

State of South Dakota

SEVENTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 1998

583B0092

HOUSE BILL NO. 1094

Introduced by: Representatives Collier, Barker, de Hueck, Jorgensen, Moore, Rost, and Sokolow and Senators Dunn (Rebecca), Everist, Flowers, and Lawler

1 FOR AN ACT ENTITLED, An Act to delineate the conditions and circumstances under which
2 a minor child may testify in a custody or visitation action.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 25-4 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 There is a rebuttable presumption in any action for the custody of a minor child or in any
7 action for visitation rights in regard to a minor child, either before or after judgment, that it is
8 not in the best interests of the child to be called to testify before the court or to be interviewed
9 by the court in chambers. No minor child may testify in any custody or visitation action
10 concerning the child, other than on the court's own motion, unless:

11 (1) The party seeking to have the child testify in court or in chambers has made written
12 application to the court before the hearing stating the reasons for such request and
13 stating what attempts, if any, have been made, or could be made, to obtain or present
14 the desired information by alternative means;

15 (2) The court has held a hearing on the moving party's application; and

1 (3) The court has made and entered written findings as to why such testimony should be
2 allowed.