



SOUTH DAKOTA  DEPARTMENT OF CORRECTIONS POLICY AND PROCEDURE		POLICY NUMBER 1200-15	PAGE NUMBER 1 OF 2
		DISTRIBUTION: Public	
		SUBJECT: Adjudicated Delinquents and Children in Need of Supervision	
RELATED STANDARDS:	ACA 5-ACI-5B-12 (M)	EFFECTIVE DATE: October 15, 2023	
		SUPERSESSION: 10/15/2022	
DESCRIPTION: Juvenile Services	REVIEW MONTH: October	 <b>KELLIE WASKO</b> <b>SECRETARY OF CORRECTIONS</b>	

## I. POLICY

It is the policy of the South Dakota Department of Corrections' (DOC) Juvenile Services Division to adhere to the requirements of the Juvenile Justice Reform Act (JJRA) of 2018. *Adjudicated delinquent children* and children in need of supervision *with offenses that would not be a crime if committed by an adult, will not be placed in an adult DOC facility* [ACA 5-ACI-5B-12 (M)].

## II. PURPOSE

It is the purpose of this policy to establish criteria for the consistent management of adjudicated youth.

## 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 (18));
- Any child who has violated § 35-9-2 (purchase, possession or consumption of alcoholic 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); or
- Any child who engages in prostitution by offering to engage in sexual activity for a fee or other compensation.

### Delinquent Child:

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

- Any child ten (10) 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 (21) 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).

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## IV PROCEDURES

### 1. Overview:

- A. A child under the age of eighteen (18) years of age shall not be housed in any South Dakota Department of Corrections adult correctional facility. This includes adjudicated delinquents, children in need of supervision and others under the age of eighteen (18) who have been 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 Minimum Center, Jameson Prison Annex, Mike Durfee State Prison, South Dakota Women's Prison (including Unit E), Pierre Minimum Center, Yankton Minimum Center and Rapid City Minimum Center.
- C. No adjudicated child in need of supervision may be placed in a secure juvenile 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 (see SDCL § 26-8B-3).
- D. Adult offenders will be kept sight and sound separated from children under the age of eighteen (18) years when tried and sentenced to the Department of Corrections.
- E. The court may determine after a hearing, and in writing, that it is in the interest of justice to permit a juvenile, who has been charged as an adult, to be detained in a jail or lockup for adults or have sight or sound contact with adult inmates in a secure facility.

## V. RESPONSIBILITY

The director of Juvenile Services is responsible for the review and maintenance as needed of this policy.

## VI. AUTHORITY

SDCL §§ 26-8B-2, 26-8B-3, 26-8C-2, 26-11-3.1, 32-23-21, 34-46-2(2), 35-9-2.

## VII. HISTORY

October 2023  
October 2022  
August 2021  
October 2019  
March 2018  
August 2016  
August 2015 (2 reviews)  
August 2014  
August 2013  
October 2012  
October 2011

## ATTACHMENTS

1. DOC Policy Implementation / Adjustments