

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

862P0295

HOUSE JUDICIARY ENGROSSED NO. **HB 1099** 1/24/2008

Introduced by: Representatives Vehle, Deadrick, and Elliott and Senator Hansen (Tom) at the request of the Interim Committee on Education for Divorcing Parents, Visitation, and Custody Task Force

1 FOR AN ACT ENTITLED, An Act to require custody or visitation dispute mediation under
2 certain circumstances.

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

4 Section 1. That § 25-4-56 be amended to read as follows:

5 25-4-56. In any custody or visitation dispute between parents, the court shall, unless the
6 court deems it inappropriate under the facts of the case, order mediation to assist the parties in
7 formulating or modifying a plan, or in implementing a plan, for custody or visitation and shall
8 allocate the cost of the mediation between the parties unless:

9 (1) One of the parents has been convicted of domestic abuse as defined in subdivision
10 25-10-1(1); or

11 (2) One of the parents has been convicted of assault against a person as defined in
12 subdivision 25-10-1(2), except against any person related by consanguinity, but not
13 living in the same household; or

14 (3) One of the parents has a history of domestic abuse; or



1 (4) Mediation is not readily available or the court determines that mediation is not
2 appropriate based on the facts and circumstances of the case.

3 The court may also direct that an investigation be conducted to assist the court in making a
4 custody or visitation determination and shall allocate the costs of such investigation between
5 the parties. A history of domestic abuse may only be proven by greater convincing force of the
6 evidence.