

AN ACT

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

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

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

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

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

Section 4. Any agreement by the parties for visitation other than the standard guidelines shall be

in writing, signed by both parties and filed with the court. The agreed plan shall be approved by court order and replace the standard guidelines or any plan previously filed.

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

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

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

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

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I certify that the attached Act originated in the

HOUSE as Bill No. 1302

\_\_\_\_\_  
Chief Clerk

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\_\_\_\_\_  
Speaker of the House

Attest:

\_\_\_\_\_  
Chief Clerk

\_\_\_\_\_  
President of the Senate

Attest:

\_\_\_\_\_  
Secretary of the Senate

House Bill No. 1302  
File No. \_\_\_\_\_  
Chapter No. \_\_\_\_\_

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Received at this Executive Office this \_\_\_\_\_ day of \_\_\_\_\_ ,

20\_\_\_\_ at \_\_\_\_\_ M.

By \_\_\_\_\_  
for the Governor

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The attached Act is hereby approved this \_\_\_\_\_ day of \_\_\_\_\_ , A.D., 20\_\_\_\_

\_\_\_\_\_  
Governor

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STATE OF SOUTH DAKOTA,  
ss.

Office of the Secretary of State

Filed \_\_\_\_\_ , 20\_\_\_\_  
at \_\_\_\_\_ o'clock \_\_ M.

\_\_\_\_\_  
Secretary of State

By \_\_\_\_\_  
Asst. Secretary of State