



2024 South Dakota Legislature
House Bill 1038
ENROLLED

AN ACT

ENTITLED An Act to exclude certain habitual DUI offenders from eligibility for presumptive probation.

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

Section 1. That § 22-6-11 be AMENDED:

22-6-11. The sentencing court shall sentence an offender convicted of a Class 5 or Class 6 felony, except those convicted under §§ 22-11A-2.1, 22-14-15, 22-18-1, 22-18-1.05, 22-18-26, 22-18-29, 22-19A-1, 22-19A-2, 22-19A-3, 22-19A-7, 22-19A-16, 22-22A-2, 22-22A-4, 22-24A-3, 22-22-24.3, subdivision 22-23-2(2), 22-24-1.2, 22-24B-2, 22-24B-12, 22-24B-12.1, 22-24B-23, 22-30A-46, 22-42-7, subdivision 24-2-14(1), 32-23-4.6, 32-34-5, and any person ineligible for probation under § 23A-27-12, to a term of probation.

If the offender is under the supervision of the Department of Corrections, the court shall order a fully suspended state incarceration sentence pursuant to § 23A-27-18.4. The sentencing court may impose a sentence other than probation or a fully suspended state incarceration sentence if the court finds aggravating circumstances exist that pose a significant risk to the public and require a departure from presumptive probation under this section. If a departure is made, the judge shall state on the record at the time of sentencing the aggravating circumstances and the same shall be stated in the dispositional order. Neither this section nor its application may be the basis for establishing a constitutionally protected liberty, property, or due process interest.

An Act to exclude certain habitual DUI offenders from eligibility for presumptive probation.

I certify that the attached Act originated in the:
House as Bill No. 1038

Received at this Executive Office this ____ day of _____, 2024 at _____ M.

Chief Clerk

By _____
for the Governor

Speaker of the House

The attached Act is hereby approved this _____ day of _____, A.D., 2024

Attest:

Chief Clerk

Governor

STATE OF SOUTH DAKOTA,

ss.

Office of the Secretary of State

President of the Senate

Attest:

Filed _____, 2024
at _____ o'clock __ M.

Secretary of the Senate

Secretary of State

House Bill No. 1038
File No. _____
Chapter No. _____

By _____
Asst. Secretary of State