



South Dakota's Visitation Enforcement Task Force

Background

Buried deep within the federal Welfare Reform Act of 1996 is a section entitled "Enhancing Responsibility and Opportunity for Non-Residential Parents."¹ The law enabled the Administration for Children and Families within the Department of Health and Human Services to make grants allowing states to "establish and administer programs to support and facilitate noncustodial parents' access to and visitation of their children, by means of activities including mediation ... enforcement ... and development of guidelines."

For fiscal years 1997 and 1998 the minimum grants were to be \$50,000, and the grants were to expand to \$100,000 per year after that period.

State Legislation

During the 1997 session of the South Dakota State Legislature, Representative Pat Haley introduced H.B. 1253, "An Act to establish a visitation enforcement program within the Unified Judicial System, to create a Task Force to provide for its implementation, and to make an appropriation of federal fund authority therefor."

After passing both the House and Senate by wide margins² the bill was vetoed by Governor Janklow. In his veto message

the Governor cited Article III, Section 12 of the State Constitution, which states, "...nor shall any member receive any civil appointment from...the Legislature during the term for which he shall have been elected." Since H.B. 1253 included two senators and two representatives on the Task Force, the Governor argued that it violated this clause in the Constitution. However, the Legislature felt otherwise, and the veto was overridden on March 25, 1997, by a 51-18 vote in the House and a 26-9 vote in the Senate.³

The Task Force Gets Off the Ground

As the spring of 1997 progressed, membership of the Task Force slowly took shape. The Task Force was to consist of three components: three judges, chosen by the Chief Justice; two attorneys, chosen by the president of the Bar Association; and four legislators, one appointed by each of the majority and minority leaders of the House and Senate. By the summer the Task Force identity was complete, and as of the summer of 2000 there has been no change in it:

Judge John Bastian
Judge Judith Meierhenry
Judge Steven Zinter
Attorney Linda Lea M. Viken
Attorney James L. Waggoner
Senator Dennis Daugaard
Senator Mel Olson
Representative Steve Cutler
Representative Pat Haley

Staff for the Task Force has consisted of the following:

- ◆ Dan Schenk, State Court Administrator's Office
- ◆ Terri Adams, State Court Administrator's Office
- ◆ Terry Walter, Department of Social Services
- ◆ Bill Pike, Legislative Research Council

The first meeting of the Task Force was held on October 6, 1997, in Pierre. Judge Bastian was selected as chair of the Task Force by a majority of the members. This meeting was mainly an opportunity for discussion and brainstorming regarding problems with child visitation enforcement. There was no outside testimony at that time and therefore the Task Force encouraged staff to broadly advertise the group's existence and purpose through various channels, in hopes of receiving public input at the next meeting.

The Task Force did not meet again until April 7, 1998. At this time, however, public testimony was plentiful. The Task Force listened to personal stories of visitation enforcement problems, discussed state involvement in visitation enforcement with David Braun of Social Services, and heard insights on these issues from members of the South Dakota Family Law Bar Committee. But perhaps most importantly, the members heard testimony from Brenda Schulte of Mitchell and Georgia Sandmeier of Aberdeen, who were working on visitation centers in their communities.

Visitation centers are places where child exchanges can take place in a neutral atmosphere, and where, in volatile cases, child visitation can take place in a supervised setting. In cases where alcohol, drug abuse, or sexual

misconduct are or might be part of the non-custodial parent's history, visitation can occur either with a staff person present or in a room monitored by staff with a television camera. In cases of parental hostility, the child can be dropped off and picked up at the center without any contact between the two parents.

Grants are Distributed

On June 9, 1998, the Task Force met and distributed its first grants, totaling \$44,496.96. Some funds from the original \$50,000 were held back for expenses of the Task Force. The bulk of the funding went to visitation centers in Aberdeen, Mitchell, Rapid City, and Watertown. It was stipulated that grantees could not utilize funds for "brick and mortar" expenses, and most funding went instead to supplies and equipment, especially security cameras, monitors, metal detectors, etc.

New Legislation is Passed

The Task Force met once more in 1998, on November 18, to review their situation. As stipulated by H.B. 1253, the group was to make a report to the Legislature, and LRC staff was directed to write a summary of the Task Force's activities thus far for inclusion in *Update* and deposit into the LRC library. Also, since H.B. 1253 only allowed for expenditure authority through mid-2000, it seemed necessary to introduce new legislation allowing the Task Force to continue its activities indefinitely.

This resulted in H.B. 1076, "An Act to appropriate federal funds for the continuation of the Visitation Enforcement Program Implementation Task Force," introduced into the 1999 legislative session. The bill simply allowed the Task

Force to utilize the federal funding as long as that funding continued to exist. After extended and somewhat contentious discussions within both the House and the Senate Appropriations Committees, the amount of the \$100,000 grant allowed

for Task Force expenses was set at \$5,000. The bill passed the House 67-2 and passed the Senate 34-1, and in this instance was signed by the Governor.⁴

Name	City	1998	1999	2000
Resource Center for Women	Aberdeen	\$1,500	\$14,989	\$12,367
Mitchell Area Safehouse	Mitchell	\$12,997		\$6,436
Tripp County Domestic Abuse Shelter	Winner	\$2,050	\$4,420	
Working Against Violence, Inc.	Rapid City	\$20,900	\$6,200	\$12,850
Women's Resource Center	Watertown	\$7,050		
Pierre Area Mediators	Pierre		\$700	
SD Advisory Committee	Rapid City		\$5,000	
Avera McKennan Hospital	Sioux Falls		\$2,000	\$23,280
Victims of Violence	Spearfish		\$4,000	\$2,000
Vermillion Coalition Against Domestic Violence	Vermillion		\$650	
Yankton Family Visitation Center	Yankton		\$7,000	\$7,245
Central Dakota Common Purpose	Pierre			\$18,600
Midland Dispute Resolution Center	Sioux Falls			\$5,000
S.D. Family Visitation Council	Aberdeen			\$3,000
YWCA Family Violence Program	Huron			\$5,000

Continued Activity

The Task Force held its fifth meeting on April 20, 1999. Again, public testimony was heard regarding personal accounts of child visitation enforcement difficulties.

Eventually, the group turned to the grant requests it had received – totaling \$136,609 in requests for less than \$50,000 of available funds.

After deep deliberation the Task Force awarded grants totaling \$44,959 to nine

organizations. Again, the largest grant amounts were for security and monitoring equipment, as well as for such diverse needs as toys, furniture, educational materials, and training materials. Funding was also used to cover part or all of visitation center fees for parents who simply could not afford the services provided.

On October 19, 1999, the Task Force came together for its sixth meeting, at which grantees reported on how funding had been utilized and on what lay ahead for their organizations.

The seventh meeting of the Task Force was held on May 23, 2000. Personal testimony was heard once again, especially from such individuals as Tim Stanga, an advocate of non-custodial parents' rights, and Steve Mathis, President of the South Dakota Coalition for Shared Parenting, a rather new advocacy organization.

Grant requests totaling \$124,043 were then heard, and grants totaling \$95,778 were awarded to ten organizations. Yet again, visitation centers were major recipients, but funding was also granted for mediation efforts and for meetings of the South Dakota Family Visitation Council.

Discussion also centered around the future direction of the Task Force. It was

decided that next year the bulk of funding would be directed towards a pilot project to fund an advocate aiding those with child visitation enforcement needs. A subcommittee (Haley, Meierhenry, and Viken) was created in order to work with the Unified Judicial System on creating such a pilot project. This subcommittee will report at the fall meeting, currently scheduled for October 24, 2000.

Conclusion

In the three years since its inception, the Visitation Task Force has distributed over \$185,000 of federal funds to fledgling community-driven organizations throughout South Dakota. These groups in turn have directly or indirectly helped numerous parents and children interact and obey court orders in safe, reassuring environments.

However, as was pointed out during public testimony at the latest Task Force meeting, visitation centers are reactive, not proactive. They serve a need, but they do not solve the larger problems of child visitation enforcement. For the Task Force to be a real success, it must go forward and address these problems through legislation and new judicial procedures. It has begun to take steps in that direction through discussion of an advocacy pilot project, but for now the problems plaguing many non-custodial parents go largely unaddressed.

This issue memorandum was written by William E. Pike, Fiscal Analyst for the Legislative Research Council. It is designed to supply background information on the subject and is not a policy statement made by the Legislative Research Council.

¹ Title III, Subtitle I of Public Law 104-193, The Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

² 68-1 and 32-2.

³ The Act can be found under Chapter 150 of the 1997 Session Laws of South Dakota.

⁴ Chapter 108 of the 1999 Session Laws of South Dakota.