

SOUTH DAKOTA  
LEGAL NOTES

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## Q: What are the 14 main duties of a Personal Representative in South Dakota?

**A:** In South Dakota, the 14 primary duties of a Personal Representative are:

- (1) determine if there are any probate assets;
- (2) find, gather, and inventory the deceased's assets;
- (3) collect monies owed (including income, unpaid salary, and vacation pay);
- (4) establish an estate checking account;
- (5) determine who is going to receive what and how much under the Will;
- (6) place a value on the estate's assets;
- (7) publish legal notice to the estate's potential creditors;
- (8) review the validity of all claims against the estate;
- (9) pay funeral bills, debts, and valid claims;
- (10) pay the estate's administrative expenses;
- (11) complete paperwork, such as canceling utilities and charge cards;
- (12) file and pay income and estate taxes;
- (13) distribute the remaining property in according to the instructions provided in the deceased's Will; and
- (14) complete the probate.



## Swier Law Firm to Hold Estate Planning Seminar in Winner on June 25

On Wednesday, June 25, 2014, from 11:30 a.m. to 1:00 p.m., Swier Law Firm will host its popular "Estate Planning Basics" seminar at the SDSU Extension Regional Center in Winner, South Dakota.

The topics for the seminar include:

- Preparing to Transfer the Farm Business
- Farm Business Transfer Strategies
- Utilizing Partnerships and Corporations

**Seating is limited. Reserve your seats today by calling Swier Law Firm at (605) 842-3373 or register online at [www.SwierLaw.com](http://www.SwierLaw.com).**





## Agricultural Law in South Dakota - It's a Big Deal!

South Dakota is an agricultural state. With over 43 million acres of farmland spread across more than 31,000 farms throughout South Dakota, agriculture is by far the state's largest industry. In fact, South Dakota's agricultural industry stacks up pretty well nationally. South Dakota is the nation's leading producer of hay, alfalfa hay, and sunflowers, while ranking in the top ten in the country for virtually all other primary crops - sixth in corn, sixth in wheat, and eighth in soybeans. In addition, South Dakota is also a top producer of cow/calf pairs as well as sheep/lamb production and is the country's number one bison producer.

Farmers and ranchers across South Dakota are engaged in big business with significant financial interests at stake. Business deals in the agricultural industry can quickly become complex, and farmers and ranchers are expected to keep pace with not only the latest industry news but also the "ins and outs" of the commodities markets, the banking industry, and the legal world.

If you have ever asked an attorney a question about your operation, he probably answered, "It depends." Every legal issue arises with a specific set of facts and circumstances that can significantly impact the legal analysis controlling the issue.

Swier Law Firm's Agricultural Law Practice Group understands that your operation is, first and foremost, a business. For that reason, the firm takes the time to understand each agricultural client's business and tailors its representation to meet each client's needs.

## Swier Law Firm Names 2014 Summer Associates

Each year, Swier Law Firm recruits a talented summer associate class for our Avon, Corsica, Sioux Falls, and Winner offices. Our program is designed to give law students an idea of what it is like to work at Swier Law Firm -- our attorneys and staff, work, values and culture.

Summer associates are chosen based on academic credentials, experience, and interviews. The process typically begins with an on-campus interview followed by interviews at the firm.

In 2014, the law firm is excited to host 3 summer associates.

*Continued on last page.*

# South Dakota's New Shared Parenting Law - What It Means for South Dakota Parents

South Dakota's "Shared Parenting Law" will go into effect on July 1, 2014. The new law does not establish a presumption of shared parenting and the court will still have the final say in determining custody. The law does however, encourage the use of shared parenting in divorces.

Joint physical custody of a minor child shall be considered by the court, upon application of either parent in any custody dispute. This is a significant change from the prior law which required the parents to agree in order to have "shared parenting" ordered.

If a party is filing a modification of custody, that party still has the burden of proving a substantial change in circumstances. The fact that this law has changed is not enough to meet that burden without other substantial changes.

In addition to the traditional factors a court considers when determining the best interests of the child, a court must also consider these factors in shared parenting cases:

1. Whether each parent is a suitable physical custodian for the child;
2. Whether each parent has an appropriate dwelling to support physical custody of the child;
3. Whether the psychological and emotional needs and the development of the child will suffer due to lack of active contact with both parents, if joint physical care is not granted;
4. Whether one parent has denied, without just cause, the child the opportunity for continuing contact with the other parent;
5. Whether the parents show mutual respect for and effectively communicate with each other regarding the child's needs. The court will include a determination of the degree to which the parents are in general agreement about their daily child rearing matters;
6. The extent to which both parties actively care for the child;
7. Whether each parent can support the other parent's relationship with the child;
8. Whether a joint physical custody arrangement is in accord with the child's wishes or whether the child has strong opposition to joint physical custody, taking into consideration the child's age, maturity, and reason for the objection;
9. Whether the parent has intentionally alienated or interfered with the other parent's relationship with the child;
10. Whether one or both parents are opposed to joint physical custody;
11. The geographic proximity of the parents;
12. Whether the safety of the child, other children, or the other parent will be jeopardized by an award of joint physical custody;
13. Whether a parent allows another person custody or control of, or unsupervised access to, a child after knowing the person is required to register or is on the sex offender registry; and
14. Whether a parent has attempted to influence a custody determination by alleging falsely or without just good cause, that the child or the sibling of the child has been subjected to physical or sexual abuse and neglect;



# Swier Law Firm Names 2014 Summer Associates cont.

## Sara Hento

Sara Hento graduated summa cum laude, University Scholar Graduate, from the University of South Dakota with her Bachelor of Business Administration – Accounting. Sara was an active member of USD’s Honors Program and wrote her senior thesis titled The Robinson-Patman Act: The Effect of Price Discrimination on Small Businesses in the Midwest. She also was awarded the Beacom School of Business Outstanding Senior Award, an award given to the top business student in the Beacom School of Business for the respective year.

Currently, Sara will be entering her third year at the University of South Dakota School of Law where she is pursuing her joint Juris Doctorate and Master of Professional Accountancy degree. At USD’s School of Law, Sara is a member of the Alternative Dispute Resolution Board, Women in Law, Delta Theta Phi Law Fraternity, and USD Student Bar Association. In addition, Sara volunteers her time with the Unified Judicial System Form Helpline. This is Sara’s second year interning with Swier Law Firm at their Avon location.

Originally from West Point, Nebraska, Sara and her husband Tanner, an Avon native, recently moved back to Avon to farm. Her hobbies include fitness, cooking, and helping on the family farm.



## Jake Tiede

Jake Tiede grew up on his family’s farm near Parkston, South Dakota. In May 2013, he graduated from South Dakota State University with a Bachelor of Arts Degree in Political Science. Jake recently finished his first year at the University of St. Thomas School of Law in Minneapolis. Jake is spending his summer internship in Swier Law Firm’s office in Corsica.

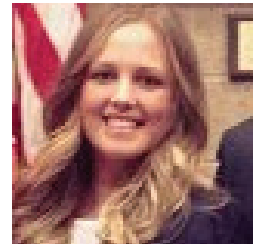
In his spare time, Jake enjoys helping on the family farm, showing cattle, exercising, and watching sports. He has a particular affection for the South Dakota State University Jackrabbits and the Denver Broncos.



## Kelsey Krieg

Kelsey Krieg grew up on a farm in Kingsley, Iowa. She received her undergraduate degree, with honors, from Morningside College. Kelsey will be a third year law student at the University of South Dakota School of Law in the Fall. Kelsey is spending her summer internship in Swier Law Firm’s office in Sioux Falls.

Kelsey has a four-year-old daughter who keeps her very busy! Kelsey, her fiancée, and daughter recently moved to Sioux Falls.



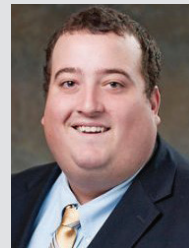
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