

# State of South Dakota

SEVENTY-NINTH SESSION  
LEGISLATIVE ASSEMBLY, 2004

709J0567

## HOUSE BILL NO. 1126

Introduced by: Representatives Madsen, Cutler, Engels, Gillespie, Hanson, Hennies, McCaulley, Michels, Murschel, O'Brien, Peterson (Jim), and Sebert and Senators Schoenbeck, de Hueck, Knudson, and Moore

1 FOR AN ACT ENTITLED, An Act to allow the prosecuting attorney to sign the summons in  
2 a juvenile case.

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

4 Section 1. That § 26-7A-44 be amended to read as follows:

5 26-7A-44. Upon the filing of the petition, the court ~~or~~, the clerk of the court, or the  
6 prosecuting attorney shall issue a summons stating the time, date, and place for the hearing on  
7 the petition that is directed to the child's parents, guardian, or custodian, if any. If the petition  
8 declares the parties are unknown, then to "All Whom It May Concern" is sufficient to authorize  
9 the court to hear and determine the action as though the parties had been described by their  
10 proper names. The summons shall:

11 (1) Require the persons named in it to appear, either in person or by attorney, at a stated  
12 time, date, and place and to respond to the petition and shall advise the persons  
13 named that failure to appear is an admission to the allegations contained in the  
14 petition;

15 (2) State that the persons named and the child who is the subject of the petition have the



1 right to an attorney at all stages of the proceedings;

2 (3) If the petition alleges the child to be an abused or neglected child, include a statement  
3 that the termination of parental rights is a possible remedy under the proceeding. The  
4 summons may not require the child to personally appear unless otherwise required  
5 by the court;

6 (4) If the petition alleges the child to be a child in need of supervision or a delinquent  
7 child, require the parents or the party having custody of the child to appear, either in  
8 person or by attorney, with the child at the time, date, and place stated in the  
9 summons; and

10 (5) If the petition alleges the Indian Child Welfare Act to be applicable, so state and give  
11 appropriate notice accordingly.