

State of South Dakota

EIGHTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2014

246V0748

HOUSE BILL NO. 1259

Introduced by: Representatives Killer, Hawley, Heinert, Hickey, Kopp, May, Nelson, Schaefer, and Schrempp and Senators Sutton, Bradford, Frerichs, Kirkeby, and Maher

1 FOR AN ACT ENTITLED, An Act to specify certain requirements relating to temporary child
2 custody hearings.

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

4 Section 1. That chapter 26-7A be amended by adding thereto a NEW SECTION to read as
5 follows:

6 At the temporary custody hearing held pursuant to § 26-7A-18, the state shall provide the
7 parents with the petition for temporary custody and copies of any documents that will be
8 provided to the court. Rules of evidence do not apply at the hearing, but the state shall present
9 live witness testimony to support the petition for temporary custody and the parents shall be
10 given the opportunity to cross-examine state witnesses. The parents of the child and any other
11 party, including the child's Indian tribe, if the proceeding is governed by the Indian Child
12 Welfare Act, as amended to January 1, 2014, may present evidence, including testimony. All
13 findings of fact and conclusions of law made by the court shall be announced on the record by
14 the court in the presence of the parties.



1 If the court orders that the Department of Social Services shall be given temporary custody
2 of the child at the temporary custody hearing and no formal petition charging that the child is
3 in need of care because of the abuse and neglect by the parents has been filed within ten days
4 of the hearing, the department shall be ordered to return physical custody of the child, pending
5 the filing of an abuse and neglect petition.