

South Dakota Parenting Time Guidelines

The Term "Visitation" was changed to "Parenting Time" by the South Dakota Legislature. "Parenting Time" means the time a parent spends with a child regardless of the custodial designation regarding the child.

READ THESE INSTRUCTIONS AND REVIEW THE FORMS BEFORE BEGINNING

IMPORTANT NOTICES

- The Court expects every person who appears in court without an attorney to know and follow the law. The Judge will not be able to give you any help in court.
- Court employees **cannot** help you fill out forms or give you legal advice. If you have questions please **consult an attorney**.
- You must follow the instructions included in this packet.
- Type your answers or print neatly using dark ink.

Application Instructions for Implementing South Dakota Parenting Time Guidelines

REQUIREMENTS OF THE LAW: SDCL 25-4A-16.1. *Subject to the jurisdictional and procedural provisions of chapter 26-5B, any parent who has a court order of this state or is under the jurisdiction of a court of this state relating to visitation, custody, or child support may request the court to enter an order implementing the standard Parenting Time Guidelines. If the request is made to a judge in a child support proceeding, compliance with chapter 26-5B, including appropriate Notice to the other party and an opportunity to be heard, if not previously provided, is required. The request for implementing the standard guidelines shall be in writing and shall include a copy of the existing order that established custody or visitation. It shall provide a current address of the responding party. The Notice to the responding party shall provide instructions as to the manner in which objections may be made. If either party object to the imposition of the standard guidelines within ten days of service, the court shall conduct an expedited hearing as soon as practical. Based upon the evidence presented at the hearing, the court may order the parties to abide by the standard guidelines or may order any other relief as is deems appropriate.*

- If you have a visitation or custody order from a court in South Dakota,

AND

- You would like the South Dakota Parenting Time Guidelines included into your court Order

THEN YOU MAY FOLLOW THESE INSTRUCTIONS TO FILE A PETITION AND ASK THE COURT TO INCLUDE THE GUIDELINES INTO PRIOR COURT ORDER:

1. Fill out the Verified Petition to Implement South Dakota Parenting Time Guidelines. The information to fill in the top part of the forms (called the Caption) can be found at the top of your current visitation or custody Order. Be sure to copy the information **exactly** as it is on your current custody or visitation Order.
2. Sign the Petition **in the presence** of a Notary Public. By signing your name you are telling the court that you are telling the truth and that you have a good faith reason for your requests. If you are not telling the truth, or if you are misleading the court, or if you are serving or filing this document for an improper purpose, the court can impose penalties.

3. Do not fill out any information on the Order or the Notice of Hearing **EXCEPT** for the Caption.
4. Make copies of all paper work for your file.
5. You must serve Notice on the other party, which means you must give all the documents to the other party and you **must** provide proof to the Court that you did give all the documents to the other party.
6. Service of Notice can be accomplished in two ways.
 - a. Make copy of Petition, a copy of the Admission of Service and a copy of the South Dakota Parenting Time Guidelines and mail to the other party. The other party is not required to sign the Admission of Service but they may choose to sign the Admission and mail it back to you.
 - or**
 - b. If you do not think the other party will sign the Admission of Service, or if the other party refuses to sign the Admission, you may take your paper work to the local sheriff's office and pay the sheriff to serve the other party. The sheriff will provide Proof of Service for the Court.
7. Once you have proof that the other party was served you **must** file the **original** Petition, a copy of the Notice, Proof of Service (either the Admission of Service or the Sheriff's proof of his service), the proposed Order and the Notice of Hearing with the Clerk of Court. At the same time you **must** also file a copy of your prior visitation or custody court Order with the Clerk of Court.
8. **Failure to file** any of these documents with the Clerk of Court may result in the dismissal of your petition.
9. Based upon the information within the Petition and the prior visitation/custody Court Order the Judge has two options:
 - If the other party **does not** object, the Court may order the standard guidelines to be included into your prior Court Order and will mail both parties a copy of the signed Order.
 - OR**
 - If, within 10 days of Service, the other party **does** object to the Court ordering the standard guidelines the Court will order a hearing and both parties will be sent a Notice of Hearing, which will include the hearing date set by the Court.
10. If a hearing is scheduled, you must go to court on the date set for the hearing. Be sure to be on time. Bring your copies of your documents with you to the hearing. Do not bring child(ren) to the hearing. Take to the hearing any proof you have or witnesses who can verify your claims and who will explain why the standard guidelines should be implemented. The hearing is very formal. You should be polite to everyone in the courtroom and address the judge as "your honor." Remember to talk to the judge, not the other party. Do not argue with the other party or be unnecessarily disparaging of the other party. The judge may issue the Order at the end of the hearing or may send a copy of the Order to you in the mail.