

State of South Dakota

SEVENTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 1997

781A0203

HOUSE BILL NO. 1218

Introduced by: Representatives Jaspers and Matthews and Senator Halverson

1 FOR AN ACT ENTITLED, An Act to revise certain provisions concerning the detention of
2 children in need of supervision and delinquent children.

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

4 Section 1. That § 26-7A-26 be amended to read as follows:

5 26-7A-26. No apparent, alleged or adjudicated abused or neglected child may be securely
6 detained at any time in a jail, lockup, or in any type of detention or temporary care facility
7 containing adult prisoners.

8 ~~An apparent or alleged delinquent child may be held in an adult lockup or jail for up to six~~
9 ~~hours for purposes of identification, processing, interrogation, transfer to juvenile facility, or~~
10 ~~release to parents if the delinquent child is physically separated from adult prisoners.~~

11 Any apparent, alleged, or adjudicated child in need of supervision or apparent, alleged, or
12 adjudicated delinquent child ~~between the ages of fourteen and seventeen~~ years of age or older
13 may be held in an adult lockup or jail for up to seven days if physically separated from adult
14 prisoners.

15 A child who has been formally transferred to adult court pursuant to § 26-11-4 may be held
16 in an adult lockup or jail if the child is ~~fifteen, sixteen, or seventeen years old~~ of age or older and

the child is alleged to have committed an offense defined as a crime of violence under subdivision 22-1-2(9) or of sexual contact under § 22-22-7.

Section 2. That § 26-11-1 be amended to read as follows:

26-11-1. If any child under the age of eighteen years is arrested, with or without a warrant, for violation of any law or municipal ordinance for which the child is not subject to proceedings as a delinquent child as defined in § 26-8C-2, the child shall be brought before the judge of a court having jurisdiction over the offense and proceedings shall be conducted as though the child were eighteen years of age or older.

~~No child under the age of eighteen years, subject to proceedings pursuant to this section and accused of a Class 2 misdemeanor, may be held in an adult jail or lockup or in any type of detention or temporary care facility containing adult prisoners.~~

~~However, any child under the age of eighteen years, subject to proceedings pursuant to this section and accused of a Class 1 misdemeanor, may be detained in an adult jail or lockup for up to six hours for purposes of identification, processing, interrogation, or release to parents if the child is separated by sight and sound from adult prisoners.~~

~~No child under the age of eighteen years convicted of an offense pursuant to this section may be sentenced to an adult jail or lockup or to any type of detention or temporary care facility containing adult prisoners.~~ Any apparent, alleged, or adjudicated delinquent child fourteen years of age or older may be held in an adult lockup or jail for up to seven days if physically separated from adult prisoners. In addition, if any child under the age of eighteen is arrested, with or without a warrant, for committing a crime of violence, as defined under subdivision 22-1-2(9), or a crime of sexual contact under §22-22-7, the child shall be brought before the judge of a court having jurisdiction over the offense and the court may make an appropriate disposition for holding the child. Such child may, at the court's discretion, be held in an adult lockup or jail if physically separated from adult prisoners.

1 The restrictions of this section pertaining to detention in an adult jail or lockup and to
2 physical separation from adult prisoners do not apply to any child who has subsequently attained
3 the age of majority.