (*insert the city, county and state where you were when you received the document*):

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

This Admission merely acknowledges receipt of the papers; I do not admit or deny any of the statements contained in those papers nor am I consenting to the proposed relocation by signing this document.

Dated this _____ day of _____, 20_____.

Signature of Parent who received document

Typed or Printed Name

Mailing address

City, State and Zip Code

Telephone Number