

State of South Dakota

NINETY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2018

846Z0146

HOUSE JUDICIARY ENGROSSED NO. **SB 165** 2/23/2018

Introduced by: Senators Nelson, Jensen (Phil), Russell, and Stalzer and Representatives Pischke, Dennert, DiSanto, Kaiser, Marty, and Wiese

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding child custody and
2 visitation and the enforcement of those provisions.

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

4 Section 1. That chapter 25-4A be amended by adding a NEW SECTION to read:

5 Any order of the court for parenting time shall have attached a copy of § 25-4A-5.

6 Section 2. That chapter 25-4A be amended by adding a NEW SECTION to read:

7 If a noncustodial parent believes that the custodial parent has willfully violated or willfully
8 failed to comply with any provisions of a custody or visitation decree, the noncustodial parent
9 may file with the court clerk a motion for enforcement of visitation rights. The motion shall be
10 filed on a form provided by the court clerk. Upon filing of the motion, the court shall
11 immediately set a hearing on the motion, which may not be more than twenty-one days after the
12 filing of the motion.

13 Section 3. That § 25-4A-5 be amended to read:

14 25-4A-5. If the court finds that any party has willfully violated or willfully failed to comply



1 with any provisions of a custody or visitation decree, the court shall impose appropriate
2 sanctions to punish the offender or to compel the offender to comply with the terms of the
3 custody or visitation decree.

4 ~~Sanctions which the court may, in its discretion, order include~~ The court may enter an order
5 clarifying the rights and responsibilities of the parents and the court's order. The court may order
6 one or more of the following sanctions:

7 (1) To require the offender to provide the other party with make up time with the child
8 equal to the time missed with the child, due to the offender's noncompliance;

9 (2) To require the offender to pay, to the other party, court costs and reasonable
10 attorney's fees incurred as a result of the noncompliance;

11 (3) To require the offender to pay a civil penalty of not more than the sum of one
12 thousand dollars;

13 (4) To require the offender to participate satisfactorily in counseling or parent education
14 classes;

15 (5) To require the offender to post bond or other security with the court conditional upon
16 future compliance with the terms of the custody or visitation decree or any ancillary
17 court order;

18 (6) To impose a jail sentence on the offender of not more than three days; or

19 (7) In the event of an aggravated violation or multiple violations, the court may modify
20 the existing visitation or custody situation, or both of any minor child.

21 The provisions of this section do not prohibit the court from imposing any other sanction
22 appropriate to the facts and circumstances of the case.

23 Section 4. That chapter 25-4A be amended by adding a NEW SECTION to read:

24 The Unified Judicial System shall develop and maintain the form on its website labeled,

1 parenting time enforcement. The form shall include the following information:

2 (1) The court case number;

3 (2) The name of the custodial parent and the name of the noncustodial parent;

4 (3) The name and date of birth of each child;

5 (4) The reasons for the petition, including the last date of visitation and number of
6 visitations in the last twelve months; and

7 (5) The petitioner's contact information.