

AN ACT

ENTITLED, An Act to revise certain provisions regarding child custody and visitation and the enforcement of those provisions.

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

Section 1. That chapter 25-4A be amended by adding a NEW SECTION to read:

Any order of the court for parenting time shall have attached a copy of § 25-4A-5.

Section 2. That chapter 25-4A be amended by adding a NEW SECTION to read:

If a noncustodial parent believes that the custodial parent has willfully violated or willfully failed to comply with any provisions of a custody or visitation decree, the noncustodial parent may file with the court clerk a motion for enforcement of visitation rights. The motion shall be filed on a form provided by the court clerk. Upon filing of the motion, the court shall immediately set a hearing on the motion, which may not be more than twenty-one days after the filing of the motion.

Section 3. That § 25-4A-5 be amended to read:

25-4A-5. If the court finds that any party has willfully violated or willfully failed to comply with any provisions of a custody or visitation decree, the court shall impose appropriate sanctions to punish the offender or to compel the offender to comply with the terms of the custody or visitation decree.

The court may enter an order clarifying the rights and responsibilities of the parents and the court's order. The court may order one or more of the following sanctions:

- (1) To require the offender to provide the other party with make up time with the child equal to the time missed with the child, due to the offender's noncompliance;
- (2) To require the offender to pay, to the other party, court costs and reasonable attorney's fees incurred as a result of the noncompliance;
- (3) To require the offender to pay a civil penalty of not more than the sum of one thousand

dollars;

- (4) To require the offender to participate satisfactorily in counseling or parent education classes;
- (5) To require the offender to post bond or other security with the court conditional upon future compliance with the terms of the custody or visitation decree or any ancillary court order;
- (6) To impose a jail sentence on the offender of not more than three days; or
- (7) In the event of an aggravated violation or multiple violations, the court may modify the existing visitation or custody situation, or both of any minor child.

The provisions of this section do not prohibit the court from imposing any other sanction appropriate to the facts and circumstances of the case.

Section 4. That chapter 25-4A be amended by adding a NEW SECTION to read:

The Unified Judicial System shall develop and maintain the form on its website labeled, parenting time enforcement. The form shall include the following information:

- (1) The court case number;
- (2) The name of the custodial parent and the name of the noncustodial parent;
- (3) The name and date of birth of each child;
- (4) The reasons for the petition, including the last date of visitation and number of visitations in the last twelve months; and
- (5) The petitioner's contact information.

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I certify that the attached Act originated in the

SENATE as Bill No. 165

Secretary of the Senate

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President of the Senate

Attest:

Secretary of the Senate

Speaker of the House

Attest:

Chief Clerk

Senate Bill No. 165
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