

# State of South Dakota

SEVENTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 1998

400B0817

## HOUSE JUDICIARY COMMITTEE ENGROSSED NO. **HB1316** - 2/11/98

Introduced by: The Committee on Judiciary at the request of the Governor

1 FOR AN ACT ENTITLED, An Act to revise certain provisions related to drug free zones  
2 around schools and certain other youth-oriented facilities.

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

4 Section 1. That § 22-42-19 be amended to read as follows:

5 22-42-19. Any person who commits a violation of § 22-42-2, 22-42-3, or 22-42-4, or a  
6 felony violation of § 22-42-7, if such activity has taken place:

7 (1) In, on or within ~~five hundred~~ one thousand feet of real property comprising a public  
8 or private elementary or secondary school or a playground; or

9 (2) In, on or within ~~one~~ five hundred feet of real property comprising a public or private  
10 youth center, public swimming pool, or video arcade facility;

11 is guilty of a Class 4 felony. The sentence imposed for a conviction under this section ~~shall~~  
12 ~~carry~~ carries a minimum sentence of imprisonment in the state penitentiary of five years. Any  
13 sentence imposed under this section shall be consecutive to any other sentence imposed for the  
14 principal felony. The court may not place on probation, suspend the execution of the sentence,  
15 or suspend the imposition of the sentence of any person convicted of a violation of this section.

1 However, the sentencing court may impose a sentence other than that specified in this section  
2 if the court finds that mitigating circumstances exist which require a departure from the  
3 mandatory sentence provided for in this section. The court's finding of mitigating circumstances  
4 allowed by this section and the factual basis relied upon by the court shall be in writing.

5 It is not a defense to the provisions of this section that the defendant did not know the  
6 distance involved. It is not a defense to the provisions of this section that school was not in  
7 session.

1 **BILL HISTORY**

2 1/26/98 First read in House and referred to Judiciary. H.J. 231

3 2/9/98 Scheduled for Committee hearing on this date.

4 2/9/98 Judiciary Deferred to another day.

5 2/11/98 Scheduled for Committee hearing on this date.

6 2/11/98 Judiciary Do Pass Amended, Passed, AYES 13, NAYS 0.