



South Dakota Immigrant Safety Plan for Youth and Children

See Appleseed's **Deportation Preparation Manual for Immigrant Families: Make a Plan to Protect Your Kids and Finances in the Face of Deportation** for more, available at www.deportationpreparation.org.

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Custodial Options for Family Planning in South Dakota

If you live in South Dakota and need someone else to have the authority to care for your child when you cannot be there, you have three main choices. Each choice gives the person caring for your child different rights and responsibilities. Here's a guide to help you understand your options:

Option 1: Kinship Care Affidavit¹

When should this option be considered?

Use it when you are unavailable for an emergency or for a short period of time and need another adult to handle everyday school and health matters for your child. The child must be living with the caregiver for this option.

What is it and what powers will it give the caregiver?

It is a short, signed statement by the caregiver that allows the caregiver to make basic decisions about school and routine medical care. It does not give the caregiver legal custody. Schools and healthcare providers may choose whether to accept this form.

How does this option affect my parental rights and authority?

Your rights stay the same. You can return at any time and override any decisions made by the caregiver.

Who needs to sign the form? Does it need to be notarized?

Only the caregiver signs. No parent/guardian signature or notary is required.

How can parents and caregivers use the form?

Give a copy to the child's school, doctor, or clinic. Keep a copy with you and give one to anyone else who needs to trust the caregiver's decisions.

For how long is the form valid?

No specific timeframe is stated under South Dakota law; however, it is recommended to limit the duration to one year or less.

¹ South Dakota Kinship Care Resource:

<https://lsssd.org/services/family-support/foster-care-and-kinship.html>



Can this option be canceled or changed by the parent?

Yes. Because you never gave up legal custody, you can end it at any time.

Are there any costs associated with this option?

No filing or notary fees.

Any other considerations?

Some schools, doctors or other institutions may not accept the form. If that happens, a power of attorney (Option 2) is more likely to be accepted.

Option 2: Delegation of Parental Powers (Power of Attorney)

When should this option be considered?

Use it when you are unavailable for an emergency or a short period of time and need another adult to handle everyday school and health matters for your child. The child must be living with the caregiver for this option.

What is it and what powers will it give the caregiver?

It is a notarized power of attorney signed by a parent or legal guardian that delegates parental powers for the child's care, custody, and property, except the power to consent to marriage or adoption. It lets the caregiver make decisions about education, medical and dental care, and day-to-day welfare. It does not permanently change legal custody.

How does this option affect my parental rights and authority?

Your rights stay the same. You can return at any time and override any decisions made by the caregiver.

Who needs to sign the form? Does it need to be notarized?

At least one parent or legal guardian signs before a notary. The caregiver may also sign to acknowledge acceptance, though it is not required by statute.

How can parents and caregivers use the form?

Give a copy to the child's school, doctor, or clinic. Keep a copy with you and give one to anyone else who needs to trust the caregiver's decisions.

For how long is the form valid?

No limitation by statute, but it is recommended that the form is valid no more than one year from the date it is signed (unless earlier revoked).

Can this option be canceled or changed by the parent?

Yes. Because you never gave up legal custody, you can end it at any time.

Are there any costs associated with this option?

Possible notary fees. No court filing fees because it is not filed with the court.

Any other considerations?

Some schools or providers may request their own authorization forms or court order in addition to the power of attorney.

Option 3: Petition for Appointment of Guardian of a Minor (Court Order)

When should this option be considered?

Use this when you expect to be unable to care for your child for a longer temporary period and need court-backed authority for the caregiver. A temporary guardianship gives the caregiver legal authority that is broader than a power of attorney.

What is it and what powers will it give the caregiver?

It is a court proceeding in which a judge appoints a temporary guardian for the child. The guardian receives authority to make decisions regarding the child's health, education, and welfare as set forth in the order.

How does this option affect my parental rights and authority?

Your parental rights are not terminated, but the guardian has decision-making authority during the temporary guardianship. You may seek to terminate or modify the guardianship by motion to the court.

Who needs to sign the form? Does it need to be notarized?

A parent or interested person files a petition in circuit court. Notice and consent requirements apply; the court may waive certain requirements in emergencies. A judge signs the order if the guardianship is in the child's best interests.

How can parents and caregivers use the form?

After the judge signs the order, provide certified copies to schools, medical providers, insurers, and others as needed. Keep the originals in a safe place.

For how long is the form valid?

For the period set by the court, often limited in duration. The order will state when it ends or what event ends it.

Can this option be revoked or changed by the parent?

Changes require a court order. You can file to terminate or modify the guardianship if circumstances change.

Are there any costs associated with this option?

Court filing fees apply; attorney fees may apply; fees for certified copies may also apply.

Any other considerations?

Because it is a court order, schools and agencies should accept it.

Link to law: South Dakota guardianship of minors procedures (South Dakota Codified Laws, Title 29A, Article 5) - <https://sdlegislature.gov/Statutes/29A-5-401>

Sample Forms and Petitions

Samples of the form or petition for each of these custodial arrangements appear on the following pages.



Kinship Care Affidavit

INSTRUCTIONS:

- Completion of items 1 through 4 and the signing of the affidavit are sufficient to authorize educational services and school-related medical services for the named child.
- Completion of items 5 through 8 is required to authorize any other medical services.
- Item 5 must be checked.
- Please print or type clearly.

The child named below lives in my home and I am 18 years of age or older.

1. Name of child:_____

2. Child's date of birth:_____

3. My name (adult giving authorization):_____

4. My home address:_____

5. I am a non-legal custodian.

6. Check one or both (for example, if one parent was advised and the other cannot be located):

I have advised the parent(s) or legal custodian(s) of the child of my intent to authorize the rendering of educational or medical services, and have received no objection.

I am unable to contact the parent(s) or legal custodian(s) of the child at this time, to notify them of my intended authorization.

7. My date of birth:_____

8. My South Dakota driver's license or identification card number:_____



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WARNING: Do not sign this form if any of the statements above are incorrect, or you will be committing a crime punishable by a fine, imprisonment, or both.

I declare under penalty of perjury under the laws of South Dakota that the foregoing is true and correct.

Signed: _____

Date: _____

NOTICES:

1. This declaration does not affect the rights of the child's parent or legal guardian regarding the care, custody, and control of the child, and does not mean that the non-legal custodian has legal custody of the child.
2. A person who relies on this affidavit has no obligation to make any further inquiry or investigation.
3. This affidavit is not valid for more than one year after the date on which it is executed.

ADDITIONAL INFORMATION: _____

TO NON-LEGAL CAREGIVER:

1. If the child stops living with you, you are required to notify anyone to whom you have given this affidavit as well as anyone of whom you have actual knowledge who received the affidavit from a third party.
2. If you do not have the information in item 8 (South Dakota driver's license or identification card), you must provide another form of identification such as your social security card number.

TO SCHOOL OFFICIALS:

The school district may require additional reasonable evidence that the non-legal custodian lives at the address provided in Item 4.



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TO HEALTH CARE PROVIDERS AND HEALTH CARE SERVICE PLANS:

1. No person who acts in good faith reliance upon a non-legal custodian's affidavit to render educational or medical services, without actual knowledge of facts contrary to those stated in the affidavit, is subject to criminal prosecution or civil liability to any person, or subject to any professional disciplinary action, for such reliance if the applicable portions of the form are completed.
2. This affidavit does not confer dependency for health care coverage purposes.

Delegation of Parental Powers (Power of Attorney)

STATE OF SOUTH DAKOTA

COUNTY OF _____) SS: _

BE IT KNOWN THAT on this ___ day of _____, 20__, before me, the undersigned notary, and in the presence of the competent witnesses hereinafter named and undersigned:

Personally came and appeared:

_____ (affiant's name, marital status, and mailing address), who is the _____ (person(s) having parental authority) of (child(ren)) and who, by these presents makes, names, constitutes, and appoints _____ (attorney-in-fact/caregiver's name and mailing address) and by these presents delegates parental powers regarding the care, custody, and property of each of the above-named children, to provide for their health, education, and welfare as permitted by SDCL 25-5-13, specifically including the authority to:

INITIAL ALL APPLICABLE PROVISIONS:

____ (1) Consent to and authorize such medical care, treatment, or surgery as may be necessary for the health, safety, and welfare of each child.

____ (2) Enroll each child in such schools or educational institutions as may be necessary for his proper education.

____ (3) Discipline each child in such reasonable manner as may be necessary for his proper rearing, supervision, and training.

____ (4) Do and perform all other such acts as may be necessary for the shelter, support, and general welfare of each child.



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This Power of Attorney will continue to be effective until _____, 20 __, or one year from the date hereof, whichever period is shorter, unless earlier revoked in writing.

I agree that any third party who receives a copy of this document may rely upon the authority granted to the attorney-in-fact as indicated herein and may act in reliance on such authority. I agree to indemnify and hold harmless the third party for any claims that arise because of reliance on this Power of Attorney.

The undersigned attorney-in-fact does hereby accept the delegation of parental powers for each child named herein.

SIGNED AND ACKNOWLEDGED at _____, State of South Dakota, in the presence of the undersigned, competent witnesses (if desired), and before me, a Notary Public, after due reading of the whole.

WITNESSES:

(Person having parental authority)

(Other person having parental authority)

(Attorney-in-Fact/Caregiver)

NOTARY PUBLIC



Petition for Appointment of Guardian of a Minor

IN CIRCUIT COURT, ____ JUDICIAL CIRCUIT
STATE OF SOUTH DAKOTA
COUNTY OF _____

In the Matter of: _____, a Minor
Case No.: _____

PETITION FOR APPOINTMENT OF GUARDIAN OF A MINOR

Petitioner, _____ ("Petitioner"), states as follows:

- 1. Venue and Jurisdiction. Petitioner files this petition in the above-captioned Circuit Court pursuant to South Dakota Codified Laws, Title 29A (Guardians of Minors). The minor resides or is present in _____ County, South Dakota. The Court has jurisdiction to appoint a guardian for the minor.
2. Petitioner. Petitioner is: a parent an individual having care/custody of the minor ___ another interested person (describe relationship): _____. Petitioner's address and contact information are: _____.
3. Minor. The minor's full legal name is _____, date of birth _____, and current address _____. A certified copy of the birth certificate will be provided if available.
4. Parents and Persons with Parental Rights. The names and last-known addresses of the minor's parents or any person having legal custody or court-ordered guardianship are: • Mother: _____ Address: _____ • Father: _____ Address: _____ • Other legal custodian/guardian (if any): _____ Address: _____
5. Indian Child Welfare Act (ICWA). Is the child an "Indian child" as defined by 25 U.S.C. § 1903(4)? ___ Yes ___ No. If yes, identify the child's tribe and enrollment/eligibility and provide tribal contact information:

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_____. Petitioner will provide notice as required by ICWA and applicable state law.

6. Need for Guardianship. Appointment of a guardian is necessary because (state specific facts showing why the guardianship is in the minor's best interests, e.g., parental unavailability, incapacity, absence, safety concerns, or other reasons):
7. Proposed Guardian. Petitioner nominates _____ (proposed guardian), whose relationship to the minor is _____, and who resides at _____, phone _____, email _____. The proposed guardian is over 18, suitable and willing to serve, and will file an Acceptance and any required disclosures/consents.
8. Type and Scope of Guardianship Requested. Petitioner requests appointment of a ___ full guardian ___ limited guardian, with powers necessary for the minor's health, education, support, and welfare, including authority to: consent to medical/dental/mental health care; enroll in and make educational decisions; determine residence within South Dakota; obtain records; apply for public benefits; and perform all acts necessary for the minor's best interests, subject to any limitations ordered by the Court. If a limited guardianship is requested, the requested limitations are:
9. Nomination and Consents. ___ Petitioner is a parent and nominates the proposed guardian. ___ Consents of the other parent(s) and any current legal custodian are attached. ___ One or more consents cannot be obtained; Petitioner requests that the Court proceed upon notice and hearing.
10. Prior Proceedings. List any prior or pending cases involving custody, guardianship, juvenile, protection orders, or related matters concerning the minor, including court, case number, and status:

11. Temporary Relief (if requested). Pending final hearing, Petitioner requests temporary appointment of the proposed guardian to act in the minor's best interests because: _____.



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12. Notices and Service. Petitioner will serve this petition, any hearing notice, and required documents on the minor (if 14 or older), the parents, current custodians/guardians, and other interested persons as required by law, and will provide proof of service to the Court. For ICWA cases, Petitioner will provide statutory notice to the parents, Indian custodian, and tribe(s).

WHEREFORE, Petitioner requests that the Court:

- A. Appoint _____ as guardian of the minor;
- B. Define the guardian's powers as set forth above and in the order;
- C. If appropriate, appoint the guardian on a temporary basis pending final hearing; and
- D. Grant such other and further relief as the Court deems just and proper.

Dated: _____

Respectfully submitted,

Signature of Petitioner

Name: _____

Address: _____

Phone/Email: _____



VERIFICATION

I, _____, declare under penalty of perjury under the laws of the State of South Dakota that I am the Petitioner herein; that I have read the foregoing Petition and know the contents thereof; and that the same is true and correct to the best of my knowledge, information, and belief.

Dated: _____

State of South Dakota, County of _____, SS.

Subscribed and sworn to (or affirmed) before me this ____ day of _____, 20____, by _____.

Notary Public My commission expires: _____

ACCEPTANCE OF APPOINTMENT AND CONSENT TO SERVE

I, _____, the proposed guardian, accept the appointment as guardian of the minor if so ordered by the Court; affirm that I am eligible to serve; and consent to jurisdiction of this Court.

Dated: _____

Proposed Guardian

CERTIFICATE OF SERVICE

I certify that on _____, 20____, I served a copy of this Petition and any required notices on the following persons by the method indicated (mail, personal service, or as ordered):



Obtaining Birth Certificates

South Dakota vital records are closed to the public. Only individuals with a direct and tangible interest, as defined by South Dakota law, may obtain certified copies.

Who can order a birth certificate?

- The person named on the birth certificate
- The current spouse of the person named on the birth certificate
- Mother or father of the person named on document
- Next of kin
- Attorney representing one of the above with a signed contract of representation or authorization
- When someone not listed above attempts to obtain the birth certificate they must have a judgement noting custody of the child.

Where can you obtain a birth certificate?

- In Person
 - South Dakota Department of Health, Office of Vital Records (Pierre)
 - County Register of Deeds office (statewide)
- Mail
 - Mail requests to the State Office, 221 West Capitol Avenue, Pierre, SD 57501, or any South Dakota Register of Deeds.
- Internet, Fax, Telephone
 - Authorized third-party ordering services (e.g., VitalChek) as recognized by the South Dakota Department of Health
 - By phone: 605-773-4961

Immunizations

- South Dakota residents may access their vaccination records through South Dakota Immunization Registry. If you are requesting the record of a minor under age 18, you must be the child's parent or legal guardian at the time of the request. There is no charge to receive a copy of an immunization record.
- Immunization records and services are also available through South Dakota Department of Health community health offices and participating clinics and pharmacies statewide.



Consulates in South Dakota

South Dakota has limited resident consular offices. Many foreign consulates that serve South Dakota residents are located in nearby cities such as Minneapolis (MN), Denver (CO), and Chicago (IL). Always verify jurisdiction and required documents with the appropriate embassy or regional consulate before traveling.

Below are common regional hubs for consular services for South Dakota residents

Country	Address	Contact Information
Mexico	Consulate of Mexico, Saint Paul, MN	(651) 771-5494
Canada	Consulate General of Canada, Minneapolis, MN	(612) 333-4641
United Kingdom	British Consulate General, Chicago, IL	(312) 970-3800
India	Consulate General of India, Chicago, IL	(312) 595-0405
China (PRC)	Consulate General of China, Chicago, IL	(312) 453-0210
Japan	Consulate General of Japan, Chicago, IL	(312) 280-0400
Republic of Korea (South Korea)	Consulate General of the Republic of Korea, Chicago, IL	(312) 822-9485
France	Consulate General of France, Chicago, IL	(312) 327-5200
Germany	Consulate General of Germany, Chicago, IL	(312) 202-0480
Italy	Consulate General of Italy, Chicago, IL	(312) 467-1550
Spain	Consulate General of Spain, Chicago, IL	(312) 782-4588
Brazil	Consulate General of Brazil, Chicago, IL	(312) 464-0244
Philippines	Consulate General of the Philippines, Chicago, IL	(312) 583-0621
Guatemala	Consulate General of Guatemala, Denver, CO	(303) 629-9212
Peru	Consulate General of Peru, Denver, CO	(303) 355-8555
Ukraine	Consulate General of Ukraine, Chicago, IL	(312) 642-4388

