

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

400J0399

SENATE BILL NO. 56

Introduced by: The Committee on Judiciary at the request of the Department of Corrections

1 FOR AN ACT ENTITLED, An Act to provide that certain minors who have been adjudicated
2 for driving under the influence be defined as children in need of supervision.

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

4 Section 1. That § 32-23-21 be amended to read as follows:

5 32-23-21. It is a Class 2 misdemeanor for any person under the age of twenty-one years to
6 drive, operate, or be in actual physical control of any motor vehicle:

7 (1) If there is physical evidence of 0.02 percent or more by weight of alcohol in the
8 person's blood as shown by chemical analysis of the person's breath, blood, or other
9 bodily substance; or

10 (2) After having consumed marijuana or any controlled drug or substance for as long as
11 physical evidence of the consumption remains present in the person's body.

12 If a person is found guilty of or adjudicated for a violation of this section, the Unified
13 Judicial System shall notify the Department of Public Safety. Upon conviction, the court shall
14 suspend that person's driver's license or operating privilege for a period of six months for a first
15 offense or one year for any second or subsequent offense. However, the court may, in its
16 discretion, issue an order permitting the person to operate a motor vehicle during the hours and



1 days of the week set forth in the order for purposes of the person's employment, attendance at
2 school, or attendance at court-ordered counseling programs.

3 Section 2. That § 26-8B-2 be amended to read as follows:

4 26-8B-2. In this chapter and chapter 26-7A, the term, child in need of supervision, means:

5 (1) Any child of compulsory school age who is habitually absent from school without
6 legal excuse;

7 (2) Any child who has run away from home or is otherwise beyond the control of the
8 child's parent, guardian, or custodian;

9 (3) Any child whose behavior or condition endangers the child's own welfare or the
10 welfare of others;

11 (4) Any child who has violated any federal, state, or local law or regulation for which
12 there is not a penalty of a criminal nature for an adult, except violations of
13 subdivision 34-46-2(2), or petty offenses; or

14 (5) Any child who has violated § 35-9-2 or 32-23-21.

15 Section 3. That § 26-8C-2 be amended to read as follows:

16 26-8C-2. In this chapter and chapter 26-7A, the term, delinquent child, means any child ten
17 years of age or older who, regardless of where the violation occurred, has violated any federal,
18 state, or local law or regulation for which there is a penalty of a criminal nature for an adult,
19 except state or municipal hunting, fishing, boating, park, or traffic laws that are classified as
20 misdemeanors, or petty offenses or any violation of § 35-9-2 or 32-23-21.