

South Dakota Parenting Time Enforcement

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 Parenting Time Enforcement

REQUIREMENTS OF THE LAW: SDCL 25-4A-2. *Any party granted visitation or custody rights to a child by a court decree may Petition the court to enter an Order to Show Cause why the other party should not be held in contempt of court for violation of the decree relating to visitation or custody of the child. Upon receipt of a written Petition for an Order to Show Cause, the Court may issue such an order and will schedule a hearing date.*

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

AND

- The other party has disobeyed the decree, temporary order, or other court order for custody or visitation,

YOU MAY FOLLOW THESE INSTRUCTIONS AND ASK THE COURT TO ENFORCE THE COURT ORDER:

1. Fill out the Verified Petition for Order to Show Cause Hearing. 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, **EXCEPT** for the caption. The Judge will complete the Order, if the Judge orders a hearing.
4. Make copies of all paper work for your file.
5. File the **original** Petition and the proposed Order with the Clerk of Court. At the same time you **must** also file a copy of your prior visitation or custody court with the Clerk of Court.
6. Based upon the information within the Petition and the prior visitation or custody court order, the Judge may sign an Order to Show Cause. If the Judge signs an Order to Show Cause, the clerk will notify you that a date for a hearing has been set.
7. Once a hearing date has been set, you must serve Notice, 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. The documents you need to give to the other party are a copy of the Petition, Notice, Admission of Service and the Order that the Judge signed.
8. Service can be accomplished in two ways.
 - a. Make a copy of Petition, a copy of the Notice, a copy of the Admission of Service and mail along with the signed Order 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.
9. Once you have proof that the other party was served you **must** file with the Clerk of Court a copy of the Notice and Proof of Service (either the Admission of Service or the Sheriff's written documentation showing the other party was served).
10. **Failure to file** any of these documents with the clerk of courts may result in the dismissal of your petition.
11. 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 loss of visitation rights. 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.