

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

337E0252

HOUSE BILL NO. 1144

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 and to
2 provide for a shared parenting plan.

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 It is the policy of this state to assure that minor children have frequent and continuing contact
7 with parents, to encourage parents to act in the best interests of their children, and to encourage
8 parents to share in the rights and responsibilities of rearing their children following separation
9 or divorce. To effectuate this policy, if requested by a parent, the court shall provide substantially
10 equal access to any minor child at a hearing for temporary custody and in the final decree, unless
11 the court finds that such shared parenting would be detrimental to the child. The burden of proof
12 that a shared parenting relationship would be detrimental to the child is upon the parent opposing
13 a shared parenting relationship.

14 Section 2. That chapter 25-5 be amended by adding thereto a NEW SECTION to read as
15 follows:

1 The petitioner and respondent shall submit a proposed parenting plan, either individually or
2 jointly, within thirty days after service of process or the filing of the entry of appearance,
3 whichever event first occurs, of a motion to modify or a petition involving custody or visitation
4 issues. If requested by a parent, the court shall provide substantially equal access to any minor
5 child to both parents at a hearing for temporary custody, unless the court finds that such shared
6 parenting would be detrimental to the child. The burden of proof that the shared parenting
7 relationship would be detrimental to the child is upon the parent requesting an alternative form
8 of custody.

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

11 A party to a hearing for temporary custody may file and serve a proposed parenting plan for
12 consideration by the court. The other party, if contesting the proposed parenting plan, may file
13 and serve an alternative plan. At any time, either parent may move to have a proposed parenting
14 plan entered as part of a temporary order. The proposed temporary parenting plan may be
15 supported by relevant evidence and shall be verified.

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

18 No parent entitled to the custody of a child may change the residence of the child to another
19 state or remove the child a distance of greater than fifty miles from the noncustodial parent for
20 a period of time exceeding sixty days except upon an order of the court which has continuing
21 jurisdiction concerning the custody of the child or with the written consent of every other person
22 who has a right to custody or visitation with the child. If relocation of a child is approved, the
23 court shall enter a new parenting plan that maintains the same proportion of custodial access and
24 responsibility that was previously exercised by the parties.

1 Section 5. That § 25-5-13 be repealed.

2 ~~25-5-13. A parent entitled to the custody of a child has the right to change his residence,~~
3 ~~subject to the power of the circuit court to restrain a removal which would prejudice the rights~~
4 ~~or welfare of the child.~~

5 Section 6. That § 25-5-7.3 be amended to read as follows:

6 25-5-7.3. Notwithstanding any other provision of law, access to records and information
7 pertaining to a minor child, including, but not limited to, medical, including counseling, dental,
8 including orthodontia, optometric and similar health care, and school records, may not be denied
9 to a parent because such parent is not the child's primary residential parent. No parent may deny
10 the access requested by the other parent.