Chapter 108

(House Bill 1174)

An Act to revise certain provisions related to the rights and obligations of a father of a child born to an unmarried mother.

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

Section 1. That § 25-6-1 be AMENDED:

25-6-1. ~~The father of an illegitimate child by publicly acknowledging it as his own, receiving it as such into his family, with the consent of his wife if he is married and otherwise treating it as if it were a legitimate child, thereby adopts it as such, and such child is thereupon deemed for all purposes legitimate from the time of its birth. The other provisions of law relating to adoption shall not apply in such cases.~~If the biological mother of a child is not married to the father of the child at the time of the conception or birth of the child, or at any time between conception and birth of the child, the father becomes an acknowledged father of the child and adopts the child only by:

(1) Openly holding out the child as the father's own by receiving the child into the father's household;

(2) Voluntarily contributing to the financial support of the child; or

(3) Voluntarily contributing to the daily supervision, protection, education, and care of the child.

Following a father's adoption of a child pursuant to this section, the child is deemed for all purposes to be the child of the father from the time of the child's birth. No other provision of law relating to adoption shall apply.

Section 2. That § 25-6-1.1 be AMENDED:

25-6-1.1. Notwithstanding any other provision of law or court ~~rule~~ ruling, if the biological mother of a child is not married to the father at the time of conception or birth of the child, or at any time between conception and birth of the child, the father of ~~an illegitimate~~ the child ~~shall~~, as a requirement of due process, ~~have~~ has no rights to the service of process or notice in an adoption~~, dependency, delinquency,~~ or termination of parental rights ~~proceedings~~ proceeding, unless ~~he~~ the father is known and identified by the mother to the court, or unless ~~he~~ the father, prior to the entry of a final order~~, in any of the three proceedings, shall have acknowledged~~ in the proceeding, acknowledges the child as ~~his~~ the father's own by affirmatively asserting paternity, within ~~sixty~~ fifteen days after the birth of the child, by:

(1) ~~As outlined~~Becoming an acknowledged father as provided in § 25-6-1; ~~or~~

(2) ~~By causing his~~Causing the father's name to be affixed to the birth certificate as provided by § 34-25-13.2; or

(3) ~~Otherwise by commencing a judicial proceeding claiming a parental right~~Commencing an action for paternity pursuant to chapter 25-8.

A man who has sexual intercourse with a woman to whom the man is not married is deemed to be on notice that a child may be conceived as a result and is entitled to notice of an adoption proceeding or voluntary termination of parental rights proceeding only as provided in this chapter. It is the duty of the father to affirmatively assert and protect the father's rights and interest in the child.

The mother has the right to not identify the father or any other potential father of the child to the court or to any other person in an adoption or voluntary

termination of parental rights proceeding. No inquiry may be made into the sexual history of the mother in an adoption or voluntary termination of parental rights proceeding. The mother's failure to inform the father of the mother's pregnancy is not a defense to the father's failure to timely assert paternity as provided in this chapter.

Signed March 20, 2025