

# State of South Dakota

EIGHTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2011

871S0619

## HOUSE BILL NO. 1206

Introduced by: Representatives Tornow, Cronin, Fargen, Liss, Novstrup (David), Rausch,  
Van Gerpen, and Vanneman and Senators Cutler, Holien, and Rave

1 FOR AN ACT ENTITLED, An Act to revise certain provisions relating to grandparent  
2 visitation and to declare an emergency.

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

4 Section 1. That § 25-4-52 be amended to read as follows:

5 25-4-52. The circuit court may grant grandparents reasonable rights of visitation with their  
6 grandchild, with or without petition by the grandparents, if special factors exist to show that the  
7 visitation is in the best interests of the grandchild and:

8 (1) If the visitation will not significantly interfere with the parent- child relationship; ~~or~~  
9 and

10 (2) If the parent or custodian of the grandchild has denied or prevented the grandparent  
11 reasonable opportunity to visit the grandchild; and

12 (3) If the parent or custodian is unfit as defined by not adequately caring for the child.  
13 The grandparent bears the ultimate burden of establishing by clear and convincing evidence  
14 that special factors exist showing that the visitation sought is in the child's best interests.

15 Moreover, there is a rebuttable presumption that a fit parent is acting in the child's best interests.



1 and special weight shall be given to the decision of a fit parent to deny or limit grandparent  
2 visitation.

3 The circuit court shall issue any orders necessary to enforce or to protect visitation rights  
4 granted pursuant to this section.

5 As used in this section, the term grandparents includes great-grandparents.

6 Section 2. Whereas, this Act is necessary for the immediate preservation of the public peace,  
7 health, or safety, an emergency is hereby declared to exist, and this Act shall be in full force and  
8 effect from and after its passage and approval.