

Instructions for Summons (With Minor Children) & Form

- **Complete this form in black or blue ink only!**
- Complete the top portion of the Summons (with Minor Children). (NOTE: The top portion of each form is called the “caption” and the information will be the same on every form you fill out.) **If you are using the Spanish version, the form must be completed in English. The Clerk will reject any forms completed in a language other than English.**
 - Fill in the name of the county in which you are filing for divorce. This must be the county in which either you or your spouse live.
 - Fill in the name of the Judicial Circuit (1-7) that the county in which you are filing for divorce is located. (ex. First, Second, Third, etc.) If you do not know, contact the Clerk of Courts in your county.
 - Fill in your full legal name where it says “Plaintiff” and your spouse’s full legal name where it says “Defendant.”
 - When you file your papers, the Clerk of Court will assign a case number which you will insert in the space following “DIV.” For example, if your case number is 011234, your form should show DIV.: 01-1234. This case number should appear on all papers that you file with the Clerk.
- You must date and sign the Summons (with Minor Children) at the bottom. You must also include your mailing address and telephone number.
- Make at least 2 photocopies of the signed Summons (with Minor Children); one for you and one to be served on your spouse. The original must be filed with the Clerk of Courts.
- **You must also attach a copy of the South Dakota Parenting Guidelines (UJS-302) to each copy of the Summons (with Minor Children).** Refer to the Instructions in Self-Represented Divorces with Children (UJS-307A) to ensure you have all the documents collected for service.
- **It is very important that you read and follow the Temporary Restraining Order that becomes automatic when you file for divorce. Both parties are required to obey the Temporary Restraining Order. Violation of any of these terms could subject you to penalties and delay your divorce. Read it carefully.**

STATE OF SOUTH DAKOTA)
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COUNTY OF _____)

IN CIRCUIT COURT

_____ JUDICIAL CIRCUIT

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|---|--|
| <p>_____, Plaintiff, vs. _____, Defendant</p> | <p>DIV _____</p> <p>SUMMONS (WITH MINOR CHILDREN)</p> |
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TO THE ABOVE-NAMED DEFENDANT:

YOU ARE HEREBY SUMMONED and required to answer the Complaint with Minor Children of the Plaintiff, a copy of which is herewith served upon you, and to serve the Plaintiff with a copy of your Answer or other proper response within thirty (30) days from the date of the service of the Summons upon you, exclusive of the day of service.

IF YOU FAIL TO DO SO, judgment by default may be taken against you for the relief demanded in the Complaint sixty (60) 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 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 30 days after the date of the objection. The court shall then issue its temporary custody and visitation order after considering the best interest of the child(ren) consistent with the provisions of SDCL 25-4-45.

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

Print Name

Mailing Address

City, State, Zip

Telephone Number

- **The instructions & forms for self-represented litigants can be found at Clerk of Court's office or at <http://www.ujs.sd.gov>**