



2025 South Dakota Legislature

Senate Bill 172

Introduced by: **Senator Pischke**

1 **An Act to provide a rebuttable presumption in favor of joint physical custody of a**
2 **minor child.**

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

4 **Section 1. That § 25-4A-21 be AMENDED:**

5 **25-4A-21.** ~~In any custody dispute between parents, upon application~~ Upon the
6 petition of either parent, the court shall consider granting joint for the initial determination
7 regarding physical custody of a minor child, there is a rebuttable presumption that joint
8 physical custody is in the best interest of a minor child. This presumption may be rebutted
9 by evidence showing that joint physical custody is not in the best interest of the child
10 based on the factors set forth in § 25-4A-24.

11 The court shall consider the factors set forth in § 25-4A-24, and shall make written
12 findings of fact and conclusions of law regarding the best interests of the minor child,
13 ~~unless waived by both parties in accordance with § 25-4A-24, unless waived by both~~
14 ~~parties or the parents have stipulated to the terms of an agreement resolving the petition.~~

15 The presumption set forth in this section is not applicable if a presumption that
16 joint physical custody is not in the best interest of the child has been created in accordance
17 with § 25-4A-22.

18 **Section 2. That § 25-4A-26 be REPEALED.**

19 ~~Nothing in §§ 25-4A-21 to 25-4A-27, inclusive, creates a presumption of joint~~
20 ~~physical custody. The court shall determine the appropriate physical care, custody, and~~
21 ~~control of a minor child based on a determination of the best interests of the child.~~