

State of South Dakota

NINETY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2018

400Z0321

HOUSE BILL NO. 1038

Introduced by: The Committee on Judiciary at the request of the Department of Social Services

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the medical support
2 obligations to a child.

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

4 Section 1. That subdivision (21) of § 25-7A-1 be amended to read:

5 (21) "Medical support," the provision of a health insurance benefit plan or cash medical
6 support payment, including any employer sponsored group health plan or self-insured
7 plan, ~~or any individual health insurance policy, or public health care coverage,~~ to
8 meet the medical needs of a dependent child including the cost of any premium
9 required by ~~such~~ a health insurance benefit plan, an amount ordered to be paid toward
10 the cost of health insurance provided by a public entity or by another parent through
11 employment or otherwise, or for other medical costs not covered by insurance;

12 Section 2. That § 25-7-6.16 be amended to read:

13 25-7-6.16. The court shall enter an order addressing how the child's health care needs will
14 be met by medical support ~~to be provided by one or both of the parents.~~ The medical support
15 order shall include a provision for medical insurance if the insurance is accessible for the child



1 and available to a parent at reasonable cost. Enrollment in public health coverage does not
2 satisfy the medical support obligation if medical insurance is available to one or both of the
3 parents at a reasonable cost and is accessible for the child. Medical insurance is considered
4 accessible if a medical insurance benefit plan is available and provides coverage for the child
5 residing within the geographic area covered by the insurance policy. Medical insurance is
6 considered reasonable in cost if the cost attributable to the child is equal to or less than eight
7 percent of the parent's net income as determined under this chapter, after proportionate medical
8 support credit is applied, and the amount shall be specified in the order for support.

9 The cost of the insurance attributable to the child is the cost of adding the child to existing
10 coverage, the difference between self-only coverage and family coverage, or the cost of private
11 medical insurance for the child. The cost attributable to the child under family coverage is the
12 difference between self-only coverage and family coverage divided by the number of
13 individuals, excluding the parent, enrolled in the family coverage. The cost so computed shall
14 be apportioned between the parents on the basis of income or income imputed as provided in
15 this chapter. If one parent pays the entire amount, that parent shall either be reimbursed by the
16 other parent for that parent's portion of the payment or shall receive a credit against his or her
17 support obligation, whichever is appropriate. Any additional, reasonable health care costs,
18 including medical, optometric, dental or orthodontic, or counseling costs for each minor child
19 which exceed two hundred fifty dollars in any year and are not covered by insurance, shall be
20 apportioned between the parents in proportion to the support obligation of each parent. The
21 parent that has primary physical custody of the child is responsible for the first two hundred fifty
22 dollars of health care costs each calendar year.