

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

391H0028

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

HB 1220 - 02/04/2002

Introduced by: Representatives Murschel, Bartling, Brown (Jarvis), Davis, Derby, Hennies (Thomas), Jensen, Juhnke, Kooistra, Madsen, and Slaughter and Senators Everist and Daugaard

1 FOR AN ACT ENTITLED, An Act to allow certain third parties to intervene in a custody
2 dispute of a child.

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

4 Section 1. In disputes regarding custody of a child, the court may allow an interested third
5 party to intervene upon motion. Before allowing intervention, the court may appoint counsel for
6 the child. The court may award full or partial custody, care, education, and visitation rights of
7 the child to any interested third party upon such conditions and limitations as the court deems
8 equitable.

9 Section 2. In making any order pursuant to section 1 of this Act, the court shall be guided
10 by the best interests of the child, giving consideration to the wishes of the child if the child is of
11 sufficient age and capable of forming an intelligent preference.

12 Section 3. In disputes regarding custody of a child between a parent and an interested third
13 party, the presumption in favor of the parent may be rebutted by showing extraordinary
14 circumstances. For the purposes of this section, the term, extraordinary circumstances, means



1 circumstances that result in serious detriment to the child, including any one or more of the
2 following:

- 3 (1) The abandonment or persistent neglect of the child by the parent;
- 4 (2) The likelihood of serious physical or emotional harm to the child if placed in the
5 parent's custody;
- 6 (3) The extended, unjustifiable absence of parental custody;
- 7 (4) The abdication of parental responsibilities;
- 8 (5) The provision of the child's physical, emotional, and other needs by persons other than
9 the parent over a significant period of time;
- 10 (6) The existence of a bonded relationship between the child and the nonparent custodian
11 sufficient to cause significant emotional harm to the child in the event of a change in
12 custody;
- 13 (7) The substantial enhancement of the child's well-being while under the care of the
14 nonparent;
- 15 (8) The extent of the parent's delay in seeking to reacquire custody of the child;
- 16 (9) The demonstrated quality of the parent's commitment to raising the child;
- 17 (10) The likely degree of stability and security in the child's future with the parent;
- 18 (11) The extent to which the child's right to an education would be impaired while in the
19 custody of the parent; or
- 20 (12) Any other circumstances that would substantially and adversely impact the welfare of
21 the child.