

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

391H0028

HOUSE ENGROSSED NO. **HB 1220** - 02/06/2002

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

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. Upon motion, a court may allow a person other than a parent to intervene in an
5 action involving child custody. In any matter involving child custody, the court may, in its
6 discretion, appoint a guardian ad litem or legal counsel to represent the child. The court may
7 award full or partial custody, care, education, and visitation rights of the child to a person other
8 than a parent.

9 Section 2. In determining any issue regarding custody of a child, the court shall be guided
10 by the best interests of the child. The court may consider any preference expressed by the child
11 if the court finds the child is of sufficient age and intelligence to express a knowing and voluntary
12 preference. In any dispute involving child custody, a presumption favoring a parent may be
13 rebutted by showing serious detriment to the child as evidenced by one or more of the following
14 extraordinary circumstances:



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