



2022 South Dakota Legislature

House Bill 1199

Introduced by: **Representative Randolph**

1 **An Act to remove irreconcilable differences as a cause for divorce.**

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

3 **Section 1. That § 25-4-2 be AMENDED:**

4 **25-4-2.** Divorces may be granted for ~~any of the following causes:~~

- 5 (1) Adultery;
- 6 (2) Extreme cruelty;
- 7 (3) Willful desertion;
- 8 (4) Willful neglect;
- 9 (5) Habitual intemperance; or
- 10 (6) Conviction of ~~felony~~;
- 11 ~~(7) Irreconcilable differences~~ a crime resulting in incarceration.

12 **Section 2. That § 25-4-17.1 be REPEALED:**

13 ~~Irreconcilable differences are those grounds which are determined by the court to~~
 14 ~~be substantial reasons for not continuing the marriage and which make it appear that the~~
 15 ~~marriage should be dissolved.~~

16 **Section 3. That § 25-4-17.2 be REPEALED:**

17 ~~If from the evidence at the hearing, the court finds that there are irreconcilable~~
 18 ~~differences, which have caused the irremediable breakdown of the marriage, it shall order~~
 19 ~~the dissolution of the marriage or a legal separation. If it appears that there is a reasonable~~
 20 ~~possibility of reconciliation, the court shall continue the proceeding for a period not to~~
 21 ~~exceed thirty days. During the period of the continuance, the court may enter any order~~
 22 ~~for the support and maintenance of the parties, the custody, support, maintenance, and~~
 23 ~~education of the minor children of the marriage, attorney fees, and for the preservation~~
 24 ~~of the property of the parties. At any time after the termination of the thirty day period,~~

1 ~~either party may move for the dissolution of the marriage or a legal separation, and the~~
2 ~~court may enter its judgment decreeing the dissolution or separation.~~

3 ~~The court may not render a judgment decreeing the legal separation or divorce of~~
4 ~~the parties on the grounds of irreconcilable differences without the consent of both parties~~
5 ~~unless one party has not made a general appearance.~~

6 **Section 4. That § 25-4-17.3 be REPEALED:**

7 ~~In any action for divorce or separate maintenance in which the parties have~~
8 ~~consented to the use of irreconcilable differences, the court may grant the divorce based~~
9 ~~on the affidavits of the parties establishing the requisite jurisdiction and grounds for the~~
10 ~~divorce or separate maintenance action without requiring their personal appearance.~~