

Parenting Plans

How do I make my SD parenting plan / child custody agreement?

In South Dakota, you can write up your own parenting plan (on your own or with the other parent). You can work with an attorney or legal professional and have them create it. A stipulation and settlement agreement, mediated agreement or written agreement can be made between the parties. It will not be enforced (by law enforcement) without an order from the court.

What are the laws in South Dakota about custody?

The State of South Dakota has specific law on child custody and visitation that should be adhered to when creating a parenting plan in the state.

Some of these laws can be found in the South Dakota Codified Laws, Title 25, Domestic Relations. The law is specific and defines some of the terminology used by the courts, the factors the court considers when determining the custody of a child and provides parents with the choice of creating their own parenting plan to give to the court.

How can I prepare to represent myself in a family law case?

The South Dakota Unified Judicial System provides the public with a valuable tool that can be used when bringing a case before a judge, a document entitled, "Going Solo: Representing Yourself in the South Dakota Courts".

Even if you have an attorney, studying this publication and the law and becoming familiar with some of the rules and processes the court uses will enable you to have

a better understanding of the custody process.

How does cooperation with the other parent affect custody?

Your custody arrangements will be affected by if you can work together to create a plan with the other parent.

The State of South Dakota has laws in place that allow the court to make parents to follow a standard custody arrangement, based on a statewide set of "standard guidelines" (SDCL § 25-4A-9). Judges also have the authority to go outside these guidelines to meet the best interests of the children.

However, the law also allows parents that can work together the opportunity to create their own parenting plan to give to the court, which may deviate from the "standard" guidelines (SDCL § 25-4A-12). This plan should be submitted in writing and filed with the court after being signed by both parents in the presence of a notary. Because the court's guidelines were created for children in general, it is generally far more effective for parents to work together to create a parenting plan to meet the needs of their unique child.

In South Dakota, what does the court consider when ruling on custody?

The State of South Dakota bases all child custody decisions on one main factor: the best interests of the child. The child's health, well-being, and welfare are considered paramount when determining child custody.

The court will examine all relevant factors in the child's life when determining the child's best interests, including, but not limited to:

- The child's wishes, should the child be old enough and maturity level to express an intelligent preference (SDCL § 25-4-45).
- The moral fitness of each parent and their abilities to give the child with a nurturing, stable, safe, and affectionate home environment.

- The abilities of each parent to give the child with basic necessities, such as adequate food, clothing, shelter, and medical care.
- The past history of the child's care.
- Whether or not one parent has acted as the child's primary caregiver.
- The amount and quality of time each parent has spent with the child.
- The past and present conduct of each parent.
- The quality of the relationships between the child and each parent.
- Whether or not a parent seems to be a willing participant in the child's life.
- The child's change to their school, home, and community and the effect continuing or disrupting these circumstances would have on the child.
- The child's relationships with any siblings and extended family.
- Any past or present situations that could pose a danger to the child, such as abuse, neglect, domestic violence, drug use, alcoholism, etc.
- Each parent's willingness to allow the other parent access to the child and to help foster a loving relationship between the child and the other parent.
- Whether or not a parent has made disparaging remarks about the other parent to, or in front of, the child.
- Any other relevant information that would impact the child's best interests.

What should I include in my parenting plan?

A parenting plan should include, at a minimum:

- A statement declaring the kind of custody the parents shall have.
- A designation of the child's primary residence.
- A child visitation schedule that specifies when a child will spend time with each parent on a regular basis, on holidays, and on vacations.
- A statement delegating parental rights, responsibilities, and decision-making authority.
- A statement about child support
- A plan for providing health insurance for the child
- A plan for sharing costs of transportation between residences.
- A method for revising the parenting plan in the future.
- A method for dispute resolution.
- Any other information you would like to include splitting optional expenses, etc.

If you want to make a comprehensive parenting plan that is customized for your child, your custody agreement should include as many provisions as you can think of

and be as detailed as possible.

What if we are unable to agree on a parenting plan/custody agreement?

Mediation is available for parents that are unable to reach an agreement. The court may even order the parents to [attend mediation](#), if necessary (SDCL § 25-4-57).

Finding common ground with a parent you are divorcing or separating from may not always be easy, but it is in the best interest of the child to do so. If the court appoints a mediator and you cannot agree on some of the issues after mediation, the mediator will inform the court.

The court will then set a date for a hearing and the judge will decide the parenting arrangements and visitation schedule for you (SDCL § 25-4-62).

You may wish to give a proposed parenting plan to the court if you are unable to reach an agreement with the other parent. It will give the judge some perspective and something else to consider besides the generic "standard guidelines".

Original article from: <https://www.custodyxchange.com/south-dakota/parenting-plan.php>, with revisions made by South Dakota attorneys.

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