

25-4A-22. Rebuttable presumption upon finding of history of domestic abuse or assault.

A finding by the court that a parent has a history of committing domestic abuse or has an assault conviction as defined in § 25-4-45.5, creates a rebuttable presumption that joint physical custody is not in the best interests of the child.

Source: SL 2014, ch 122, § 2.

25-4-45.5. Consideration of domestic abuse and assault conviction in custody award.

In awarding custody involving a minor, the court shall consider:

- (1) A conviction of domestic abuse as defined in subdivision 25-10-1(1); or
- (2) A conviction of assault against a person as defined in subdivision 25-10-1(2), except against any person related by consanguinity, but not living in the same household; or
- (3) A history of domestic abuse.

The conviction or history of domestic abuse creates a rebuttable presumption that awarding custody to the abusive parent is not in the best interest of the minor. A history of domestic abuse may only be proven by greater convincing force of the evidence.

Source: SL 1997, ch 156, § 1; SL 2008, ch 122, § 1.