

# 2026 South Dakota Legislature

## Draft 16

Requested by: **Senator Pischke**

1 **An Act to revise a provision related to the abatement of a child support obligation.**

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

3 **Section 1. That § 25-7-6.14 be AMENDED:**

4 **25-7-6.14.** ~~If the child resides with the obligor six or more nights in a month~~  
5 ~~pursuant to a custody order, the court may, if~~ If ~~deemed~~ appropriate under the  
6 ~~circumstances, the court may~~ grant an abatement of ~~not less than thirty-eight percent nor~~  
7 ~~more than sixty-six percent of the obligor's~~ basic child support obligation for the ~~nights~~  
8 ~~time spent with the child resides with the obligor, pursuant to a custody order, based on~~  
9 ~~the following schedule:~~

10 (1) For each day per month the child spends less than two hours at the residence of  
11 or in the company of the obligor, at least twenty-five percent of the obligor's basic  
12 child support obligation;

13 (2) For each day per month the child spends two to six hours at the residence of or in  
14 the company of the obligor, at least fifty percent of the obligor's basic child support  
15 obligation;

16 (3) For each day per month the child spends more than six hours at the residence of  
17 or in the company of the obligor, one hundred percent of the obligor's basic child  
18 support obligation; and

19 (4) For each night per month the child resides with the obligor, as set forth in § 25-7-  
20 6.28, one hundred percent of the obligor's basic child support obligation.

21 ~~It shall be~~ is presumed that the parenting time is exercised.

22 In deciding whether an abatement is appropriate, the court or child support referee  
23 shall consider the fixed obligations of the custodial parent that are attributable to the child  
24 and to the increased non-duplicated costs of the noncustodial parent that are associated  
25 with the child's time with the noncustodial parent. The burden is on the noncustodial  
26 parent to demonstrate the increased costs that the noncustodial parent incurs for non-  
27 duplicated fixed expenditures, including routine clothing costs, costs for extra-curricular  
28 activities, school supplies, and other similar non-duplicated fixed expenditures.

1           The order granting the abatement must specify the number of days and nights that  
2           the abatement is allowed and the amount of the abatement. To calculate an abatement,  
3           the court or child support referee shall:

- 4           (1)     Determine the basic child support calculation, excluding additional costs including  
5                    health insurance or child care, and annualize the same;  
6           (2)     Divide the annual amount in subdivision (1) by three hundred sixty-five days to  
7                    calculate the daily child support amount;  
8           (3)     Multiply the daily child support amount in subdivision (2) by the number of  
9                    ~~overnights~~ days and nights the child spends with the noncustodial parent on a  
10                   monthly basis; and  
11          (4)     Multiply the amount in subdivision (3) by the abatement percentage utilized. The  
12                   figure must be annualized and subtracted from the monthly child support  
13                   obligation.

14           No abatement may exceed the child support cross credit allowed under § 25-7-  
15          6.27.

16           If the noncustodial parent does not exercise the extended parenting time during a  
17           particular year, the noncustodial parent is required to repay the abated amount of child  
18           support to the custodial parent.