

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

### I Policy Index:



**Date Signed:** 09/01/2021  
**Distribution:** Public  
**Replaces Policy:** 1A.16  
**Supersedes Policy Dated:** 10/21/2019  
**Affected Units:** Division of Juvenile Services  
**Effective Date:** 09/10/2021  
**Scheduled Revision Date:** August 2022  
**Revision Number:** 20  
**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. 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 (See ACA Standard 5-ACI-5B-12).

### 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);
- 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); 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 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 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 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.

**October 2019: Reviewed** with no changes.

**August 2021: Updated** ACA standard reference in policy statement to align with the 5th Edition of the Performance-Based Standards and Expected Practices for Adult Correctional Institutions. **Added** "Any child who engages in prostitution by offering to engage in sexual activity for a fee or other compensation." to the definition of "Child in Need of Supervision (CHINS)".

*Tim Reisch (original signature on file)*

Tim Reisch, Interim Secretary of Corrections

09/01/2021

Date