

AN ACT

ENTITLED, An Act to create a rebuttable presumption against the award of custody to any person with a proven history of domestic abuse.

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

Section 1. That § 25-4-45.5 be amended to read as follows:

25-4-45.5. 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.

Section 2. That chapter 25-4 be amended by adding thereto a NEW SECTION to read as follows:

For purposes of this chapter, in determining whether a history of domestic abuse exists, the court's consideration may include the issuance of a protection order against a parent or any arrest report of a parent following the response of law enforcement to a report of domestic abuse as defined in subdivision 25-10-1(1).

An Act to create a rebuttable presumption against the award of custody to any person with a proven history of domestic abuse.

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I certify that the attached Act
originated in the

HOUSE as Bill No. 1100

Chief Clerk
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Speaker of the House

Attest:

Chief Clerk

President of the Senate

Attest:

Secretary of the Senate

House Bill No. 1100
File No. _____
Chapter No. _____

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Received at this Executive Office
this _____ day of _____ ,

20____ at _____ M.

By _____
for the Governor
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The attached Act is hereby
approved this _____ day of
_____, A.D., 20____

Governor

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STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed _____, 20____
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State