

State of South Dakota

SEVENTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 1997

754A0754

HOUSE BILL NO. 1253

Introduced by: Representatives Haley, Cutler, Duxbury, Gabriel, Koetzle, Lucas, and Roe and
Senators Olson, Everist, Flowers, Hunhoff, and Paisley

1 FOR AN ACT ENTITLED, An Act to establish a visitation enforcement program within the
2 Unified Judicial System, to create a Task Force to provide for its implementation, and to
3 make an appropriation of federal fund authority therefor.

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

5 Section 1. There is hereby established within the Unified Judicial System the visitation
6 enforcement program to provide divorced or divorcing parents with effective, efficient, and
7 inexpensive intervention to attain voluntary compliance with the provisions of any valid and
8 continuing visitation or custody decree or the collateral provisions of any child support decree
9 not statutorily enforced by the Department of Social Services.

10 Section 2. The parent of any minor child shall participate in parenting instruction provided
11 as part of the visitation enforcement program before a final divorce decree may be granted by
12 the court. The parents of the child need not attend the same instruction session. The court may
13 excuse a parent from the provisions of this section only for good cause shown.

14 Section 3. Each case manager of the visitation enforcement program shall hear and attempt
15 to resolve, by agreement between the parties, complaints about the adherence of one or both

1 parents to the terms of the visitation or custody decree or the collateral provisions of the child
2 support decree. Once the intervention of the case manager has been sought by either party, the
3 case manager may do whatever may be reasonable to resolve the current or foreseeable conflicts
4 including investigation, admonition, interpretation, recommendation, suggestion, or advice. The
5 case manager may also suggest that the parties hire a mediator if the circumstances warrant.

6 Section 4. No parent, as a result of the visitation enforcement program, need have any direct
7 contact with the other parent, either in person or by telecommunications, if unwilling to do so.
8 No case manager may suggest direct contact between the parents if there is reason to believe that
9 one may have physically or emotionally abused the other.

10 Section 5. The services of the case manager are informal and are to be considered to be in
11 the nature of an ombudsman relationship. Neither party need adhere to any admonition,
12 interpretation, recommendation, or suggestion of the case manager. However, if there is
13 subsequent litigation between the parties, the court may request, and the case manager may
14 relate, the particulars of the case manager's involvement in the dispute as well as an opinion
15 about the good faith and course of conduct of the parties.

16 Section 6. The Unified Judicial System shall hire, train, and administer such personnel as may
17 be necessary to effectuate the purposes of this Act. One or more case managers shall be
18 employed or reassigned in each judicial circuit to provide continuing intervention services and
19 to provide parenting instruction. If there is not sufficient demand for these services in any circuit,
20 the employee may be compensated as a part-time employee or, if full-time, may be assigned
21 additional duties.

22 Section 7. The effective date of sections 1 to 6, inclusive, of this Act is January 1, 1999.

23 Section 8. There is hereby created the Visitation Enforcement Program Implementation Task
24 Force to study, plan, provide for, and implement sections 1 to 6, inclusive, of this Act. The Task
25 Force shall be composed of three circuit court judges appointed by the Chief Justice of the

1 Supreme Court, two members of the Bar appointed by the president of the South Dakota Bar
2 Association, and four legislators, one appointed by each of the majority and minority leaders of
3 the Senate and House of Representatives. The members may elect a chair from among their
4 members. The Task Force shall be staffed by the Unified Judicial System with the assistance of
5 the Legislative Research Council. The Task Force shall report its findings to the Legislature from
6 time to time as appropriate and may recommend necessary legislation.

7 Section 9. There is hereby appropriated one hundred thousand dollars (\$100,000) of federal
8 fund authority, or so much thereof as may be necessary, to the Unified Judicial System to prepare
9 for and implement sections 1 to 6, of this Act. However the Unified Judicial System may expend
10 no more than thirty-one thousand dollars of this appropriation to pay any expenses of the Task
11 Force provided for in section 8 of this Act.

12 Section 10. The Chief Justice of the Supreme Court shall approve vouchers and the state
13 auditor shall draw warrants to pay expenditures authorized by this Act.

14 Section 11. Any amounts appropriated in this Act not lawfully expended or obligated by
15 June 30, 2000, shall revert in accordance with § 4-8-21.