

2026 South Dakota Legislature

Draft 70

Requested by: **Senator Pischke**

- 1 **An Act to revise a provision related to factors considered for deviation from the child**
2 **support obligation schedule.**

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

4 **Section 1. That § 25-7-6.10 be AMENDED:**

5 **25-7-6.10.** Deviation from the schedule in § 25-7-6.2 must be considered if raised
6 by either party and made only upon the entry of specific findings based upon any of the
7 following factors:

- 8 (1) The income of a subsequent spouse or contribution of a third party to the income
9 or expenses of that parent but only if the application of the schedule works a
10 financial hardship on either parent;
11 (2) Any financial condition of either parent that would make application of the schedule
12 inequitable. If the total amount of the child support obligation, including any
13 adjustments for health insurance and child care costs, exceeds fifty percent of the
14 obligor's monthly net income, it is presumed that the amount of the obligation
15 imposes a financial hardship on the obligor. This presumption may be rebutted
16 based upon other factors set forth in this section;
17 (3) Any necessary education or health care special needs of the child;
18 (4) The effect of agreements between the parents regarding extra forms of support for
19 the direct benefit of the child;
20 (5) The obligation of either parent to provide for subsequent natural children, adopted
21 children, or stepchildren. However, an existing support order may not be modified
22 solely for this reason;~~or~~
23 (6) The voluntary and unreasonable act of a parent that causes the parent to be
24 unemployed or underemployed, consistent with the provisions of § 25-7-6.26; or
25 (7) The federal income tax consequences arising from claiming the child as a
26 dependent.