

# State of South Dakota

SEVENTY-NINTH SESSION  
LEGISLATIVE ASSEMBLY, 2004

484J0379

## HOUSE BILL NO. 1266

Introduced by: Representatives Gillespie, Cutler, Deadrick (Thomas), Engels, Gassman, Madsen, McCaulley, Michels, O'Brien, Olson (Mel), and Van Norman and Senators Bogue, de Hueck, Moore, Schoenbeck, and Sutton (Dan)

1 FOR AN ACT ENTITLED, An Act to revise certain provisions relating to notice of certain  
2 persons in estate litigation.

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

4 Section 1. That § 29A-1-401 be amended to read as follows:

5 29A-1-401. (a) If notice of a hearing on any petition is required and except for specific  
6 notice requirements as otherwise provided, the petitioner shall cause notice of the time and place  
7 of hearing of any petition, together with a copy of the petition, to be given to any interested  
8 person or the person's attorney if the person has appeared by attorney or requested that notice  
9 be sent to an attorney. Notice shall be given:

10 (1) By mailing a copy of the notice of hearing and of the petition at least fourteen days  
11 before the time set for the hearing by certified, registered, or ordinary first class mail  
12 addressed to the person being notified at the post office address given in the person's  
13 demand for notice, if any, or at the person's place of residence, if known;

14 (2) By delivering a copy of the notice of hearing and of the petition to the person being  
15 notified personally at least fourteen days before the time set for the hearing; or



1       (3) If the address or identity of any person is not known and cannot be ascertained with  
2           reasonable diligence, by publishing at least once a week for three consecutive weeks,  
3           a copy of the notice of hearing in a legal newspaper in the county where the hearing  
4           is to be held, the last publication of which is to be at least fourteen days before the  
5           time set for the hearing; or

6       (4) If any person entitled to notice is a resident of a foreign country ~~and does not have~~  
7           ~~a place of residence in any state, and if the address of the person is not known and~~  
8           ~~cannot be ascertained with reasonable diligence~~, by mailing a copy of the notice of  
9           hearing and a copy of the petition to the legation of the foreign country at  
10          Washington, D.C. at least fourteen days prior to the date fixed for hearing.

11       (b) The court for good cause shown may provide for a different method or time of giving  
12       notice for any hearing.

13       (c) Proof of the giving of notice shall be made on or before the hearing and filed in the  
14       proceeding.