

AN ACT

ENTITLED, An Act to revise certain provisions with regard to child custody and to declare an emergency.

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

Section 1. That § 29A-5-106 be amended to read as follows:

29A-5-106. Custody of a child may be sought by a person other than the parent under this chapter and the substantive law of this state. A person other than the parent may not use this chapter to seek custody if a proceeding is pending pursuant to chapter 25-3, 25-4, 25-5A, 25-6, 25-8, 26-7A, 26-8A, 26-8B, or 26-8C, or if the child is subject to the continuing jurisdiction of another court. Nothing in this chapter affects the provisions of chapters 25-4, 25-5, 25-5A, 25-6, 25-8, 26-7A, 26-8A, 26-8B, and 26-8C relating to the appointment of guardians and conservators and the administration of guardianships and conservatorships for children who have been adjudicated to be delinquent, abused, neglected, or in need of supervision. Nor may anything in this chapter affect the provisions of Title 27A, relating to individuals with mental illnesses. In the event of any inconsistency or conflict, the provisions of chapters 25-4, 25-5, 25-5A, 25-6, 25-8, 26-7A, 26-8A, 26-8B, and 26-8C or of Title 27A shall control, and the provisions of this chapter are in all respects to be supplementary thereto. A petition pursuant to this chapter seeking custody by a person other than the parent shall be dismissed if an action concerning the child is filed pursuant to chapter 26-7A, 26-8A, 26-8B, or 26-8C. If, while a guardianship petition pursuant to this chapter seeking custody by a person other than the parent is pending, an action is commenced pursuant to chapter 25-4, 25-5, 25-5A, 25-6, or 25-8, the court may, in its discretion, dismiss the guardianship proceeding and defer the child custody matter to the other proceeding or considering the stage of the proceedings, judicial economy, and best interests of the child, retain jurisdiction and establish the guardianship, or enter an appropriate protection order pending resolution of the pending proceedings.

Section 2. That chapter 29A-5 be amended by adding thereto a NEW SECTION to read as follows:

It is the express legislative intent that this Act, together with chapter 25-5 dealing with custody disputes between a parent and a person other than the parent, apply to all pending and subsequent guardianship matters involving a custody dispute between a parent and a person other than the parent.

Section 3. Whereas, this Act is necessary for the immediate preservation of the public peace, health, or safety, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.

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I certify that the attached Act
originated in the
HOUSE as Bill No. 1220

Chief Clerk

Speaker of the House

Attest:

Chief Clerk

President of the Senate

Attest:

Secretary of the Senate

House Bill No. 1220
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