



2026 South Dakota Legislature

House Bill 1067

Introduced by: **Representative Andera**

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 of physical custody of a minor child, there is a rebuttable presumption that joint physical
 8 custody is in the best interest of a minor child. This presumption may be rebutted by
 9 evidence showing that joint physical custody is not in the best interest of the child based
 10 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~~ interest of the minor
 13 child, ~~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 a NEW SECTION be added to chapter 25-4A:**

19 For purposes of this chapter and § 25-5-7.1, "joint physical custody" means a
 20 division of time with the child that is approximately and reasonably equal for each parent,
 21 as agreed to by each parent or as ordered by the court.

22 **Section 3. That § 25-4A-26 be REPEALED.**

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