

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

760J0540

STYLE AND FORM VETO ENGROSSED NO. **SB** **181** - 03/15/2004

Introduced by: Senators Kooistra and Schoenbeck and Representatives Gillespie, Cutler, and Deadrick (Thomas)

1 FOR AN ACT ENTITLED, An Act to require notice before relocating a child not living with
2 both legal parents.

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

4 Section 1. If an existing custody order or other enforceable agreement does not expressly
5 govern the relocation of the principal residence of a child, a parent who intends to change his
6 or her principal residence shall, provide reasonable written notice by certified mail or admission
7 of service to the other legal parent of the child. Reasonable notice is notice that is given at least
8 forty-five days before relocation or a shorter period if reasonable under the specific facts giving
9 rise to the relocation. Proof of the notice shall be filed with the court of record unless notice is
10 waived by the court.

11 No notice need be provided pursuant to this section if:

- 12 (1) The relocation results in the child moving closer to the noncustodial parent; or
13 (2) The relocation is within the boundaries of the child's current school district; or
14 (3) There is an existing valid protection order in favor of the child or the custodial parent



1 against the noncustodial parent; or

2 (4) Within the preceding twelve months, the nonrelocating parent has been convicted of
3 violation of a protection order, criminal assault, child abuse, or other domestic
4 violence and either the child or the custodial parent was the victim of the crime or
5 violation.

6 Section 2. The notice required in section 1 of this Act shall contain the following:

7 (1) The address and telephone number, if known, of the new residence;

8 (2) The purpose for relocating;

9 (3) Why the relocation is in the best interest of the child; and

10 (4) The relocating party's proposed visitation plan for the nonrelocating parent upon
11 relocation.

12 Section 3. At the request of the nonrelocating parent, made within thirty days of the notice
13 of relocation, the court shall hold a hearing on the relocation. If no request for hearing is made
14 within thirty days of notice, the relocation is presumed to be consented to by the nonrelocating
15 parent.