

# State of South Dakota

EIGHTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2011

646S0343

## HOUSE BILL NO. 1102

Introduced by: Representatives Gibson, Abdallah, Killer, Tornow, and Wismer and Senators Frerichs and Tieszen

1 FOR AN ACT ENTITLED, An Act to revise certain provisions concerning the presumption of  
2 legitimacy of children born or conceived in wedlock.

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

4 Section 1. That § 25-8-57 be amended to read as follows:

5 25-8-57. Any child born in wedlock, or born within ten months after dissolution of the  
6 marriage, is presumed legitimate to that marriage even if the marriage is subsequently declared  
7 to be null and void, or subsequently dissolved by divorce. ~~This rebuttable~~ This presumption of  
8 legitimacy ~~can only be disputed by~~ is rebutted if the husband or wife, or a descendant of one or  
9 both of them, denies the presumption of legitimacy in a sworn and notarized affidavit.

10 Section 2. That chapter 25-8 be amended by adding thereto a NEW SECTION to read as  
11 follows:

12 If the presumption of legitimacy provided for in § 25-8-57 is rebutted pursuant to the  
13 provisions of section 1 of this Act, the birth certificate of the child may not bear the name of any  
14 person as the father of the child unless paternity is established by other provisions of chapter 25-  
15 8 or until the paternity of the child is judicially determined.

