

## SOUTH DAKOTA LEGAL NOTES

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### Jake Fischer and Swier Law Firm Recognized by South Dakota Media

Jake Fischer and Swier Law Firm, Prof. LLC were recently recognized by the South Dakota media as the first attorney and law firm to participate in the South Dakota Rural Attorney Recruitment Program.

Media from KELO Television, KSFY Television, KDLT Television, and the Mitchell Daily Republic were on hand at Swier Law Firm's newly remodeled offices on Main Street in Corsica as South Dakota Supreme Court Chief Justice David Gilbertson and State Senator Mike Vehle delivered the keynote addresses.

In 2013, the South Dakota Legislature approved the Rural Attorney Recruitment Program to address the current and projected shortage of lawyers practicing in small communities and rural areas of South Dakota. The Program demonstrates the commitment of the Unified Judicial System and State Bar of South Dakota to assuring that all citizens within the State of South Dakota have access to quality legal services.



# South Dakota's Shared Parenting Law Starts On July 1st

*Keloland.com*

Even after the shared parenting bill was signed into law in March, supporters of the custody option are still looking forward to one more date on the calendar- July 1st.

The legislative fight for shared parenting started years before this year's session, but this was the year a measure was passed.

Starting July 1st, courts across South Dakota will have the option of granting shared parenting to those who fit a specific list of factors, similar to those that are already a part of the child custody option. For Casey Wilson and the South Dakota Shared Parenting Group, this was a very long process that has taken them several years to achieve.

"To be a part of that. We're actually helping to change things for families for 50 and maybe 100 years. That's a pretty neat feeling," Casey Wilson said.

After looking at the new rules that are in place, Circuit Court Judge Doug Hoffman says there isn't much change from the child custody rules that are already in place. It just offers one more legal recourse for judges to consider.

"I've entered decrees for shared parenting on many, many cases, but there may be some judges that were uncomfortable with it



and so this bill now will give them the authority and the guidance to make those considerations," Judge Hoffman said.

He says it may take some time before we notice how much actually changes once the law is on the books.

It will certainly be something that parents are paying attention to in the coming months, especially those who are considering a return to court.

## The Importance of Estate Planning for Young South Dakota Families - Asset Management

For young families in South Dakota, the importance of managing your assets after death - for the benefit of your young children - cannot be overemphasized. If something would happen to both you and your spouse, and your young children remain as the family's only survivors, it is necessary for you to designate the person who will manage your remaining assets. If this step is not taken, a South Dakota court will step in and direct how your property will be handled on behalf of your young children. Also, if your Last Will & Testament does not detail how assets should be managed for your young children, the State of South Dakota will be forced to act - leading to additional expenses and burdens. However, this unfortunate situation can be alleviated with some simple estate planning techniques.

The best example may be to leave the assets to your young children in a trust in which the children are named the beneficiaries. The assets will then be managed by a person that

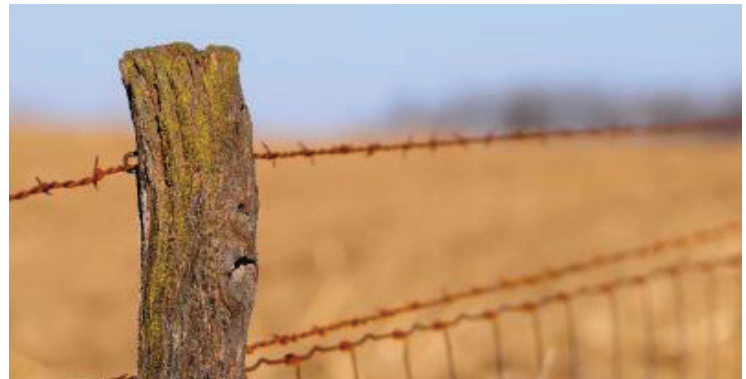
you choose for the benefit of your young children. The person nominated by you will be under a legal and fiduciary obligation to administer the assets for your children's benefit and as you have set forth in your trust document. As your children reach a mature age, the assets can then be distributed to your children from the trust.



# South Dakota Agricultural Law - State Fencing Law

As a farming and ranching state, South Dakota has numerous agricultural-related laws. One particularly interesting area of agricultural law is entitled "Partition Fences" and outlines South Dakota's rules for the who, what, when, where, and why of constructing suitable fences between landowners. Here's a few of the key points:

- South Dakota law requires that adjoining landowners each be responsible for one-half of the construction and costs of a suitable fence between their respective pieces of property.
- Keeping things clear and simple, the law even outlines what half of the fence each landowner is responsible for - "each owner of adjoining lands shall build that half of the fence which shall be upon his right hand when he stands upon his own land and faces the line upon which the proposed fence is to be built."
- Though owners can agree to any type of fence that they both find suitable, state law sets out the specifics of what type of fence is required if neighbors are unable to come to a mutual understanding.
- The laws include specifications for wooden post fences, metal post fences, or even concrete post fences.
- The building specifications lay out how far apart the posts should be, how deep in the ground the posts must be buried, and that they should be braced at ends, corners, and gates.
- Finally, the law states that fences should have 4 barbed wire strands spaced 10 inches apart from one another.



Interestingly, the law includes a specific provision stating that a person cannot be required to build a fence if the ground is frozen.

You should also be aware that "[a]ny person who shall intentionally open, or leave open, let down, throw down, tear down, or prostrate any fence, gate, or bars, legally constructed, located, and lawfully maintained, which encloses a meadow, pasture, livestock range, or private other inclosure, is guilty of a Class 2 misdemeanor." In case you were wondering, the penalty for a Class 2 misdemeanor in South Dakota is punishable by 30 days in the county jail, a \$500 fine, or both. That's some serious fencing business!

## Top 13 Things That Have Happened at Swier Law Firm in the Past Year

Swier Law Firm has had a great year. The Firm is growing, expanding into other communities, and continuing to provide nationally-recognized legal solutions for our clients.

### Here is a list of the "Top 13 Things That Have Happened at Swier Law Firm in the Past Year."

- Swier Law Firm Obtains \$1.1 Million Award for Parkston Farmer.
- Swier Law Firm Opens Winner, Corsica, and Sioux Falls offices.
- Swier Law Firm Hires Jake Fischer, Maxx Hickey, and Chris McClure for our new Corsica and Sioux Falls offices.
- Jake Fischer and Swier Law Firm Honored by South Dakota Chief Justice David Gilbertson and the Rural Attorney Recruitment Program.
- Jake Fischer Publishes Agricultural Law in South Dakota.
- Scott Swier Publishes Estate Planning in South Dakota.
- Brooke Swier Schloss Publishes 15 Tips for Choosing a South Dakota Divorce Lawyer.
- Brooke Swier Schloss Featured in Sioux Falls Woman Magazine.
- Swier Law Firm Attorneys Scott Swier, Maxx Hickey, and Brooke Swier Schloss appear on KSFY Television.
- Chris McClure Selected to Serve as Adjunct Professor at University of South Dakota School of Law.
- Swier Law Firm and Security National Bank Holds Series of Estate Planning Seminars.
- Swier Law Firm Establishes "Future Leaders" Scholarship Program.
- Swier Law Firm Wins Telecommunications Case Before South Dakota PUC.

# kids corner

We have had a busy few weeks! We went to the Cities to see my cousins. We watched my cousin Ben play soccer. He is pretty good! We went shopping at a huge store. Kate, Will, Mom, Dad, Uncle Matt, and I went to a Twins game. We all wore our Twins shirts! Before the game, we sat in a giant baseball glove! It was fun to watch the game!

Kate and Will went on a school field trip. They went to the Washington Pavilion in Sioux Falls. Kate and Will both played with wet sand and watched a movie about watermelons. I went on a field trip to Mitchell. We went to the Dakota Discovery Museum and the Pre-Historic Indian Village. At the Dakota Discovery Museum, there was an old school house and an outhouse that was pretty cool.

Kate graduated from kindergarten. At her ceremony, she spelled her name in sign language and sang three songs. She said she wanted to be a teacher when she grows up and her favorite part about kindergarten was drinking like a spider!

Kate and I have been getting ready for our dance recital. Kate's costume is blue and mine is green. This is Kate's first year on-stage. We are excited for the big performances.

Softball has started and summer is here! We can't wait for the pool to open!

*By Sarah Swier*



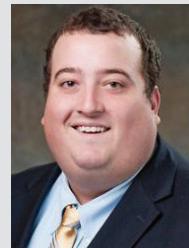
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