

CHAPTER 25-7

SUPPORT OBLIGATIONS

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25-7-1. Duty to support spouse. A person shall support himself or herself and his or her spouse out of his or her property or by his or her labor.

Source: SDC 1939, § 14.0209; SL 1984, ch 12, § 46.

25-7-2. Liability for necessities supplied to spouse. If a person neglects to make adequate provision for the support of his or her spouse, any other person may in good faith supply the spouse with reasonable necessities for the spouse's support and recover the reasonable value thereof from that person, except in cases where by law the person is not liable for the spouse's support.

Source: SDC 1939, § 14.0210; SL 1984, ch 12, § 47.

25-7-3. Abandonment or separation of spouses--Liability for support. A person abandoned by his or her spouse is not liable for the spouse's support until the spouse offers to return, unless the spouse was justified by the person's misconduct in abandoning him or her. A person is not liable for a spouse's support when the spouse is living separate by agreement, unless support is stipulated in the agreement.

Source: SDC 1939, § 14.0211; SL 1984, ch 12, § 48.

25-7-4. Failure to support spouse as felony. Every person with sufficient ability to provide for his or her spouse's support, or who is able to earn the means of the spouse's support, who intentionally abandons and leaves his or her spouse in a destitute condition, or who refuses or neglects to provide such spouse with necessary food, clothing, shelter, or medical attendance, unless, by the spouse's misconduct, he or she is justified in abandoning the spouse or failing to so provide is guilty of a Class 6 felony.

Source: SDC 1939, § 13.3205 as enacted by SL 1963, ch 56, § 1; SL 1984, ch 12, § 49.

25-7-5. Duty to support spouse. A person shall support his or her spouse, when the spouse has not deserted him or her, out of his or her separate property, when the spouse has no separate property and the spouse is unable from infirmity to support himself or herself.

Source: SDC 1939, § 14.0209; SL 1984, ch 12, § 50.

25-7-6. Repealed by SL 1991, ch 212

25-7-6.1. Obligation of parents to support child--Liability of absent parent--"Continued absence from the home". The parents of a child are jointly and severally obligated for the necessary maintenance, education, and support of the child in accordance with their respective means. Until established by a court order, the minimum child support obligation of a parent who fails to furnish maintenance, education, and support for his child, following a continued absence from the home, is the obligor's share of the amount shown in the support guidelines, commencing on the first day of the absence. For the purposes of this section, "continued absence from the home," means that the parent or child is physically absent from the home for a period of at least thirty consecutive days, and that the nature of the absence constitutes family dissociation because of a substantial severance of marital and family ties and responsibilities, resulting in the child losing or having a substantial reduction of physical care, communication, guidance, and support from the parent.

Source: SL 1989, ch 220, § 1; SL 1992, ch 182, § 1.

25-7-6.2. Support obligation schedule. The child support obligation shall be established in accordance with the following schedule subject to the revisions or deviations as permitted by this chapter. Except as provided in this chapter, the combined monthly net incomes of both parents shall be used in determining the obligation which shall be divided proportionately between the parents based upon their respective net incomes. The noncustodial parent's proportionate share establishes the amount of the child support order.

If the obligation using only the noncustodial parent's monthly net income is an obligation within the emboldened areas of the schedule, that amount shall be compared to the noncustodial parent's proportionate share using both parents' monthly net incomes. The lesser amount establishes the noncustodial parent's child support order.

Monthly Net	One	Two	Three	Four	Five	Six
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Income	Child	Children	Children	Children	Children	Children
0-1,100	216	279	312	335	357	379
1,150	256	319	352	375	397	419
1,200	296	359	392	415	437	459
1,250	319	399	432	455	477	499
1,300	332	439	472	495	517	539
1,350	344	479	512	535	557	579
1,400	357	519	552	575	597	619
1,450	369	539	592	615	637	659
1,500	381	557	632	655	677	699
1,550	393	574	672	695	717	739
1,600	405	590	700	735	757	779
1,650	416	607	719	775	797	819
1,700	428	624	738	815	837	859
1,750	440	640	757	846	877	899
1,800	451	657	777	868	917	939
1,850	463	674	796	889	957	979
1,900	475	690	815	911	997	1,019
1,950	487	707	835	932	1,025	1,059
2,000	498	723	854	954	1,049	1,099
2,050	510	740	873	975	1,073	1,139
2,100	522	757	892	997	1,096	1,179
2,150	533	773	912	1,018	1,120	1,218
2,200	545	790	931	1,040	1,144	1,243
2,250	557	807	950	1,061	1,167	1,269
2,300	568	823	969	1,083	1,191	1,295
2,350	580	840	989	1,104	1,215	1,321
2,400	592	857	1,008	1,126	1,239	1,347
2,450	603	873	1,028	1,148	1,263	1,373
2,500	615	890	1,047	1,170	1,287	1,399
2,550	627	907	1,067	1,191	1,311	1,425
2,600	638	923	1,086	1,213	1,334	1,450
2,650	650	940	1,105	1,235	1,358	1,476
2,700	662	957	1,125	1,257	1,382	1,502
2,750	673	973	1,144	1,278	1,406	1,528
2,800	685	990	1,164	1,300	1,430	1,554
2,850	696	1,007	1,183	1,322	1,454	1,580
2,900	708	1,023	1,203	1,343	1,478	1,606

2,950	720	1,040	1,222	1,365	1,502	1,632
3,000	731	1,056	1,242	1,387	1,526	1,658
3,050	743	1,073	1,261	1,409	1,549	1,684
3,100	755	1,090	1,281	1,430	1,573	1,710
3,150	766	1,106	1,300	1,452	1,597	1,736
3,200	776	1,120	1,316	1,470	1,617	1,757
3,250	779	1,125	1,321	1,476	1,623	1,765
3,300	782	1,129	1,327	1,482	1,630	1,772
3,350	786	1,134	1,332	1,488	1,637	1,779
3,400	789	1,139	1,337	1,494	1,643	1,786
3,450	792	1,144	1,343	1,500	1,650	1,793
3,500	796	1,148	1,348	1,506	1,657	1,801
3,550	799	1,153	1,354	1,512	1,663	1,808
3,600	802	1,158	1,359	1,518	1,670	1,815
3,650	810	1,169	1,371	1,532	1,685	1,832
3,700	819	1,181	1,386	1,548	1,703	1,851
3,750	828	1,194	1,401	1,565	1,721	1,871
3,800	836	1,206	1,416	1,581	1,739	1,891
3,850	845	1,219	1,430	1,598	1,758	1,911
3,900	854	1,232	1,445	1,614	1,776	1,930
3,950	863	1,244	1,460	1,631	1,794	1,950
4,000	872	1,257	1,475	1,647	1,812	1,970
4,050	879	1,267	1,487	1,661	1,827	1,986
4,100	882	1,272	1,491	1,665	1,832	1,991
4,150	886	1,276	1,495	1,670	1,837	1,997
4,200	889	1,280	1,499	1,675	1,842	2,003
4,250	893	1,285	1,504	1,680	1,848	2,008
4,300	896	1,289	1,508	1,684	1,853	2,014
4,350	900	1,293	1,512	1,689	1,858	2,020
4,400	903	1,297	1,517	1,694	1,863	2,025
4,450	907	1,302	1,521	1,699	1,869	2,031
4,500	910	1,306	1,525	1,703	1,874	2,037
4,550	914	1,310	1,529	1,708	1,879	2,043
4,600	917	1,315	1,534	1,713	1,884	2,048
4,650	921	1,319	1,538	1,718	1,890	2,054
4,700	924	1,324	1,543	1,723	1,896	2,061
4,750	928	1,329	1,548	1,730	1,903	2,068
4,800	932	1,334	1,554	1,736	1,909	2,076

4,850	936	1,339	1,560	1,742	1,916	2,083
4,900	940	1,344	1,565	1,748	1,923	2,091
4,950	943	1,349	1,571	1,755	1,930	2,098
5,000	947	1,354	1,577	1,761	1,937	2,106
5,050	951	1,360	1,582	1,767	1,944	2,113
5,100	955	1,365	1,588	1,774	1,951	2,121
5,150	958	1,370	1,593	1,780	1,958	2,128
5,200	962	1,375	1,599	1,786	1,965	2,136
5,250	966	1,380	1,605	1,792	1,972	2,143
5,300	970	1,385	1,610	1,799	1,979	2,151
5,350	973	1,390	1,616	1,805	1,985	2,158
5,400	977	1,395	1,622	1,811	1,992	2,166
5,450	981	1,400	1,627	1,818	1,999	2,173
5,500	985	1,406	1,633	1,824	2,006	2,181
5,550	988	1,411	1,638	1,830	2,013	2,188
5,600	992	1,416	1,644	1,836	2,020	2,196
5,650	996	1,421	1,650	1,843	2,027	2,203
5,700	1,000	1,426	1,655	1,849	2,034	2,211
5,750	1,004	1,432	1,662	1,856	2,042	2,219
5,800	1,009	1,439	1,670	1,865	2,051	2,230
5,850	1,014	1,446	1,678	1,874	2,061	2,241
5,900	1,019	1,453	1,686	1,883	2,071	2,251
5,950	1,024	1,460	1,694	1,892	2,081	2,262
6,000	1,029	1,467	1,702	1,901	2,091	2,273
6,050	1,034	1,474	1,710	1,910	2,101	2,284
6,100	1,039	1,481	1,718	1,919	2,111	2,294
6,150	1,043	1,488	1,726	1,928	2,121	2,305
6,200	1,048	1,495	1,734	1,937	2,130	2,316
6,250	1,053	1,502	1,742	1,946	2,140	2,327
6,300	1,058	1,509	1,750	1,955	2,150	2,337
6,350	1,063	1,516	1,758	1,964	2,160	2,348
6,400	1,068	1,523	1,766	1,973	2,170	2,359
6,450	1,073	1,530	1,774	1,982	2,180	2,370
6,500	1,078	1,537	1,782	1,991	2,190	2,380
6,550	1,083	1,544	1,790	2,000	2,200	2,391
6,600	1,088	1,551	1,798	2,009	2,210	2,402
6,650	1,093	1,558	1,806	2,018	2,219	2,413
6,700	1,098	1,565	1,814	2,027	2,229	2,423

6,750	1,103	1,572	1,822	2,036	2,239	2,434
6,800	1,108	1,579	1,830	2,045	2,249	2,445
6,850	1,113	1,586	1,839	2,054	2,259	2,456
6,900	1,118	1,593	1,847	2,063	2,269	2,466
6,950	1,123	1,600	1,855	2,072	2,279	2,477
7,000	1,128	1,607	1,863	2,081	2,289	2,488
7,050	1,133	1,614	1,871	2,090	2,299	2,498
7,100	1,138	1,620	1,879	2,099	2,308	2,509
7,150	1,142	1,627	1,887	2,108	2,318	2,520
7,200	1,147	1,634	1,895	2,117	2,328	2,531
7,250	1,152	1,641	1,903	2,125	2,338	2,541
7,300	1,157	1,648	1,911	2,134	2,348	2,552
7,350	1,162	1,655	1,919	2,143	2,358	2,563
7,400	1,167	1,662	1,927	2,152	2,368	2,574
7,450	1,172	1,669	1,934	2,161	2,377	2,583
7,500	1,175	1,673	1,939	2,166	2,383	2,590
7,550	1,178	1,678	1,944	2,172	2,389	2,597
7,600	1,181	1,682	1,949	2,177	2,395	2,603
7,650	1,185	1,687	1,954	2,183	2,401	2,610
7,700	1,188	1,691	1,959	2,188	2,407	2,616
7,750	1,191	1,695	1,964	2,194	2,413	2,623
7,800	1,194	1,700	1,969	2,199	2,419	2,630
7,850	1,197	1,704	1,974	2,205	2,425	2,636
7,900	1,201	1,709	1,979	2,210	2,431	2,643
7,950	1,204	1,713	1,984	2,216	2,438	2,650
8,000	1,207	1,718	1,989	2,222	2,444	2,656
8,050	1,210	1,722	1,994	2,227	2,450	2,663
8,100	1,214	1,726	1,999	2,233	2,456	2,670
8,150	1,217	1,731	2,004	2,238	2,462	2,676
8,200	1,220	1,735	2,009	2,244	2,468	2,683
8,250	1,223	1,740	2,014	2,249	2,474	2,689
8,300	1,227	1,744	2,019	2,255	2,480	2,696
8,350	1,230	1,749	2,024	2,260	2,486	2,703
8,400	1,233	1,753	2,029	2,266	2,493	2,709
8,450	1,236	1,758	2,034	2,271	2,499	2,716
8,500	1,239	1,762	2,039	2,277	2,505	2,723
8,550	1,243	1,766	2,043	2,283	2,511	2,729
8,600	1,246	1,771	2,048	2,288	2,517	2,736

8,650	1,249	1,775	2,053	2,294	2,523	2,743
8,700	1,252	1,780	2,058	2,299	2,529	2,749
8,750	1,256	1,784	2,063	2,305	2,535	2,756
8,800	1,259	1,789	2,068	2,310	2,541	2,762
8,850	1,262	1,793	2,073	2,316	2,547	2,769
8,900	1,265	1,797	2,078	2,321	2,554	2,776
8,950	1,268	1,802	2,083	2,327	2,560	2,782
9,000	1,272	1,806	2,088	2,332	2,566	2,789
9,050	1,275	1,811	2,093	2,338	2,572	2,796
9,100	1,278	1,815	2,098	2,344	2,578	2,802
9,150	1,281	1,820	2,103	2,349	2,584	2,809
9,200	1,285	1,824	2,108	2,355	2,590	2,815
9,250	1,288	1,829	2,113	2,360	2,596	2,822
9,300	1,291	1,833	2,118	2,366	2,602	2,829
9,350	1,294	1,837	2,123	2,371	2,608	2,835
9,400	1,297	1,842	2,128	2,377	2,615	2,842
9,450	1,301	1,846	2,133	2,382	2,621	2,849
9,500	1,304	1,851	2,138	2,388	2,627	2,855
9,550	1,307	1,855	2,143	2,394	2,633	2,862
9,600	1,309	1,857	2,145	2,396	2,635	2,865
9,650	1,310	1,859	2,146	2,397	2,637	2,866
9,700	1,312	1,860	2,147	2,398	2,638	2,867
9,750	1,313	1,861	2,148	2,399	2,639	2,869
9,800	1,314	1,863	2,149	2,401	2,641	2,870
9,850	1,315	1,864	2,150	2,402	2,642	2,872
9,900	1,317	1,866	2,151	2,403	2,643	2,873
9,950	1,318	1,867	2,152	2,404	2,645	2,875
10,000	1,319	1,868	2,154	2,406	2,646	2,876
10,050	1,321	1,870	2,155	2,407	2,647	2,878
10,100	1,322	1,871	2,156	2,408	2,649	2,879
10,150	1,323	1,873	2,157	2,409	2,650	2,881
10,200	1,325	1,874	2,158	2,410	2,652	2,882
10,250	1,326	1,876	2,159	2,412	2,653	2,884
10,300	1,327	1,877	2,160	2,413	2,654	2,885
10,350	1,329	1,878	2,161	2,414	2,656	2,887
10,400	1,330	1,880	2,162	2,415	2,657	2,888
10,450	1,331	1,881	2,164	2,417	2,658	2,890
10,500	1,333	1,883	2,165	2,418	2,660	2,891

10,550	1,334	1,884	2,166	2,419	2,661	2,893
10,600	1,335	1,885	2,167	2,420	2,662	2,894
10,650	1,337	1,887	2,168	2,422	2,664	2,895
10,700	1,338	1,888	2,169	2,423	2,665	2,897
10,750	1,339	1,890	2,170	2,424	2,666	2,898
10,800	1,341	1,891	2,171	2,425	2,668	2,900
10,850	1,342	1,892	2,172	2,427	2,669	2,901
10,900	1,343	1,894	2,173	2,428	2,671	2,903
10,950	1,345	1,895	2,175	2,429	2,672	2,904
11,000	1,346	1,897	2,176	2,430	2,673	2,906
11,050	1,347	1,898	2,177	2,431	2,675	2,907
11,100	1,348	1,900	2,178	2,433	2,676	2,909
11,150	1,350	1,901	2,179	2,434	2,677	2,910
11,200	1,351	1,902	2,180	2,435	2,679	2,912
11,250	1,352	1,904	2,181	2,436	2,680	2,913
11,300	1,354	1,905	2,182	2,438	2,681	2,915
11,350	1,355	1,907	2,183	2,439	2,683	2,916
11,400	1,356	1,908	2,184	2,440	2,684	2,918
11,450	1,358	1,909	2,186	2,441	2,685	2,919
11,500	1,359	1,911	2,187	2,443	2,687	2,921
11,550	1,360	1,912	2,188	2,444	2,688	2,922
11,600	1,362	1,914	2,189	2,445	2,689	2,923
11,650	1,363	1,915	2,190	2,446	2,691	2,925
11,700	1,365	1,918	2,193	2,449	2,694	2,929
11,750	1,370	1,924	2,200	2,458	2,703	2,939
11,800	1,374	1,930	2,207	2,466	2,712	2,948
11,850	1,379	1,937	2,215	2,474	2,721	2,958
11,900	1,383	1,943	2,222	2,482	2,730	2,968
11,950	1,387	1,949	2,229	2,490	2,739	2,978
12,000	1,392	1,956	2,237	2,498	2,748	2,987
12,050	1,396	1,962	2,244	2,507	2,757	2,997
12,100	1,401	1,968	2,251	2,515	2,766	3,007
12,150	1,405	1,975	2,259	2,523	2,775	3,017
12,200	1,410	1,981	2,266	2,531	2,784	3,026
12,250	1,414	1,987	2,273	2,539	2,793	3,036
12,300	1,418	1,993	2,280	2,547	2,802	3,046
12,350	1,423	2,000	2,288	2,555	2,811	3,056
12,400	1,427	2,006	2,295	2,564	2,820	3,065

12,450	1,432	2,012	2,302	2,572	2,829	3,075
12,500	1,436	2,019	2,310	2,580	2,838	3,085
12,550	1,441	2,025	2,317	2,588	2,847	3,095
12,600	1,445	2,031	2,324	2,596	2,856	3,104
12,650	1,449	2,038	2,332	2,604	2,865	3,114
12,700	1,454	2,044	2,339	2,613	2,874	3,124
12,750	1,458	2,050	2,346	2,621	2,883	3,134
12,800	1,463	2,056	2,354	2,629	2,892	3,143
12,850	1,467	2,063	2,361	2,637	2,901	3,153
12,900	1,472	2,069	2,368	2,645	2,910	3,163
12,950	1,476	2,075	2,375	2,653	2,919	3,173
13,000	1,480	2,082	2,383	2,662	2,928	3,182
13,050	1,485	2,088	2,390	2,670	2,937	3,192
13,100	1,489	2,094	2,397	2,678	2,946	3,202
13,150	1,494	2,101	2,405	2,686	2,955	3,212
13,200	1,498	2,107	2,412	2,694	2,964	3,221
13,250	1,503	2,113	2,419	2,702	2,973	3,231
13,300	1,507	2,119	2,427	2,710	2,982	3,241
13,350	1,512	2,126	2,434	2,719	2,990	3,251
13,400	1,516	2,132	2,441	2,727	2,999	3,260
13,450	1,520	2,138	2,448	2,735	3,008	3,270
13,500	1,525	2,145	2,456	2,743	3,017	3,280
13,550	1,529	2,151	2,463	2,751	3,026	3,290
13,600	1,534	2,157	2,470	2,759	3,035	3,299
13,650	1,538	2,163	2,478	2,768	3,044	3,309
13,700	1,543	2,170	2,485	2,776	3,053	3,319
13,750	1,547	2,176	2,492	2,784	3,062	3,329
13,800	1,551	2,182	2,500	2,792	3,071	3,338
13,850	1,556	2,189	2,507	2,800	3,080	3,348
13,900	1,560	2,195	2,514	2,808	3,089	3,358
13,950	1,565	2,201	2,521	2,817	3,098	3,368
14,000	1,569	2,208	2,529	2,825	3,107	3,377
14,050	1,574	2,214	2,536	2,833	3,116	3,387
14,100	1,578	2,220	2,543	2,841	3,125	3,397
14,150	1,582	2,226	2,551	2,849	3,134	3,407
14,200	1,587	2,233	2,558	2,857	3,143	3,416
14,250	1,591	2,239	2,565	2,865	3,152	3,426
14,300	1,596	2,245	2,573	2,874	3,161	3,436

14,350	1,600	2,252	2,580	2,882	3,170	3,446
14,400	1,605	2,258	2,587	2,890	3,179	3,455
14,450	1,609	2,264	2,595	2,898	3,188	3,465
14,500	1,614	2,271	2,602	2,906	3,197	3,475
14,550	1,618	2,277	2,609	2,914	3,206	3,485
14,600	1,622	2,283	2,616	2,923	3,215	3,495
14,650	1,627	2,289	2,624	2,931	3,224	3,504
14,700	1,631	2,296	2,631	2,939	3,233	3,514
14,750	1,636	2,302	2,638	2,947	3,242	3,524
14,800	1,640	2,308	2,646	2,955	3,251	3,534
14,850	1,645	2,315	2,653	2,963	3,260	3,543
14,900	1,649	2,321	2,660	2,972	3,269	3,553
14,950	1,653	2,327	2,668	2,980	3,278	3,563
15,000	1,658	2,334	2,675	2,988	3,287	3,573
15,050	1,662	2,340	2,682	2,996	3,296	3,582
15,100	1,667	2,346	2,689	3,004	3,305	3,592
15,150	1,671	2,352	2,697	3,012	3,314	3,602
15,200	1,676	2,359	2,704	3,020	3,322	3,612
15,250	1,680	2,365	2,711	3,029	3,331	3,621
15,300	1,684	2,371	2,719	3,037	3,340	3,631
15,350	1,689	2,378	2,726	3,045	3,349	3,641
15,400	1,693	2,384	2,733	3,053	3,358	3,651
15,450	1,698	2,390	2,741	3,061	3,367	3,660
15,500	1,702	2,397	2,748	3,069	3,376	3,670
15,550	1,707	2,403	2,755	3,078	3,385	3,680
15,600	1,711	2,409	2,762	3,086	3,394	3,690
15,650	1,716	2,415	2,770	3,094	3,403	3,699
15,700	1,720	2,422	2,777	3,102	3,412	3,709
15,750	1,724	2,428	2,784	3,110	3,421	3,719
15,800	1,729	2,434	2,792	3,118	3,430	3,729
15,850	1,733	2,441	2,799	3,126	3,439	3,738
15,900	1,738	2,447	2,806	3,135	3,448	3,748
15,950	1,742	2,453	2,814	3,143	3,457	3,758
16,000	1,747	2,460	2,821	3,151	3,466	3,768
16,050	1,751	2,466	2,828	3,159	3,475	3,777
16,100	1,755	2,472	2,836	3,167	3,484	3,787
16,150	1,760	2,478	2,843	3,175	3,493	3,797
16,200	1,764	2,485	2,850	3,184	3,502	3,807

16,250	1,769	2,491	2,857	3,192	3,511	3,816
16,300	1,773	2,497	2,865	3,200	3,520	3,826
16,350	1,778	2,504	2,872	3,208	3,529	3,836
16,400	1,782	2,510	2,879	3,216	3,538	3,846
16,450	1,786	2,516	2,887	3,224	3,547	3,855
16,500	1,791	2,523	2,894	3,233	3,556	3,865
16,550	1,795	2,529	2,901	3,241	3,565	3,875
16,600	1,800	2,535	2,909	3,249	3,574	3,885
16,650	1,804	2,541	2,916	3,257	3,583	3,894
16,700	1,809	2,548	2,923	3,265	3,592	3,904
16,750	1,813	2,554	2,930	3,273	3,601	3,914
16,800	1,817	2,560	2,938	3,281	3,610	3,924
16,850	1,822	2,567	2,945	3,290	3,619	3,933
16,900	1,826	2,573	2,952	3,298	3,628	3,943
16,950	1,831	2,579	2,960	3,306	3,637	3,953
17,000	1,835	2,585	2,967	3,314	3,646	3,963
17,050	1,840	2,592	2,974	3,322	3,655	3,972
17,100	1,844	2,598	2,982	3,330	3,663	3,982
17,150	1,849	2,604	2,989	3,339	3,672	3,992
17,200	1,853	2,611	2,996	3,347	3,681	4,002
17,250	1,857	2,617	3,003	3,355	3,690	4,011
17,300	1,862	2,623	3,011	3,363	3,699	4,021
17,350	1,866	2,630	3,018	3,371	3,708	4,031
17,400	1,871	2,636	3,025	3,379	3,717	4,041
17,450	1,875	2,642	3,033	3,388	3,726	4,050
17,500	1,880	2,648	3,040	3,396	3,735	4,060
17,550	1,884	2,655	3,047	3,404	3,744	4,070
17,600	1,888	2,661	3,055	3,412	3,753	4,080
17,650	1,893	2,667	3,062	3,420	3,762	4,089
17,700	1,897	2,674	3,069	3,428	3,771	4,099
17,750	1,902	2,680	3,077	3,436	3,780	4,109
17,800	1,906	2,686	3,084	3,445	3,789	4,119
17,850	1,911	2,693	3,091	3,453	3,798	4,129
17,900	1,915	2,699	3,098	3,461	3,807	4,138
17,950	1,919	2,705	3,106	3,469	3,816	4,148
18,000	1,924	2,711	3,113	3,477	3,825	4,158
18,050	1,928	2,718	3,120	3,485	3,834	4,168
18,100	1,933	2,724	3,128	3,494	3,843	4,177

18,150	1,937	2,730	3,135	3,502	3,852	4,187
18,200	1,942	2,737	3,142	3,510	3,861	4,197
18,250	1,946	2,743	3,150	3,518	3,870	4,207
18,300	1,951	2,749	3,157	3,526	3,879	4,216
18,350	1,955	2,756	3,164	3,534	3,888	4,226
18,400	1,959	2,762	3,171	3,543	3,897	4,236
18,450	1,964	2,768	3,179	3,551	3,906	4,246
18,500	1,968	2,774	3,186	3,559	3,915	4,255
18,550	1,973	2,781	3,193	3,567	3,924	4,265
18,600	1,977	2,787	3,201	3,575	3,933	4,275
18,650	1,982	2,793	3,208	3,583	3,942	4,285
18,700	1,986	2,800	3,215	3,591	3,951	4,294
18,750	1,990	2,806	3,223	3,600	3,960	4,304
18,800	1,995	2,812	3,230	3,608	3,969	4,314
18,850	1,999	2,819	3,237	3,616	3,978	4,324
18,900	2,004	2,825	3,244	3,624	3,987	4,333
18,950	2,008	2,831	3,252	3,632	3,995	4,343
19,000	2,013	2,837	3,259	3,640	4,004	4,353
19,050	2,017	2,844	3,266	3,649	4,013	4,363
19,100	2,021	2,850	3,274	3,657	4,022	4,372
19,150	2,026	2,856	3,281	3,665	4,031	4,382
19,200	2,030	2,863	3,288	3,673	4,040	4,392
19,250	2,035	2,869	3,296	3,681	4,049	4,402
19,300	2,039	2,875	3,303	3,689	4,058	4,411
19,350	2,044	2,882	3,310	3,698	4,067	4,421
19,400	2,048	2,888	3,318	3,706	4,076	4,431
19,450	2,053	2,894	3,325	3,714	4,085	4,441
19,500	2,057	2,900	3,332	3,722	4,094	4,450
19,550	2,061	2,907	3,339	3,730	4,103	4,460
19,600	2,066	2,913	3,347	3,738	4,112	4,470
19,650	2,070	2,919	3,354	3,746	4,121	4,480
19,700	2,075	2,926	3,361	3,755	4,130	4,489
19,750	2,079	2,932	3,369	3,763	4,139	4,499
19,800	2,084	2,938	3,376	3,771	4,148	4,509
19,850	2,088	2,945	3,383	3,779	4,157	4,519
19,900	2,092	2,951	3,391	3,787	4,166	4,528
19,950	2,097	2,957	3,398	3,795	4,175	4,538
20,000	2,101	2,963	3,405	3,804	4,184	4,548

The share of the custodial parent is presumed to be spent directly for the benefit of the child.

Source: SL 1989, ch 220, § 2; SL 1997, ch 154, § 1; SL 2001, ch 133, § 1; SL 2009, ch 130, § 1.

25-7-6.3. Determination of parents' monthly net income--Sources of income. The monthly net income of each parent shall be determined by the parent's gross income less allowable deductions, as set forth in this chapter. The monthly gross income of each parent includes amounts received from the following sources:

- (1) Compensation paid to an employee for personal services, whether salary, wages, commissions, bonus, or otherwise designated;
- (2) Self-employment income including gain, profit, or loss from a business, farm, or profession;
- (3) Periodic payments from pensions or retirement programs, including social security or veteran's benefits, disability payments, or insurance contracts;
- (4) Interest, dividends, rentals, royalties, or other gain derived from investment of capital assets;
- (5) Gain or loss from the sale, trade, or conversion of capital assets;
- (6) Unemployment insurance benefits;
- (7) Worker's compensation benefits; and
- (8) Benefits in lieu of compensation including military pay allowances.

Overtime wages, commissions, and bonuses may be excluded if the compensation is not a regular and recurring source of income for the parent. Income derived from seasonal employment shall be annualized to determine a monthly average income.

Source: SL 1989, ch 220, § 3; SL 2001, ch 133, § 5; SL 2009, ch 130, § 2.

25-7-6.4. Rebuttable presumption of employment at minimum wage. Except in cases of physical or mental disability, it is presumed for the purposes of determination of child support that a parent is capable of being employed at the minimum wage, including while incarcerated, and the parent's child support obligation shall be computed at a rate not less than full-time employment at the state minimum wage. Evidence to rebut this presumption may be presented by either parent.

Source: SL 1989, ch 220, § 4; SL 2009, ch 130, § 3.

25-7-6.5. Assets considered when income insufficient. If a child's needs are not being met through the income of the parents, assets shall be considered. If the parents have savings, life insurance, or other assets in amounts unrelated to income, these holdings shall be considered. The parents' ability to borrow may be used to determine financial ability.

Source: SL 1989, ch 220, § 5.

25-7-6.6. Profits or losses shown on federal income tax schedules as gross income--Court allowance of deduction. Gross income from a business, profession, farming, rentals, royalties, estates, trusts, or other sources, are the net profits or gain, or net losses shown on any or all schedules filed as part of the parents' federal income tax returns or as part of any federal income tax returns for any business with which he is associated, except that the court may allow or disallow deductions for federal income taxation purposes which do not require the expenditure of cash, including, but not limited to, depreciation or depletion allowances, and may further consider the extent to which household expenses, automobile expenses, and related items are deductible or partially deductible for income tax purposes. In the event a court disallows depreciation, it may consider necessary capital expenditures which enhance the parent's current income for child support purposes.

Source: SL 1989, ch 220, § 6.

25-7-6.7. Allowable deductions from monthly gross income. Deductions from monthly gross income shall be allowed as follows:

- (1) Income taxes payable based on the applicable tax rate for a single taxpayer with one withholding allowance and a monthly payroll period rather than the actual tax rate;
- (2) Social security and medicare taxes based on the applicable tax rate for an employee or a self-employed taxpayer;
- (3) Contributions to an IRS qualified retirement plan not exceeding ten percent of gross income;
- (4) Actual business expenses of an employee, incurred for the benefit of his employer, not reimbursed;
- (5) Payments made on other support and maintenance orders.

Source: SL 1989, ch 220, § 7; SL 1997, ch 154, § 4; SL 2001, ch 133, § 3; SL 2005, ch 134, § 2.

25-7-6.8. Schedule used for child support obligations--Sex of obligor disregarded. The schedule in § 25-7-6.2 shall be used to set child support obligations, and shall be applied regardless of the sex of the obligor.

Source: SL 1989, ch 220, § 8.

25-7-6.9. Income above the schedule--Child support adjusted to appropriate level. For a combined net income above the schedule in § 25-7-6.2, the child support obligation shall be established at an appropriate level, taking into account the actual needs and standard of living of the child.

Source: SL 1989, ch 220, § 9.

25-7-6.10. Factors considered for deviation from schedule. Deviation from the schedule in § 25-7-6.2 shall be considered if raised by either party and made only upon the entry of specific findings based upon any of the following factors:

- (1) The income of a subsequent spouse or contribution of a third party to the income or expenses of that parent but only if the application of the schedule works a financial hardship on either parent;
- (2) Any financial condition of either parent which would make application of the schedule inequitable. If the total amount of the child support obligation, including any adjustments for health insurance and child care costs, exceeds fifty percent of the obligor's monthly net income, it is presumed that the amount of the obligation imposes a financial hardship on the obligor. This presumption may be rebutted based upon other factors set forth in this section;
- (3) Any necessary education or health care special needs of the child;
- (4) The effect of agreements between the parents regarding extra forms of support for the direct benefit of the child;
- (5) The obligation of either parent to provide for subsequent natural children, adopted children, or stepchildren. However, an existing support order may not be modified solely for this reason; or
- (6) The voluntary and unreasonable act of a parent which causes the parent to be unemployed or underemployed, unless the reduction of income is due to incarceration.

Source: SL 1989, ch 220, § 10; SL 1997, ch 154, § 3; SL 2001, ch 133, § 7; SL 2005, ch 134, § 10; SL 2007, ch 158, § 1; SL 2009, ch 130, § 4.

25-7-6.11. Periodic adjustments in support. The court setting the support shall have the authority to

require periodic adjustments in the support.

Source: SL 1989, ch 220, § 11.

25-7-6.12. Review and amendment of schedule. The Governor shall, commencing in the year 2000, establish quadrennially a commission on child support. The commission shall review the provisions of this chapter, shall report its findings to the Governor and the Legislature, and may propose amendment thereof to the Legislature.

Source: SL 1989, ch 220, § 12; SL 1997, ch 154, § 5.

25-7-6.13. Modification of prior orders of support. All orders for support entered and in effect prior to July 1, 2009, may be modified in accordance with this chapter without requiring a showing of a change in circumstances from the entry of the order.

Source: SL 1989, ch 220, § 13; SL 1997, ch 154, § 6; SL 2001, ch 133, § 8; SL 2005, ch 134, § 4; SL 2009, ch 130, § 5.

25-7-6.14. Abatement of portion of child support--Modification. If the child resides with the obligor ten or more nights in a month pursuant to a custody order, the court may, if deemed appropriate under the circumstances, grant an abatement of not less than thirty-eight percent nor more than sixty-six percent of the basic child support obligation for the nights the child resides with the obligor. The order granting the abatement shall specify the number of nights for which the abatement is allowed and the amount of the abatement. In deciding whether an abatement is appropriate, the court shall consider whether it would have a substantial negative effect on the child's standard of living. The court shall allow the abatement to the obligor in the month in which the parenting time is ordered or apportion the abatement over a period of twelve months. It shall be presumed that the parenting time is exercised. If the parenting time exercised substantially deviates from the parenting time ordered, either party may petition the court for modification of the support order without showing any other change in circumstances.

Source: SL 1989, ch 220, § 14; SL 1997, ch 154, § 7; SL 2001, ch 133, § 2; SL 2005, ch 134, § 3; SL 2009, ch 130, § 6.

25-7-6.15. Allocation of travel costs by court. If travel costs are substantial due to the distance between the parents, the court may order the allocation of such costs, taking into consideration the circumstances of the respective parties as well as which parent moved and the reason that the move was made.

Source: SL 1989, ch 220, § 15; SL 1997, ch 154, § 8.

25-7-6.16. Medical support--Insurance--Computation of costs--Apportionment between parents. The court shall enter an order addressing how the child's health care needs will be met by medical support to be provided by one or both of the parents. The medical support order shall include a provision for medical insurance if the insurance is accessible for the child and available to a parent at reasonable cost. Medical insurance is considered accessible if a medical insurance benefit plan is available and provides coverage for the child residing within the geographic area covered by the insurance policy. Medical insurance is considered reasonable in cost if the cost attributable to the child is equal to or less than eight percent of the parent's net income as determined under this chapter, and the amount shall be specified in the order for support.

The cost of the insurance attributable to the child is the cost of adding the child to existing coverage, the

difference between self-only coverage and family coverage, or the cost of private medical insurance for the child. The cost attributable to the child under family coverage is the difference between self-only coverage and family coverage divided by the number of individuals, excluding the parent, enrolled in the family coverage. The cost so computed shall be apportioned between the parents on the basis of income or income imputed as provided in this chapter. If one parent pays the entire amount, that parent shall either be reimbursed by the other parent for that parent's portion of the payment or shall receive a credit against his or her support obligation, whichever is appropriate. Any additional, reasonable health care costs, including medical, optometric, dental or orthodontic, or counseling costs for each minor child which exceed two hundred fifty dollars in any year and are not covered by insurance, shall be apportioned between the parents in proportion to the support obligation of each parent. The parent that has primary physical custody of the child is responsible for the first two hundred fifty dollars of health care costs each calendar year.

Source: SL 1989, ch 220, § 16; SL 1997, ch 154, § 9; SL 2009, ch 130, § 7.

25-7-6.17. Large adjustment in support phased in. In cases resulting in an adjustment of more than twenty-five percent in the support award, the court may phase in the adjustment over time.

Source: SL 1989, ch 220, § 17.

25-7-6.18. Order allocating child care expenses. The court may enter an order allocating the reasonable child care expenses for the child, which are due to employment of either parent, job search of either parent, or the training or education of either parent necessary to obtain a job or enhance earning potential. The court may consider whether the federal child care tax credit for such minor child is available as a benefit to the custodial parent. If the federal child care tax credit is available to the custodial parent, it shall be calculated at twenty-five percent of the eligible expense.

Source: SL 1997, ch 154, § 2.

25-7-6.19. Credit for child support arrearages for parent with primary physical custody during period of custody. Notwithstanding the provisions of § 25-7A-17 or 25-7-7.3, if, by agreement of the parties, the obligor had primary physical custody of the child for more than four consecutive months, the court may credit the obligor for child support arrearages which accumulated during the period the obligor had actual physical custody of the child.

Source: SL 1997, ch 154, § 10.

25-7-6.20. Lien on payment or installment of support under an order of support--Notice. Any payment or installment of support under an order for support, as defined by § 25-7A-1, whether entered by a court or an administrative entity of this state or any other state or jurisdiction, which is unpaid after the date it is due, is a lien by operation of law, with the full force and effect and attributes of a lien of this state, including enforceability, and is entitled, as a lien, to full faith and credit in this state.

In order to preserve such lien, any Title IV-D agency may perfect and enforce a lien authorized by this section in the same manner as liens are perfected for the specific type of real and personal property upon which the lien is claimed. The priority of the lien shall be established as of its date of filing. The register of deeds office is not entitled to any fee for registering or filing any lien under this section.

However, no lien is attached to any real or personal property which the obligor has transferred to another person who has purchased the property in good faith, for value, prior to the time that the Title IV-D agency's lien on the property has been perfected in the manner provided by law.

Source: SL 1997, ch 155, § 1; SL 1998, ch 156, § 1.

25-7-6.21. Credit on monthly support obligation for social security or veteran's dependent benefits. If the child receives social security or veteran's dependent benefits as a result of the obligor's disability, or social security retirement benefits from the obligor, the obligor is entitled to a credit to the amount of the monthly support obligation.

Source: SL 2005, ch 134, § 1.

25-7-6.22. Rebuttable presumption that second job income not to be considered in establishing support obligation. If a parent is employed full-time at a rate of pay that equals or exceeds the state's minimum wage, it is presumed that a parent's second job income is not to be considered in establishing a support obligation. This presumption may be rebutted by evidence that the income source was available to pay expenses related to the child when the parent initially became obligated for the support of the child pursuant to § 25-7-6.1.

Source: SL 2005, ch 134, § 5; SL 2009, ch 130, § 8.

25-7-6.23. Offset of support obligation when each parent has primary physical custody of at least one child--Computation--Assistance from department. If the parents have two or more children between them and each parent has primary physical custody of at least one child, the child support obligation shall be determined by computing the amount of each parent's respective support obligation for the children in the other parent's physical custody, and the support obligations shall be offset in determining a monthly support obligation. If one or more of the children are receiving assistance from the department as provided in § 28-7A-7, and in lieu of the offset, each parent shall be obligated to pay the respective support obligation amount to the other parent.

Source: SL 2005, ch 134, § 6.

25-7-6.24. Change of physical custody of child without court approval--Order to pay child support. If the parents of a child have agreed to a change in the physical custody of the child without the court's approval, the parent who relinquished physical custody may be ordered to pay child support to the parent who gained physical custody of the child even though the custody order has not been modified to reflect the change in custody.

Source: SL 2005, ch 134, § 11.

25-7-6.25. Form to request reimbursement of medical or health care costs from parent--Small claims procedure. The department shall create and distribute a standardized form to allow a parent, guardian, or other custodian to request reimbursement of any medical or health care costs from the responsible parent. A parent, guardian, or custodian shall also be entitled to use the small claims procedure of chapter 15-39 as a means to collect unreimbursed medical or health care costs from the responsible parent.

Source: SL 2005, ch 134, § 12.

25-7-6.26. Effect of failure to furnish financial information. If a parent in a child support establishment or modification proceeding fails to furnish income or other financial information, the parent is in default, and that parent's income for purposes of determining child support shall be computed at a rate not less than

the most recent annual pay standard as reported by the Department of Labor.

Source: SL 2009, ch 130, § 9.

25-7-6.27. Shared parenting child support cross credit. If the parents have agreed in writing to a detailed shared parenting plan which provides that the child will reside no less than one hundred eighty nights per calendar year in each parent's home, and that the parents will share the duties and responsibilities of parenting the child and the expenses of the child in proportion to their incomes, and the shared parenting plan has been incorporated in the custody order, the court may, if deemed appropriate under the circumstances, grant a cross credit on the amount of the child support obligation based on the number of nights the child resides with each parent. The shared parenting child support cross credit shall be calculated as follows:

- (1) Multiply the parents' combined child support obligation under the schedule by 1.5 to establish the parents' combined shared parenting child support obligation;
- (2) Multiply the combined shared parenting child support obligation by each parent's percentage share of the parents' combined net incomes to establish each parent's shared parenting child support obligation;
- (3) Multiply each parent's shared parenting child support obligation by the percentage of nights the child resides with each parent based on a three hundred sixty-five day calendar year to establish each parent's prorated shared parenting child support obligation;
- (4) Offset the parents' prorated shared parenting child support obligations; and
- (5) The parent with the larger prorated shared parenting child support obligation shall pay the difference between these amounts.

In deciding whether a shared parenting child support cross credit is appropriate, the court shall consider whether it would have a substantial negative effect on the child's standard of living.

It is presumed that the parenting time is exercised. If the parenting time exercised substantially deviates from the parenting time ordered, either party may petition the court for a modification of the support order without showing any other change in circumstances.

Source: SL 2009, ch 130, § 10.

25-7-6.28. Child residence with parent for a night--Residence for days. For the purposes of §§ 25-7-6.14 and 25-7-6.27, a child resides with a parent for a night if the child sleeps:

- (1) At the residence of that parent at night, whether or not the parent is present; or
- (2) In the company of the parent, if the child does not sleep at a parent's residence.

If, in a calendar year, due to a parent's nighttime work schedule, a child resides with a parent for days, but not nights, the court may condition the abatement on the required days rather than nights. In those instances, on a school day, the child is treated as residing at the primary residence registered with the school.

Source: SL 2009, ch 130, § 11.

25-7-7. Repealed by SL 1989, ch 220, § 19

25-7-7.1. Continuation of duty to support. A parent's duty to support his child continues if the child is placed with the Department of Social Services for custody, for temporary guardianship, or for care and placement.

Source: SL 1987, ch 189, § 1.

25-7-7.2. Expenses incurred on child's behalf--Fee schedule. The secretary of social services may, pursuant to chapter 1-26, establish a fee schedule for all expenses incurred on a child's behalf while in the care of the department. Such fees may not exceed actual costs.

Source: SL 1987, ch 189, § 2.

25-7-7.3. Past due support payments not subject to modification--Exception. Any past due support payments are not subject to modification by a court or administrative entity of this state, except those accruing in any period in which there is pending a petition for modification of the support obligation, but only from the date that notice of hearing of the petition has been given to the obligee, the obligor, and any other parties having an interest in such matter.

Source: SL 1987, ch 190.

25-7-7.4. Unpaid payment or installment of support as judgment. Any payment or installment of support under an order for support, as defined by § 25-7A-1, whether entered by a court or an administrative entity of this state or of any other state or jurisdiction, which is unpaid after the date it is due, is a judgment by operation of law, with the full force, effect, and attributes of a judgment of this state, including enforceability, and is entitled, as a judgment, to full faith and credit in this state.

Source: SL 1987, ch 191, § 1.

25-7-7.5. Filing of sworn statement or certificate of unpaid support due--Effective date of judgment. In order to preserve such judgment against subsequent mortgages, purchasers, or judgment creditors for value and without actual notice of the lien on any property situated in a county, the support obligee or the secretary of the Department of Social Services may give notice of the judgment by filing in the office of the clerk of courts of the county in which the order for support is filed, or in any county in which a transcript of the order is filed and docketed, a sworn statement or certificate showing the amount of unpaid support due under the order. The clerk of courts shall file and docket the statement or certificate with the order for support or transcript thereof, as evidence of the amount of the judgment for support, as provided in chapter 15-16. The judgment shall be effective from the date and time of docketing the statement or certificate in the office of the clerk of courts.

Source: SL 1987, ch 191, § 2.

25-7-7.6. Court may order payment of arrearages. If, at any time, unpaid child support arrearages exist, the court may order the support obligor to pay towards the arrearages such sums as are ordered by the court, in addition to any other remedies of the support obligee.

Source: SL 2001, ch 133, § 4.

25-7-8. Stepparent's duty to support spouse's children. A stepparent shall maintain his spouse's children born prior to their marriage and is responsible as a parent for their support and education suitable to his circumstances, but such responsibility shall not absolve the natural or adoptive parents of the children from any obligation of support.

Source: SDC 1939, § 14.0311; SL 1971, ch 164; SL 1980, ch 190.

25-7-9. Adult child supported by parent. Except as provided in § 25-5-18.1, if a child, after attaining majority continues to serve and to be supported by the parent, neither party is entitled to compensation in the absence of an agreement therefor.

Source: SDC 1939, § 14.0317; SL 1987, ch 192.

25-7-10. Liability of parent for necessities supplied to child. If a parent neglects to provide articles necessary for his child who is under his charge, according to his circumstances, a third person may in good faith supply such necessities and recover the reasonable value thereof from the parent.

Source: SDC 1939, § 14.0313.

25-7-11. Repealed by SL 1992, ch 182, § 2

25-7-12. Allowances to parent out of child's property. The circuit court may direct an allowance to be made to a parent of a child, out of its property, for its past or future support and education, on such conditions as may be proper, whenever such direction is for its benefit.

Source: SDC 1939, § 14.0314.

25-7-13. Support of spouse and children out of property of absentee, prisoner or mentally ill person-- Application to circuit court--Notice--Trial and judgment. In case the husband or wife abandon the other and remove from the state and remain absent therefrom one year or more, or be sentenced to imprisonment in the county jail or state penitentiary for a period of one year or more, or become mentally ill and be committed to the South Dakota Human Services Center, and the husband or wife of such person so imprisoned, mentally ill, or guilty of abandonment be without means of support, the circuit court for the county in which such husband or wife resides, upon application duly verified and supported by such evidence as the court deems sufficient, may, by order or decree, authorize and direct the applicant or some other suitable person to manage, control, sell, or encumber the property of such imprisoned, mentally ill, or offending person in order to make suitable provision for the support and maintenance of his or her husband or wife and minor children during the period of such abandonment, imprisonment, or mental illness. Notice of such application must be served in the same manner as the summons in civil actions and in case of appearance by the opposite party, trials and other proceedings may be had as in case of civil actions and all orders, judgments, and decrees entered shall have the same force and effect.

Source: SDC 1939, § 14.0205.

25-7-14. Reimbursement of county from deceased parent's estate for support provided child. If a parent chargeable with the support of a child dies leaving it chargeable upon the county, and leaving an estate sufficient for its support, the officers of the poor, in the name of the county, may claim provision for its support from the parent's estate by civil action, and for this purpose may have the same remedies as creditors against the estate and against the heirs, devisees, and next of kin of the parent.

Source: SDC 1939, § 14.0315.

25-7-15. Desertion of child under ten as felony. The parent of any child under the age of ten years and any person to whom any such child has been confided for nurture or education who deserts such child in any place with intent to wholly abandon the child, is guilty of a Class 4 felony.

Source: SDC 1939, § 13.3201; SL 1977, ch 189, § 94; SL 2006, ch 130, § 10.

25-7-16. Nonsupport of child by parent as misdemeanor--Felony where parent leaves state--Spiritual treatment--Unemployment. A parent of a minor child who intentionally omits without lawful excuse to furnish necessary food, clothing, shelter, medical attendance, other remedial care, or other means of support for the person's child is guilty of a Class 1 misdemeanor. If a parent, during a violation, leaves the state and is absent for more than thirty days, the person is guilty of a Class 6 felony. If a child is under treatment solely by spiritual means, the court may, as provided under § 26-8A-22, order that medical treatment be provided for the child. For the purposes of this section, unemployment without justifiable excuse or without verifiability of searching for employment is not a lawful excuse for noncompliance.

Source: SDC 1939, § 13.3204 as enacted by SL 1963, ch 56, § 1; SL 1977, ch 189, § 95; SL 1981, ch 196; SL 1990, ch 170, § 3; SL 1991, ch 217, § 170; SL 1994, ch 201.

25-7-17. Abandonment or nonsupport of child by parent as prima facie evidence of intent. Proof of abandonment or desertion of a child by a parent, or the omission by a parent to furnish necessary food, clothing, shelter, medical attendance, other remedial care, or other means of support for his child is prima facie evidence that the abandonment, desertion, or omission is intentional and without lawful excuse.

Source: SDC 1939, § 13.3204 as enacted by SL 1963, ch 56, § 1; SL 1982, ch 195, § 1.

25-7-17.1. Parent's choice of health services permitted in legitimate practice of religious beliefs not violation of support requirements. However, any parent who chooses nonmedical remedial health services recognized or permitted under state law in the legitimate practice of religious beliefs in lieu of medical attendance is not for that reason alone in violation of §§ 25-7-17 and 25-7-20.

Source: SL 1982, ch 195, § 4.

25-7-18. Repealed by SL 1982, ch 195, § 2

25-7-19. Marital status and divorce decrees immaterial to criminal liability--Status of unborn child. The provisions of §§ 25-7-16 to 25-7-20, inclusive, are applicable whether the parents of such child are married or divorced, and regardless of any decree made in any divorce action relative to alimony or to the support of the child. A child conceived but not yet born is to be deemed an existing person insofar as said sections are concerned.

Source: SDC 1939, § 13.3204 as enacted by SL 1963, ch 56, § 1.

25-7-20. Parent's criminal liability not relieved by other parent's custody or support provided by others. This chapter may not be construed to relieve one parent from the criminal liability defined in § 25-7-16 for an omission because the other parent of the child is legally entitled to the custody of the child nor because the other parent of the child, or any other person, or organization, voluntarily or involuntarily furnishes necessary food, clothing, shelter, medical attendance, other remedial care, or other means of support for the child.

Source: SDC 1939, § 13.3204 as enacted by SL 1963, ch 56, § 1; SL 1982, ch 195, § 3.

25-7-20.1. Complaint for nonsupport signed by representative of department. When any payment of

public moneys has been made by the Department of Social Services, under the provisions of this chapter for the support or aid of any person, any representative of the department may sign a criminal complaint against that person for any violation of the provisions of this chapter.

Source: SL 1963, ch 332; SDCL, § 23-19-3; SL 1978, ch 164, § 6.

25-7-21. Proof of nonpaternity of husband. In any prosecution under §§ 25-7-16 to 25-7-20, inclusive, it shall be competent for the people to prove nonaccess of husband to wife or any other fact establishing nonpaternity of a husband.

Source: SDC 1939, § 13.3207 as enacted by SL 1963, ch 56, § 1.

25-7-22. Communications not privileged in nonsupport prosecutions--Husband and wife as witnesses. In all prosecutions under § 25-7-4 or under §§ 25-7-16 to 25-7-20, inclusive, any existing provisions of law prohibiting the disclosure of confidential communications between husband and wife shall not apply, and both husband and wife shall be competent to testify to any and all relevant matters, including the fact of marriage and the parentage of a child or children.

Source: SDC 1939, § 13.3207 as enacted by SL 1963, ch 56, § 1.

25-7-23. Abandonment and nonsupport of spouse or children as prima facie evidence of intent. Proof of the abandonment and nonsupport of a spouse, or of the omission to furnish necessary food, clothing, shelter, or of medical attendance for a child or children is prima facie evidence that such abandonment and nonsupport or omission to furnish necessary food, clothing, shelter, or medical attendance is intentional.

Source: SDC 1939, § 13.3207 as enacted by SL 1963, ch 56, § 1; SL 1984, ch 12, § 51.

25-7-24. Release on undertaking to support spouse or child--Amount and terms of undertaking. If after arrest and before trial or after conviction and before sentence, the party arrested or convicted pursuant to § 25-7-4 or §§ 25-7-16 to 25-7-20, inclusive, shall appear before the court in which the case is pending or the conviction had and enter into an undertaking to the state in a sum to be fixed by the court, which may not exceed two thousand dollars, with or without sureties as may be determined by the court, conditioned that the party will furnish his or her spouse with necessary and proper home, food, care, and clothing, or that the party will furnish his or her child with a proper home, food, care, and clothing, then the court may release the defendant.

Source: SDC 1939, § 13.3203; SL 1963, ch 56, § 3; SL 1984, ch 12, § 52.

25-7-25. Cancellation of undertaking for support on demonstration of good faith. The undertaking shall remain in force so long as the court deems necessary, but whenever it shall appear to the court, by affidavit or otherwise, that the defendant is then, and for a reasonable time prior thereto has been in good faith, furnishing his or her spouse or child with a necessary and proper home, food, care, and clothing, the court may cancel the undertaking.

Source: SDC 1939, § 13.3203; SL 1963, ch 56, § 3; SL 1984, ch 12, § 53.

25-7-26. Arrest and forfeiture of undertaking on failure to comply--Trial--Commitment or release on new undertaking. If a defendant fails to comply with the undertaking, he or she may be arrested on a

warrant issued from the court in which the case is pending or the conviction was had. The court may thereupon order a forfeiture of the undertaking and that the defendant be tried or committed in execution of the sentence, or for good cause shown, may release the defendant upon a new undertaking.

Source: SDC 1939, § 13.3203; SL 1963, ch 56, § 3; SL 1984, ch 12, § 54.

25-7-26.1. Posting bond by obligor--Notice. In any civil or administrative action provided by law for the enforcement of support, any person owing the support may be required to give security, or post a bond or undertaking to secure payment of the overdue support. Notice shall be sent to the obligor regarding the proposed action to enforce the overdue support obligation, the requirement of posting bond and the procedures available for contesting the bonding requirement.

Source: SL 1986, ch 218, § 55.

25-7-27. Adult child's duty to support parent when necessary--Notice required. Any adult child, having the financial ability to do so, shall provide necessary food, clothing, shelter, or medical attendance for a parent who is unable to provide for oneself. However, no claim may be made against such adult child until the adult child is given written notice that the child's parent is unable to provide for oneself, and such adult child has refused to provide for the child's parent. Notice required by this section shall be given within ninety days after the necessary food, clothing, shelter, or medical attendance, claimed in the notice, was first provided for the parent. However, in the case of fraud or misrepresentation, notice shall be provided within ninety days after such fraud or misrepresentation is known or should have been known. If the parent or someone acting on behalf of the parent makes application for assistance pursuant to chapter 28-13, the county shall give the written notice required herein within ninety days after it receives the application or notice required under § 28-13-1, 28-13-32.3, 28-13-32.4, or 28-13-34.1, whichever is sooner.

Source: SDC 1939, § 14.0320 as enacted by SL 1963, ch 61; SL 2000, ch 118, § 1.

25-7-28. Adult child's right of contribution from brothers and sisters for support of parent--Notice required. In the event necessary food, clothing, shelter, or medical attendance is provided for a parent by a child, he shall have the right of contribution from his adult brothers and sisters, who refuse or do not assist in such maintenance, on a pro rata share to the extent of their ability to so contribute to such support; provided that no right of contribution for support shall accrue except from and after notice in writing is given by the child so providing for his parent.

Source: SDC 1939, § 14.0312 as added by SL 1963, ch 62.

25-7-29. Repealed by SL 1992, ch 26, § 5

25-7-30. Proof of marriage and parentage. No other evidence shall be required to prove marriage of husband and wife, or that a person is the lawful father or mother of a child or children, than is or shall be required to prove such facts in a civil action.

Source: SDC 1939, § 13.3207 as enacted by SL 1963, ch 56, § 1.

25-7-31 to 25-7-36. Repealed by SL 1986, ch 218, §§ 62 to 67

25-7-37. Chronically delinquent defined. For the purposes of § 25-7-38, the term, chronically

delinquent, means the child support is paid ten or more days after the date the child support is due in each of three or more months in any twelve-month consecutive period, or the child support paid is less than ninety percent of the amount due in each of three or more months in any twelve-month consecutive period.

Source: SL 2009, ch 135, § 1.

25-7-38. Late fee for certain chronically delinquent child support payments. An obligor found to be chronically delinquent in child support payments or installments as required under an order for support, as defined in § 25-7A-1, is subject to a late payment fee equal to ten percent of the ordered child support or fifty dollars, whichever is greater, for each month in the preceding twelve months that the payment was ten or more days delinquent or the payment was less than ninety percent of the ordered child support. Any obligee seeking the late payment fee shall file in the office of the clerk of courts of the county in which the order was filed, or in a county in which a transcript of the order is filed and docketed, a petition showing the date of receipt of each month of delinquent payment, the amount received, and the amount due and requesting that a late fee be ordered. Upon filing of the petition, the obligee shall serve, by certified mail or as otherwise provided by law, a copy of the petition to the obligor. The service of such notice shall be deemed complete when proof of the service is filed with the court. The obligor has ten days from service to object to the imposition of a late fee. If a party objects within ten days of service the court shall conduct a hearing as soon as practical. The obligor has the burden of showing an inability to timely pay child support payments or installments as required under an order of support. Based upon the evidence presented at the hearing, the court may order the obligor to pay a late fee or may order any other relief as it deems appropriate.

Source: SL 2009, ch 135, § 2.
