

# State of South Dakota

SEVENTY-SEVENTH SESSION  
LEGISLATIVE ASSEMBLY, 2002

400H0724

SENATE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **HB 1302** - 02/13/2002

**This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.**

Introduced by: The Committee on State Affairs at the request of the Governor

1 FOR AN ACT ENTITLED, An Act to provide for the establishment of standard guidelines to  
2 be used regarding child custody and visitation.

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

4 Section 1. For the purposes of this Act, the term, standard guidelines, means the child  
5 visitation guidelines established by court rules promulgated by the South Dakota Supreme Court  
6 pursuant to section 2 of this Act.

7 Section 2. The South Dakota Supreme Court shall promulgate court rules establishing  
8 standard guidelines to be used statewide for child visitation in divorce or separate maintenance  
9 actions or any other custody action or proceeding. The standard guidelines shall provide a  
10 framework for child visitation including frequency and time for child visitation; hours or days of  
11 visitation; definitions for weekends, holidays, birthdays, and other special occasions; and time  
12 periods for summer visitations. In establishing the standard guidelines, the court may consider  
13 varying ages and circumstances of children and treat varying ages and circumstances differently.

14 Section 3. Upon the filing of a summons and complaint for divorce or separate maintenance



1 or any other custody action or proceeding, the plaintiff shall also file and serve upon the  
2 defendant a copy of the standard guidelines. The standard guidelines attached to the summons  
3 shall become an order of the court upon fulfillment of the requirements of service. Any minor  
4 child of the marriage shall remain in the custody of the parent who has been the primary  
5 caregiver for the minor child for the majority of time in the thirty days preceding the filing of the  
6 summons and complaint, unless the parties agree otherwise. The standard guidelines shall apply  
7 and continue in effect, unless the parties agree, or the court orders otherwise. Imposition of the  
8 standard guidelines creates no presumption as to who shall be awarded custody at any hearing.

9 Section 4. Any agreement by the parties for visitation other than the standard guidelines shall  
10 be in writing, signed by both parties and filed with the court. The agreed plan shall be approved  
11 by court order and replace the standard guidelines or any plan previously filed.

12 Section 5. If either party objects to the initial custody arrangement in section 3 of this Act  
13 or the standard guidelines, the court shall order a hearing which shall be held not later than thirty  
14 days after the date of the objection. The court shall issue its temporary custody and visitation  
15 order after considering the best interests of the child consistent with the provisions of § 25-4-45.

16 Section 6. The standard guidelines are subject to any provision established by a South Dakota  
17 state court in the following: a temporary or permanent domestic protection order, an order  
18 arising out of an abuse or neglect proceeding, a bond condition arising out of a criminal case, and  
19 an order in any other proceeding affecting child custody or support.

20 Section 7. The court may order either party to pay attorney fees and costs in an action filed  
21 under this Act in accordance with § 15-17-38 or any other applicable statute.

22 Section 8. The parents are responsible for payment of child support in accordance with § 25-  
23 7-6.1.