

1.4.B.6 Adjudicated Delinquents and Children in Need of Supervision

I Policy Index:



Date Signed: 06/14/2018
Distribution: Public
Replaces Policy: 1A.16
Supersedes Policy Dated: 09/10/2016
Affected Units: Division of Juvenile Services
Effective Date: 06/25/2018
Scheduled Revision Date: August 2019
Revision Number: 17
Office of Primary Responsibility: Division of Juvenile Services and DOC Administration

II Policy:

The Department of Corrections will operate its facilities and programs consistent with the requirements for the Juvenile Justice and Delinquency Prevention Act of 1974, as amended. Alleged adjudicated delinquent children and children in need of supervision with offenses that would not be crimes if committed by adults, will not be placed in an adult DOC facility (See ACA Standard 4-4306).

III Definitions:

Child In Need of Supervision (CHINS):

As defined by SDCL § 26-8B-2, a Child In Need of Supervision is:

- Any child of compulsory school age who is habitually absent from school without legal excuse;
- Any child who has run away from home or is otherwise beyond the control of the child's parent, guardian or custodian;
- Any child whose behavior or condition endangers the child's own welfare or the welfare of others;
- Any child who has violated any federal, state, or local law or regulation for which there is not a penalty of a criminal nature for an adult, except violations of subdivision 34-46-2(2) (to purchase or attempt to purchase, to receive or attempt to receive, to possess, or to consume a tobacco product if a person is under the age of eighteen); or
- Any child who has violated § 35-9-2 (purchase, possession or consumption of beverage by minor as misdemeanor) or 32-23-21 (person under the age of twenty-one (21) operating a motor vehicle with .02% or more of alcohol in their blood, or marijuana or any controlled drug present in the person's body).

Delinquent Child:

As defined by SDCL § 26-8C-2, a delinquent child is:

- Any child ten years of age or older who, regardless of where the violation occurred, has violated any federal, state, or local law or regulation for which there is a penalty of a criminal nature for an adult, except state or municipal hunting, fishing, boating, park or traffic laws that are classified as misdemeanors, or petty offenses or any violations of § 35-9-2 (purchase, possession or consumption of beverage by person under twenty-one years prohibited) or § 32-23-21 (person under the age of twenty-one (21) operating a motor vehicle with .02% or more of alcohol in their blood, or marijuana or any controlled drug present in the person's body).

IV Procedures:

1. Adjudicated Delinquents and Children in Need of Supervision:

- A. A child under the age of eighteen years of age shall not be housed in any South Dakota Department of Corrections adult facility. This includes adjudicated delinquents, children in need of supervision and others under the age of eighteen tried and sentenced in court as an adult (See SDCL § 26-11-3.1).
- B. For purposes of this policy, adult facilities operated by the South Dakota Department of Corrections include the South Dakota State Penitentiary, Sioux Falls Community Work Center, Jameson Prison Annex, Mike Durfee State Prison, South Dakota Women's Prison (including Unit E), Pierre Community Work Center, Yankton Community Work Center and Rapid City Community Work Center.
- C. No adjudicated child in need of supervision may be placed in a secure facility unless the youth has been found to be in violation of a valid court order or has a documented history of a delinquent offense(s) or is currently alleged to have committed a delinquent act.
- D. Adult offenders will be kept sight and sound separated from children under the age of eighteen years tried and sentenced to the Department of Corrections. Transport of adjudicated delinquents and children in need of supervision with adult offenders will be in accordance with DOC policy 1.1.A.8 [Adult and Juvenile Joint Transportation Procedures](#).

V Related Directives:

SDCL §§ 26-8B-2, 26-8C-2, 26-11-3.1, 32-23-21, 34-46-2(2) and 35-9-2.

DOC policy 1.1.A.8 -- [Adult and Juvenile Joint Transportation Procedures](#)

VI Revision Log:

October 2002: Added Statute numbers to definitions. Added section on Adjudicated Youth & Status Offenders.

September 2003: Changed signature block. Noted abbreviation of CHINS. Revised definition of CHINS.

August 2004: Changed the Custer Trusty Unit to the Black Hills Corrections Center. Revised the definitions of Child In Need of Supervision and Delinquent Child. Added reference to SDCL § 32-23-21.

August 2005: Updated the names of the DOC run facilities.

October 2006: Updated facility names referenced in this policy.

August 2007: No changes made.

August 2008: Revised formatting of policy in accordance with DOC policy 1.1.A.2. Replaced title of policy and heading of section IV to "Adjudicated Delinquents and Children in Need of Supervision" vs. "Adjudicated Youth and Status Offenders". Replaced "children" with "youth" when referring to delinquent youth throughout policy. Added statement regarding no delinquent child or child in need of supervision may be held in a secure area of an adult facility in ss (A) and added ss (B and D) of Adjudicated Delinquents and Children in Need of Supervision).

August 2009: Deleted reference to Redfield Minimum Facility in ss (C of Adjudicated Delinquents and Children in Need of Supervision). Revised language referencing SDCL 34-46-2(2) and added reference to misdemeanor within SDCL 35-9-2 in definition of CHINS. Added hyperlinks throughout policy.

January 2010: Revised policy title in header.

August 2010: Revised formatting of Section 1. Revised entire Policy statement and added ACA standard 4-4306. Revised definition of SDCL 35-9-2 to include person under 21 v reference of a minor within definition of Delinquent Child. Deleted reference to delinquents and CHINS being held in a secure area of an adult facility within ss (A of Adjudicated Delinquents and Children in Need of Supervision).

October 2011: Reviewed with no changes.

October 2012: Reviewed with no changes.

August 2013: Moved previous B. to D.

August 2014: Added "A child under the age of eighteen years of age shall not be housed in any South Dakota Department of Corrections adult facility" and "and others under the age of eighteen tried and sentenced in court as an adult" to Section 1 A.

August 2015: Updated minimum unit terms in Section 1 B.

August 2015: Reviewed with no changes.

August 2016: Reviewed with no changes.

March 2018: Reviewed with no changes

Denny Kaemingk (original signature on file)

Denny Kaemingk, Secretary of Corrections

06/14/2018

Date