



2024 South Dakota Legislature

House Bill 1245

Introduced by: **Representative Reimer**

1 **An Act to revise provisions related to the custody of an alleged delinquent child**
 2 **before and after a temporary custody hearing.**

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

4 **Section 1. That § 26-8C-3 be AMENDED:**

5 **26-8C-3.** ~~An apparent or~~ alleged delinquent child taken into temporary custody ~~by~~
 6 a law enforcement officer prior to a temporary custody hearing ~~shall~~ must be released to
 7 the child's ~~parents~~ parent, guardian, or custodian ~~unless the parents. If the child's parent,~~
 8 guardian, or custodian cannot be located or, if in the judgment of the intake officer ~~are,~~
 9 the child's parent, guardian, or custodian is not suitable to receive the child, ~~in which case~~
 10 the child ~~shall~~ must be placed in shelter. ~~A child may not be placed, or~~ in detention ~~unless~~
 11 if the intake officer ~~finds that the parents, guardian, or custodian are not available or are~~
 12 ~~not suitable to receive the child, and also~~ finds at least one of the following circumstances
 13 exists:

- 14 (1) The child is a fugitive from another jurisdiction;
- 15 (2) The child is charged with a violation of § 22-22-7, a crime of violence under
 16 subdivision 22-1-2(9), ~~or a serious property crime, which, that would be a felony~~
 17 if committed by an adult, ~~would be a felony;~~
- 18 (3) The child is already held in detention or is on conditional release in connection with
 19 another delinquency proceeding;
- 20 (4) The child has a demonstrable recent record of willful failures to appear for juvenile
 21 court proceedings;
- 22 (5) The child has a demonstrable recent record of violent conduct;
- 23 (6) The child has a demonstrable recent record of adjudications for serious property
 24 offenses;
- 25 (7) The child is under the influence of alcohol, inhalants, or a controlled drug or
 26 substance and detention is the least restrictive alternative in view of the gravity of

1 the alleged offense and is necessary for the physical safety of the child, the public,
2 and others; or

3 (8) The child has failed to comply with court services or a court ordered program.

4 The shelter or detention authorized ~~shall~~ must be the least restrictive alternative
5 available in keeping with the best interest of the child.

6 **Section 2. That a NEW SECTION be added to chapter 26-8C:**

7 Notwithstanding § 26-8C-3, a court may order a juvenile to remain in custody for
8 a reasonable period after a temporary custody hearing upon a prima facie showing by the
9 state that releasing the child places the public at significant risk of additional harms
10 committed by the child.