

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

337E0252

SENATE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **HB 1144** - 02/26/2001

**This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.**

Introduced by: Representatives Kooistra, Garnos, and McCoy and Senator Staggers

1 FOR AN ACT ENTITLED, An Act to revise certain provisions relating to child custody.

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

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

5 Any person entitled to custody or visitation of a child shall give notice of any proposed  
6 relocation of the residence of the child in writing by certified mail, return receipt requested, to  
7 any party that has custody or visitation rights. Absent exigent circumstances as determined by  
8 a court with jurisdiction, written notice shall be provided at least sixty days before the proposed  
9 relocation. The notice of the proposed relocation shall include the following information: the city  
10 and state to which the relocation is proposed, date of the intended move, reasons for moving,  
11 and a proposed visitation schedule.

12 The residence of the child may be relocated sixty days after providing notice, as required by  
13 this section, unless a party entitled to custody or visitation files a motion seeking an order to  
14 prevent the relocation within thirty days after receipt of such notice. An affidavit setting forth

1 the specific factual basis for prohibiting the relocation shall be attached to the motion. The  
2 person seeking the relocation shall respond to the motion within fourteen days, unless the court  
3 extends the response time for good cause, and provide a counter affidavit setting forth the facts  
4 in support of the relocation and the proposed revised parenting plan for the child.

5 If relocation is permitted, the court may order contact with the nonrelocating party including  
6 custody or visitation and telephone access sufficient to assure that the child has frequent,  
7 continuing, and meaningful contact with the nonrelocating party unless the child's best interest  
8 warrants otherwise. The court may specify how the transportation costs shall be allocated  
9 between the parties and adjust the child support, as appropriate, considering the transportation  
10 costs.